

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

4214 SLAB HB 314 - HB 356

1094



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

11/24/89
Date

HB

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Letter of Intent for SCS CSHB 314 (Fin)

It is the intent of the Senate Finance Committee that duplicative reporting requirements for REA financed electric cooperatives be eliminated. Because of the similarity of the information required in REA quarterly reports, and that required by the APUC in it's annual report, the commission should allow submittal of REA forms for the annual reporting requirements of electric cooperatives.

SCS CSHB 314(fin): Sectional Analysis

- Section 1) Substitutes "municipality" for "city or borough, whether home rule or otherwise" to reflect changes made in the Municipal Code adopted last year, and limits the amount of the fee that a municipality may charge to the actual cost.
- Section 2) Requires the commission to issue a statement of reasons for rejecting a tariff filing, and imposes a time limit of 45 days on the commission's authority to reject a filing that is not consistent with the chapter or the regulations of the commission.
- Section 3) Adds a new section to require the commission to adopt regulations that permit a simplified rate filing procedure for electric cooperatives.
- Section 4) Requires the commission to consider the financial covenants contained in mortgages and other debt instruments of cooperative utilities when setting the rates they may charge.
- Section 5) Subjects wholesale power agreements between public utilities to advance approval by the commission. After a wholesale power agreement is in effect, the commission may not invalidate the agreement; however, if the rates are not just and reasonable, the commission may order the parties to negotiate an amendment to the contract.
- Section 6 Extends the termination date of the APUC for 3 years (1989).
- Section 7) Applicability section
- Section 8) Applicability of wholesale power agreement section
- Section 9) Immediate effective date.

Fred:

The amendment being offered by Sharon Macklin would have the following effect:

- 1) The language which appears on Page 2, lines 26 thru page 3, line 1, pertains to both electric and telephone cooperatives. In essence, it requires the commission to set rates adequate to meet the financial covenants of all (telco and electric) cooperative utilities.
- 2) The sentence following that qualifies the obligation imposed upon the commission to honor those agreements. In effect it allows the commission to disapprove the mortgage or debt instrument, in the event they find it to be excessive.
- 3) The amendment which may be offered by Sen Kerttula on the floor would have the effect of allowing the telco's debt instruments to be approved without further consideration by the commission.

By inserting the word "electric" on page 3, line 1, the APUC would only be able to disapprove the debt instruments of electric coops, and the debt instruments of telco's, even if excessive, would be safe from commission review.

Letter of Intent for SCS CSHB 314 (Fin)

It is the intent of the Senate Finance Committee that duplicative reporting requirements for REA financed electric cooperatives be eliminated. Because of the similarity of the information required in REA quarterly reports, and that required by the APUC in its annual report, the commission should allow submittal of REA forms for the annual reporting requirements of electric cooperatives.



ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION, INC.

237 E. FIREWEED LANE • SUITE 301
ANCHORAGE, ALASKA 99503 • (907) 276-3235

May 12, 1986

Senator Fred Zharoff
Pouch V
Juneau, Alaska 99811

Dear Senator Zharoff:

ARECA was the special interest group that first proposed language requiring the APUC to respect the financial covenants of mortgages entered into by cooperative utilities.

The APUC objected to the language on the grounds they would have no authority to prevent unjust rate increases which might occur due to mortgage agreements.

The language in the Senate Finance CS for HB314 is a compromise agreed to by your association and the APUC.


The proposed amendment by Sharon Macklin of MTA would make telephone cooperatives subject only to the language proposed by ARECA, but not to the compromise agreed to by the APUC.

I have spoken with the commission about this amendment. Like our association, they are opposed to it.

The telephone cooperatives should either be subject to the whole provision or exempted from it.

Thank you for the opportunity to make our comments on this issue.

Respectfully,


Kenneth S. Johnson,
Director of Information

ST/sb



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

11/24/89
Date

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STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 11/27/85

REQUEST

Bill Resolution No. : CSSS HB318 (L&C)
 Title : "An Act relating to ...
 injured state employees"
 Sponsor : : zymanski
 Requestor : House Finance
 Date of Request : 5/06/85

FISCAL DETAIL

Agency Affected : Labor
 BRU : Workers' Compensation
 Components : Workers' Compensation

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Ms. Jacque McClintock
 Division : Workers' Compensation

Phone : 465-2790
 Date : 11/27/85

Approved by Commissioner : Jim Robison
 Agency : Labor

Date : 11/27/85

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Business
- Impacted Agency

Offered: 5/1/85
Referred: Finance

Original sponsors: Szymanski, Collins,
and Rieger

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 318 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to rights of injured state employ-
7 ees."

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

9 * Section 1. AS 23.40 is amended by adding a new section to read:

10 Sec. 23.40.075. ITEMS NOT SUBJECT TO BARGAINING. The parties
11 may not negotiate terms contrary to the reemployment rights for
12 injured state employees under AS 39.25.158.

13 * Sec. 2. AS 39.25 is amended by adding new sections to read:

14 Sec. 39.25.157. POSITION DESCRIPTIONS. The division of person-
15 nel, in consultation with the appropriate department or agency, shall
16 require the preparation of and shall maintain a position description
17 for each position in the classified and partially exempt services.
18 The position description shall describe the essential functions of the
19 position and the actual skills and abilities required to perform the
20 tasks assigned to the position. A general requirement for physical
21 abilities may not be imposed on a job classification unless each
22 position within the class requires the use of the physical ability.

23 Sec. 39.25.158. REEMPLOYMENT RIGHTS FOR INJURED STATE EMPLOYEES.

24 (a) An injured employee is eligible for reemployment rights under
25 this section if the employee requests to return to work for the state
26 within 90 days after receipt of a release from a physician indicating
27 that the employee is able to return to full or modified work.

28 (b) After an employee requests to return to work, the rehabili-
29 tation administrator of the division of workers' compensation or the

period of time employees
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1 director of vocational rehabilitation in the Department of Education
2 shall review the request and certify that the employee is able to
3 return to work under (c), (d), (e), or (f) of this section, or defer
4 certification until the employee completes retraining under (f) of
5 this section.

6 (c) If the rehabilitation administrator or the director of
7 vocational rehabilitation certifies that the employee is able to
8 perform the tasks assigned to the employee's former position, the
9 agency shall reemploy the employee within 30 days after receipt of the
10 certification unless the position no longer exists. If a permanent,
11 probationary or provisional employee is currently employed in the
12 position, the agency shall cause a vacancy under the layoff provisions
13 of AS 39.25.150(13).

14 (d) If the employee is not eligible for reemployment under (c)
15 of this section but is able to perform the essential functions of the
16 position, then the agency shall reemploy the employee in the position
17 after making a reasonable accommodation to the physical and mental
18 limitations of the employee unless the position no longer exists.
19 Reasonable accommodation may include imposing work restrictions on the
20 tasks performed by the employee, making job or site modifications
21 necessary to permit the employee to perform the tasks of the position,
22 removing institutional and architectural barriers, and providing
23 additional support services.

24 (e) If the employee is not eligible for reemployment under (c)
25 or (d) of this section and if the agency has a vacant position for
26 which the employee is qualified that is comparable in wage to the
27 position the employee previously held, then the agency shall offer the
28 employee the position. If the employee is unable to perform the
29 essential functions of a comparable position within the agency, then

1 the employee is entitled to reemployment in a comparable position for
2 which the employee is qualified with another agency if the position is
3 vacant and the employee is able to perform the essential functions of
4 that position.

5 (f) If the agency and other agencies in the state are unable to
6 reemploy the employee in a position at a wage comparable to the
7 employee's previous wage, the employee may request reemployment at a
8 lower wage or accept retraining under AS 23.30.041. After completing
9 the training the employee may request reemployment in a position for
10 which the employee has been retrained in the agency. If the agency
11 cannot offer reemployment, the employee may request reemployment in a
12 position for which the employee has been retrained with another
13 agency.

14 (g) An agency may refuse to reemploy or continue the employment
15 of a former employee if reasonable accommodation imposes an undue
16 hardship on the operation of the agency's program or if, after reason-
17 able efforts at accommodation, the injured employee cannot perform the
18 essential functions of the position in a manner that would not endan-
19 ger the health or safety of

20 (1) the employee because the job imposes an imminent and
21 substantial degree of risk to the employee; or

22 (2) others to a greater extent than if a nonhandicapped
23 person performed the job.

24 (h) Factors an agency may consider in determining undue hardship
25 under (g) of this section include the current number of employees in
26 the section or office, number and type of facilities, size of budget,
27 nature and cost of the accommodation needed, and the type, composi-
28 tion, and structure of the work force.

29 (i) Notwithstanding any other provision of law, if an injured

1 employee requests reemployment under (e) or (f) of this section and if
2 the employee is able to perform the essential functions of the posi-
3 tion, the state may not hire another person for that position except
4 an employee in layoff status for that job class.

5 (j) A collective bargaining agreement under AS 23.40.070 -
6 23.40.260 may not include terms contrary to this section.

7 (k) In this section

8 (1) "agency" includes a department, division, office,
9 agency, board, commission, authority, or other organizational unit of
10 the executive, legislative, and judicial branches of state government
11 including the University of Alaska;

12 (2) "injured employee" or "employee" means a permanent,
13 probationary, or provisional employee of an agency whose injury is a
14 compensable injury or condition under AS 23.30.

15 * Sec. 3. Nothing in this Act modifies or terminates the terms of a
16 collective bargaining agreement in existence on the effective date of this
17 Act.

WORK DRAFT

WORK DRAFT

WORK DRAFT

Cramer
4/9 86

Original sponsors: Szymanski, Collins,
and Rieger

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 318 (L&C)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to rights of injured state employ-
7 ees."

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

9 * Section 1. AS 23.40 is amended by adding a new section to read:

10 Sec. 23.40.075. ITEMS NOT SUBJECT TO BARGAINING. The parties
11 may not negotiate terms contrary to the reemployment rights for in-
12 jured state employees under AS 39.25.158.

13 * Sec. 2. AS 39.25 is amended by adding new sections to read:

14 Sec. 39.25.157. POSITION DESCRIPTIONS. The division of person-
15 nel, in consultation with the appropriate department or agency, shall
16 require the preparation of and shall maintain a position description
17 for each position in the classified service. The position description
18 shall describe the essential functions of the position and the actual
19 skills and abilities required to perform the tasks assigned to the
20 position. A general requirement for physical abilities may not be
21 imposed on a job classification unless each position within the class
22 requires the use of the physical ability.

23 Sec. 39.25.158. REEMPLOYMENT RIGHTS FOR INJURED STATE EMPLOYEES.

24 (a) An injured employee is eligible for reemployment rights under
25 this section if the employee requests to return to work for the state
26 within 30 days after receipt of a release from a physician indicating
27 that the employee is able to return to full or modified work.

28 (b) After an employee requests to return to work, the rehabili-
29 tation administrator of the division of workers' compensation or the

1 director of vocational rehabilitation in the Department of Education
2 shall review the request and certify that the employee is able to
3 return to work under (c), (d), (e), or (f) of this section, or defer
4 certification until the employee completes retraining under (f) of
5 this section.

6 (c) If the rehabilitation administrator or the director of
7 vocational rehabilitation certifies that the employee is able to
8 perform the tasks assigned to the employee's former position, the
9 agency shall reemploy the employee within 30 days after receipt of the
10 certification unless the position no longer exists. If a permanent,
11 probationary or provisional employee is currently employed in the
12 position, the agency shall cause a vacancy under the layoff provisions
13 of AS 39.25.150(13).

14 (d) If the employee is not eligible for reemployment under (c)
15 of this section but is able to perform the essential functions of the
16 position, then the agency shall reemploy the employee in the position
17 after making a reasonable accommodation to the physical and mental
18 limitations of the employee unless the position no longer exists.
19 Reasonable accommodation may include imposing work restrictions on the
20 tasks performed by the employee, making job or site modifications
21 necessary to permit the employee to perform the tasks of the position,
22 removing institutional and architectural barriers, and providing
23 additional support services.

24 (e) If the employee is not eligible for reemployment under (c)
25 or (d) of this section and if the agency has a vacant position for
26 which the employee is qualified that is comparable in wage to the
27 position the employee previously held, then the agency shall offer the
28 employee the position. If the employee is unable to perform the
29 essential functions of a comparable position within the agency, then

1 the employee is entitled to reemployment in a comparable position for
2 which the employee is qualified with another agency if the position is
3 vacant and the employee is able to perform the essential functions of
4 that position.

5 (f) If the agency and other agencies in the state are unable to
6 reemploy the employee in a position at a wage comparable to the em-
7 ployee's previous wage, the employee may request reemployment at a
8 lower wage or accept retraining under AS 23.30.041. After completing
9 the training the employee may request reemployment in a position for
10 which the employee has been retrained in the agency. If the agency
11 cannot offer reemployment, the employee may request reemployment in a
12 position for which the employee has been retrained with another agen-
13 cy.

14 (g) An agency may refuse to reemploy or continue the employment
15 of a former employee if reasonable accommodation imposes an undue
16 hardship on the operation of the agency's program or if, after reason-
17 able efforts at accommodation, the injured employee cannot perform the
18 essential functions of the position in a manner that would not endan-
19 ger the health or safety of

20 (1) the employee because the job imposes an imminent and
21 substantial degree of risk to the employee; or

22 (2) others to a greater extent than if a nonhandicapped
23 person performed the job.

24 (h) Factors an agency may consider in determining undue hardship
25 under (g) of this section include the current number of employees in
26 the section or office, number and type of facilities, size of budget,
27 nature and cost of the accommodation needed, and the type, composi-
28 tion, and structure of the work force.

29 (i) Notwithstanding any other provision of law, if an injured

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employee requests reemployment under (e) or (f) of this section and if the employee is able to perform the essential functions of the position, the state may not hire another person for that position except an employee in layoff status for that job class.

(j) A collective bargaining agreement under AS 23.40.011 - 23.40.260 may not include terms contrary to this section.

(k) In this section

(1) "agency" includes a department, division, office, agency, board, commission, authority, or other organizational unit of the executive branch of state government;

(2) "injured employee" or "employee" means a permanent, probationary, or provisional employee of an agency in the classified service whose injury is a compensable injury or condition under AS 23.30.

* Sec. 3. Nothing in this Act modifies or terminates the terms of a collective bargaining agreement in existence on the effective date of this Act.

Bill No. 2nd Sponsor Substitute for
House Bill No. 318
Title "An Act relating to rights of injured
State employees."

Date April 23, 1985

Contact: *J. L. McClintock*
465-2790

The Department of Labor supports passage of the 2d Sponsor Substitute for HB 318, providing rehire rights for injured state employees.

The latest sponsor substitute adds several key features which strengthen the provisions of the bill and responds to the Department's concerns over potential conflicts between the earlier provisions of the bill and the workers' compensation rehabilitation provisions of AS 23.30.041.

APPROVED:

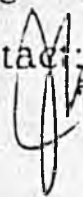
Jim Robison

Jim Robison
Commissioner

COMMITTEE SUBSTITUTE for Sponsor
Bill No. Substitute for House Bill No. 318 (L&C)

Date February 12, 1986

Title "An Act relating to rights of injured
state employees."


Contact:  Jacquie L. McClintock
465-2790

The Department of Labor supports CSSSHB 318 which provides rehire rights for injured state employees.

Under the provisions of this bill, the state is required to reemploy an injured state employee in the former job position if the employee is medically able to perform the duties of the position or, if not medically able, to rehire the employee in a modified or comparable position. This bill applies to all state employees who have sustained an occupational injury or illness and who wish to return to work for the state.

This bill will afford return to work protection for injured state employees, and should, overall, reduce the state's costs of workers' compensation by returning injured and disabled employees to suitable gainful employment.

APPROVED:


Jim Robison, Commissioner
Department of Labor

POSITION PAPER/Department of Labor

SECTIONAL ANALYSIS -- HB 318

(CS for Sponsor Substitute for HB 318, dated 5/1/86)

Section 1. Adds a new section to AS 23.40 that states that terms contrary to the provisions of this legislation may not be negotiated. Added at the request of the division of personnel.

Section 2.

Subsection 39.25.157. Requires the division of personnel, in consultation with the appropriate department or agency, to develop and maintain a detailed position description for each position within the classified and partially exempt services.

Also disallows the imposition of general physical ability requirements on a job class unless each position within the class requires the use of the physical ability.

Subsection 39.25.158.

(a) within 90 days after a physician's release to return to full or modified work, an injured employee must request to return to work for the state to be eligible for reemployment rights under this section.

(b) once an employee requests to return to work, the employee will be certified by the division of workers' compensation or the director of vocational rehabilitation. The certification will determine the employee's reemployment rights under this section. Certification may be delayed until after the employee completes retraining under (f).

(c) requires that a state agency offer an injured employee the employee's former position within 30 days, if the employee is certified able to perform the tasks assigned to the position and the position still exists. If the position is filled, the current employee shall be laid off under provisions of the personnel regulations that allow for layoffs without any reflection on an employee's work performance.

(d) requires agencies to make efforts of reasonable accommodation to the physical and mental limitations of an injured employee who is not able to perform all of the tasks assigned to the employee's former position, but who is able to perform the essential functions of the position.

Following federal language, the section defines reasonable accommodation.

(e) if, after reasonable accommodation, the employee is still unable to perform the essential functions of the employee's former position, then the agency is required to offer the employee a vacant position comparable in wage to the position the employee previously held.

If the employee is unable to perform the essential functions of a comparable position within the agency, then the employee is entitled to reemployment in a comparable position in another agency, provided that (1) the employee is qualified for the position and able to perform the essential functions of the position and (2) the position is vacant.

(f) if the employee cannot be reemployed in a comparable position by an agency of the state, then the employee may request reemployment at a lower wage or accept retraining under AS 23.30.041. After completing retraining, the employee may request reemployment in a state position for which the employee has been retrained.

(g) establishes guidelines for refusal by an agency to reemploy or continue the employment of a former employee.

(h) defines factors to be considered when determining if accommodation of an injured employee would constitute undue hardship to an agency. Factors to be considered include the number of employees in the section or office, number and type of facilities, size of budget, nature and cost of the accommodation needed, and the type, composition, and structure of the work force.

(i) requires that an injured employee requesting reemployment who is able to perform the essential functions of the position be the only person certified for that position, excepting any employees in layoff status for that job class.

(j) precludes collective bargaining agreements from including terms contrary to this section.

(k) definitions:

"agency" includes a department, division, office, agency, board, commission, authority, or other organizational unit of the executive, legislative, and judicial branches of state government including the University of Alaska.

"injured employee" or "employee" means a permanent, probationary, or provisional employee of an agency whose injury is a compensable injury or condition under AS 23.30 (Alaska Workers' Compensation Act).

Section 3. States that nothing in this act modifies or terminates the terms of a collective bargaining agreement in existence at the effective date of the act.

CHAIRMAN'S INFORMATION: SCS CSSSHB 318(L&C)

1) BILL TITLE: "An act relating to the rights of injured state employees."

a) Introduced: Szymanski, Collins, Reiger

b) Co-sponsors:

2) INTENT: This measure concerns reemployment rights of injured state employees and would require the rehire of an injured state employee if the employee was medically able to perform the duties of his former employment. If the employee is not medically able to perform the duties of his former employment, the state would have to rehire the employee in a comparable or modified position.

L&C CS requires the injured employee to request to return to work within 30 days after receipt of the physicians release, rather than the 90 day period in the House version. The SCS also limits the applicability of the bill to state employees in the classified service.

FISCAL NOTE: 0 (should reduce the state's cost of workers comp by returning an injured employee to gainful and suitable employment)

3) ADDITIONAL REFERRALS: Sen Finance and Sen Rules

4) PUBLIC HEARINGS:

a) Sponsor:

b) Public Witnesses:

5) BILL ACTION:

a) Hold in committee?

b) Assign to sub committee for further review?

c) Move from committee?

d) Close public hearings?

6) COMMITTEE ACTION?

a) amendments?

b) CS adoption? Need to move for the adoption of the SCS.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY


Pouch Y. State Capitol
Juneau, Alaska 99811
(907) 465-3991

RECEIVED OCT 13 1984

October 11, 1984

MEMORANDUM

TO: Representative Mike Szymanski

FROM: Sharman Haley 
Legislative Analyst

RE: Priority Rehire For Disabled State Employees
Research Request 35-025

You have asked about instituting a policy of preferential rehire for State employees who are forced to leave their jobs due to work-related disabilities. Short summaries of rehire policies in Washington, Oregon, and Idaho as well as the U.S. Postal Service and the Municipality of Anchorage are provided below. A discussion of policy alternatives for amending Alaska law along similar lines follows.

WASHINGTON

An employee of the State of Washington who becomes disabled cannot be terminated for at least sixty days. Supervisors have broad discretion to extend leave without pay to the injured employee and fill the position temporarily until the employee is able to resume his or her duties. If the injured employee is out longer than sixty days and is terminated from his or her position, the employee is eligible to be placed on the Reduction In Force (RIF) list for that job class when he or she is ready to return to work. Persons on the RIF list have the right of first hire when vacancies in that job class appear.

If the disabled employee is not able to resume the duties of his or her former job class and seeks reemployment in an alternate job class, the employee must go through the normal application and testing procedures to be certified to the register for the alternate job class. Once certified, the disabled employee is entitled to hiring preference over applicants on the open competitive register. If the alternate job class constitutes a promotion, the disabled employee has second hire priority after those on the RIF list. If the alternate job class is a demotion or lateral transfer, reemployment preference over open competitive candidates is at the discretion of the hiring authority.

Representative Szymanski
October 12, 1984
Page Two

Under Washington law, a person whose disability keeps them out of work for more than 120 days is referred to a vocational rehabilitation counselor for evaluation and vocational rehabilitation planning. A person who is permanently disabled may qualify for the state's equal employment opportunity program for the handicapped. Washington State civil service rules allow handicapped persons to test for any job class for which they meet the minimum qualifications, whether or not that register is open for recruitment. State agencies have the option of using the list of qualified handicapped workers, in preference to the regular register when filling vacancies.

Incentive for state agencies (or any employer) to hire workers with occupational injuries is provided by the Preferred Worker Program, which excludes the worker from the computation of workers' compensation premiums for a period of three years. The benefits due the worker in the event of an injury during the three-year period are covered by the state's Second Injury Fund.

OREGON

Of the states contacted, Oregon has the strongest laws for rehiring injured employees. Oregon civil rights law provides that an injured employee has the right to reinstatement on demand in his or her former position, or in any other job, if a position is available and the worker able to perform the duties of the job. In the state system, responsibility for rehiring the injured employee falls on each agency. Oregon statutes also require "reasonable accommodation" for the special needs of handicapped workers. In the state personnel system, this may include some restructuring of the job.

IDAHO

Idaho personnel rules provide that when an employee is absent due to injury or illness, the job is held open for the employee and may not be declared vacant for at least six months. If the worker has not returned to work within six months and is terminated, for an additional 12 months the worker is eligible to be placed on the lay-off register for that agency if the doctor has cleared the employee for return to work. If the employee is not able to resume the same job duties, the agency has some discretion to modify work for the employee, but there is no program or policy to further accommodate workers who must change job classes.

Representative Szymanski
October 11, 1984
Page Three

U.S. POSTAL SERVICE

The U.S. Postal Service goes beyond the requirements of federal law to return injured employees to work. Under federal law, an injured federal employee who is able to return to work within one year has the right to return to the same or an equivalent position in the same agency. If it takes longer than a year to return to work, the employee has the right to priority placement in the same or equivalent position in that or another federal agency. The returning federal employee is credited with wage step increases and other benefits based on length of service for the entire time he or she was out on disability compensation.

A partially or temporarily disabled postal employee is on leave status until the doctor certifies that the employee is able to return to work. The worker is either returned to his or her former job, with some modification of duties if needed, or transferred to an alternate job. In planning a placement, the post office considers the risk of reinjury and the potential compensation costs as well as the skills and abilities of the worker. Only if this assessment indicates that the worker will not be returned to federal service is the employee terminated.

The responsibility for finding or creating a job falls on the local postmaster. To encourage the placement of partially disabled workers, the salary of a partially disabled employee is not paid out of the operating unit's budget, nor are the hours worked by a partially disabled worker counted in computing the operating unit's productivity rating. Thus the operating units are able to show a higher productivity, for which they are rewarded, by utilizing partially disabled workers.

ANCHORAGE

The Municipality of Anchorage has implemented a modified work program for municipal employees injured on the job. The stated purposes of the program are to minimize long-term costs to the municipality and to return the employee to good health and productive employment at the earliest opportunity.

Under the modified work program, an injured worker who is able to resume partial duties will be placed in modified work for up to three months while the worker is in transition back to full duties. If rehabilitation requires a complete change in employment, participation in the modified work program may exceed three months. The worker is paid his or her full regular salary during the period of modified work. If the worker's permanent job placement is at a lower salary than his or her old job, two-thirds of the difference is paid to the employee through the city's workers compensation account. Workers whose disability precludes them from placement in a permanent position receive a worker's compensation settlement.

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While providing modified work is the responsibility of each municipal agency, a job placement coordinator for the municipality as a whole oversees the development of modified jobs and placements. According to Harry Sjoberg, Risk Manager for the municipality, the city's experience with the program has shown significant reductions in compensation claims and changes in the attitudes of supervisors and injured employees alike. Prior to institution of the modified work program, the prevailing pattern was that supervisors were not inclined to rehire an employee at anything less than 100 percent productivity. Employee morale suffered from prolonged periods off work. Mr. Sjoberg said that now less work time is lost, supervisors show more concern for the circumstances of their injured employees, and rehabilitation is quicker.

ALASKA

Under the Alaska personnel rules, leave without pay due to a disability is at the discretion of the supervisor, but in any case may not exceed the employees length of service or 24 months, whichever is shorter. The supervisor may cancel leave without pay upon notice to the absent employee. If the employee does not report for duty on the specified date, he or she may be terminated immediately.

A disabled classified employee terminated "in good standing" has rehire rights for two years from the date of termination. This means that they will be placed on the transfers and rehires list for that job class, which agencies may use in preference to the regular register when seeking applicants to fill vacancies. A few departments such as Health and Social Services have internal policies requiring agency heads to use the transfer and rehire list first, but most departments leave this to the discretion of the supervisor.

Injured State workers who are unable to resume the duties of their former job have few advantages in seeking other State jobs. They must go through the same process as anyone else of finding job classes for which they qualify, waiting for an open recruitment period for that class, taking applicable tests, getting on the job register, and successfully competing with other applicants. If the worker is fortunate enough to still be on leave and thus retain permanent employee status, he or she may be eligible for noncompetitive appointment at the discretion of the hiring authority.

State law provides that workers absent from work more than 90 days due to an on-the-job injury have a right to vocational rehabilitation evaluation. This includes an assessment of skills and abilities, aid in planning for training and rehabilitation, and job placement assistance.

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If the worker qualifies as severely handicapped and is a client of the Division of Vocational Rehabilitation, the worker may be referred to a State job and hired noncompetitively if the hiring authority chooses.

State workers whose occupational injuries disable them from resuming their former job duties qualify for a disability pension under the Public Employees Retirement System. The pension is terminated in one year, however, unless the recipient submits evidence that he or she meets the qualifications for federal Social Security disability income (SSI). Federal standards for SSI are stringent; the worker must be unable to hold any gainful employment, not merely his or her former job.

Policy alternatives to facilitate reemployment of injured State workers in Alaska, patterned after some of the preferential rehire programs in other jurisdictions, are listed below:

POLICY OPTIONS

1. Employees could be guaranteed the right to disability leave.
2. Injured workers returning to work could be placed on the lay-off list, which assures them priority placement within their former job class.
3. Injured workers unable to resume the duties of their former job class could be allowed to test for any other job class for which they meet the minimum qualifications, whether or not recruitment is open.
4. Hiring preference in alternate job classes for which the worker qualifies could be granted by making the worker eligible for the lay-off, promotion, or transfer and rehire lists. Eligibility for the lay-off list would guarantee the worker first priority placement, while the promotion and the transfer and rehire lists would give the worker preference only at the option of the hiring authority.
5. A modified work program could provide injured workers job duties tailored to their capabilities during a period of transition back to full duties or to a new job.
6. State agencies could be given incentives to rehire disabled State workers, such as omitting the disabled worker from the calculation of their worker's compensation assessment.
7. State employees injured in the course of their employment could be guaranteed State jobs when doctors certify that the employees

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are able to return to work. The employee would be reemployed in their original job class if they were able to perform the duties, in an alternate job class for which they qualify, in an alternate job class for which they may be retrained, or in a modified job tailored to their individual capabilities.

8. The injured worker could also be extended the right to receive pay no less than the pay he or she received prior to injury, regardless of the final job placement.

These policy changes could be effected by amending AS 39.25.150 to direct the Department of Administration to provide for these policies in the personnel rules. Alternatively, reemployment could be mandated for all employers in the state under the workers' compensation or civil rights laws. Copies of the Oregon law and the Postal Service policy manual, both of which are regarded by vocational rehabilitation professionals as model policies, are attached.

Because the State is a self-insurer and is liable for workers' compensation benefits as well as for the disability pension payments, it may be in the State's financial interests as well as the interests of the injured worker to implement a preferential rehire policy and return the worker to a job as quickly as possible. Approximately 1,200 injured State employees file worker's compensation claims per year, of which about 200 to 250 include a claim for wage loss due to being out of work more than three days. Compensation is also paid for loss of earning capacity if the injured worker's prospective employment pays less than his or her former job. Compensation for wage loss is generally calculated at two-thirds of the lost wages, but because workers' compensation is tax exempt, the take home compensation is worth more than two-thirds of net wages lost.

* * * * *

I am still expecting some additional information from other states to come in the mail. If upon reviewing the material I find that it provides any significant information on this issue that I have not adequately covered here, I will forward it on to you with a supplemental memo. Meanwhile, I hope that this memorandum provides you with the information that you need.

If you have any further questions please call me.

SH

659.410 Discrimination against workers applying for workers' compensation benefits prohibited. It is an unlawful employment practice for an employer to discriminate against a workman with respect to hire or tenure or any term or condition of employment because the workman has applied for benefits or invoked or utilized the procedures provided for in ORS 656.001 to 656.794 and 656.802 to 656.824, or of 659.400 to 659.435 or has given testimony under the provisions of such sections. [1973 c.660 §4]

659.415 Reinstatement of worker receiving compensable injuries; certificate of physician evidencing ability to work; effect of collective bargaining agreement. (1) A worker who has sustained a compensable injury shall be reinstated by the worker's employer to the worker's former position of employment upon demand for such reinstatement, provided that the position is available and the worker is not disabled from performing the duties of such position. If the former position is not available, the worker shall be reinstated in any other position which is available and suitable. A certificate by a duly licensed physician that the physician approves the worker's return to the worker's regular employment shall be prima facie evidence that the worker is able to perform such duties.

(2) Such right of reemployment shall be subject to the provisions for seniority rights and other employment restrictions contained in a valid collective bargaining agreement between the employer and a representative of the employer's employes.

(3) Any violation of this section is an unlawful employment practice. [1973 c.660 §5; 1979 c.813 §3; 1981 c.874 §14]

659.420 Employment of injured worker in other available and suitable work; certificate of physician; effect of collective bargaining agreement. (1) A worker who has sustained a compensable injury and is disabled from performing the duties of the worker's former regular employment shall, upon demand, be reemployed by the worker's employer at employment which is available and suitable.

(2) A certificate of the worker's attending physician that the worker is able to perform described types of work shall be prima facie evidence of such ability.

(3) Such right of reemployment shall be subject to the provisions for seniority rights and other employment restrictions contained in a valid collective bargaining agreement between

the employer and a representative of the employer's employes.

(4) Any violation of this section is an unlawful employment practice. [1973 c.660 §6; 1979 c.813 §4]

659.425 Discrimination against mentally or physically impaired persons in employment or public accommodation prohibited; mental disorder treatment not evidence of inability to work or manage property. (1) For the purpose of ORS 659.400 to 659.435, it is an unlawful employment practice for any employer to refuse to hire, employ or promote, to bar or discharge from employment or to discriminate in compensation or in terms, conditions or privileges of employment because:

(a) An individual has a physical or mental impairment which, with reasonable accommodation by the employer, does not prevent the performance of the work involved;

(b) An individual has a record of a physical or mental impairment; or

(c) An individual is regarded as having a physical or mental impairment.

(2) It is an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise discriminate against, any individual because that individual is a handicapped person, or to classify or refer for employment any individual because that individual is a handicapped person.

(3) It is an unlawful employment practice for a labor organization, because an individual is a handicapped person, to exclude or to expel from its membership such individual or to discriminate in any way against such individual.

(4) It is an unlawful practice for any place of public accommodation, resort or amusement as defined in ORS 30.675, or any person acting on behalf of such place, to make any distinction, discrimination or restriction because a customer or patron is a handicapped person.

(5) Receipt or alleged receipt of treatment for a mental disorder shall not constitute evidence of a person's inability to perform the duties of a particular job or position, or of a person's inability to acquire, rent or maintain property. [1973 c.660 §7; 1979 c.640 §3]

659.430 Discrimination against handicapped persons in real property transactions prohibited; advertising discriminatory preference prohibited; assisting discriminatory practices prohibited. (1) No person because the purchaser, lessee or renter is a handicapped person shall:

LWOP for an initial period of up to 1 year from the date OWCP compensation began.

.92 Extensions. If the employee is unable to return to work at the end of the 1 year period on LWOP, the LWOP may be extended for successive additional periods of up to 6 months. Extensions are granted only if it appears that the employee is likely to return to work within the period of the extension.

.93 Separations. If it is not likely that the employee will be able to return to work at the end of one year of LWOP or during the authorized extended period, the employee may be separated. Before any employee who is on the rolls of the OWCP can be separated, the postal official must submit a comprehensive report to the General Manager, Employee Relations (Region), with appropriate recommendations and retain the employee on the rolls of the Postal Service pending a decision.

.94 Deciding Appropriate Action. In considering the action to take in matters involving extended leave, the installation head sends Form 2573, *Request for OWCP Claim Status*, in duplicate, to the appropriate OWCP district office; and, upon receiving a completed Form 2573 from OWCP, does one of the following:

- a. Extends LWOP for an additional period, at the end of which an additional determination must be made;
- b. Authorizes a fitness-for-duty examination by a medical officer as provided in 547.31, .32, and .33 if OWCP does not respond within a maximum of 60 days or if OWCP's response does not explain the situation; or
- c. Request permission to terminate LWOP as required in .93; and
- d. Terminates LWOP after receiving permission from the General Manager, Employee Relations (Region) as follows:

(1) If the employee has 5 or more years of creditable civilian service, inform the employee of retirement rights. Allow the employee 14 calendar days to file a retirement application under the Civil Service Retirement Act.

(2) If the employee does not file a retirement application within the 14 day period, terminate LWOP and take action to separate the employee as described in 365 and 568.

(3) If the employee has less than 5 years creditable civilian service, terminate LWOP and take action to separate the employee as described in 365.

546 Reemployment of Employees Injured On Duty

546.1 Law

.11 General. The USPS has legal responsibility to employees with job-related disabilities under 5 U.S.C. 8151 and the Office of Personnel Management's (OPM) regulations, as outlined below

.12 Disability Fully Overcome Within 1 Year

.121 Obligation. When the injury or disability is fully overcome within one year after the commencement of compensation payments from OWCP, or after compensable disability recurs, the USPS must give an

employee the right to resume employment in the former or equivalent position.

.122 Rights and Benefits. Upon reemployment, all rights and benefits which an employee would have had or acquired in the former position, had there been no injury or disability, must be restored.

.13 Disability Fully Overcome More Than 1 Year

.131 Obligation. When the injury or disability is fully overcome more than one year after compensation began, the USPS must give an employee priority consideration for reemployment into the former position or an equivalent one.

.132 Reemployment List. The names of all former employees who fully recover from their compensable disabilities more than one year after compensation begins must be entered on a reemployment list in two groups. *Group one* will include all such former employees who are entitled to 10 point veteran preference. *Group two* will include all other such former employees. Persons in *group one* will be considered for employment before persons in *group two*, and persons in *group two* will be considered before other sources of recruitment, such as transfers from other agencies, reinstatements, or appointments from hiring registers.

.133 Rights and Benefits. The same as 546.122.

.14 Disability Partially Overcome

.141 Current Employees. When an employee has partially overcome a compensable disability, the USPS must make every effort toward assigning the employee to limited duty consistent with the employee's medically defined work limitation tolerances (see 546.32). In assigning such limited duty, the USPS should minimize any adverse or disruptive impact on the employee. The following considerations must be made in effecting such limited duty assignments:

a. To the extent that there is adequate work available within the employee's work limitation tolerances; within the employee's craft; in the work facility to which the employee is regularly assigned; and during the hours when the employee regularly works; that work shall constitute the limited duty to which the employee is assigned.

b. If adequate duties are not available within the employee's work limitation tolerances in the craft and work facility to which the employee is regularly assigned, within the employee's regular hours of duty, other work may be assigned within that facility.

c. If adequate work is not available at the facility within the employee's regular hours of duty, work outside the employee's regular schedule may be assigned as limited duty. However, all reasonable efforts shall be made to assign the employee to limited duty within the employee's craft and to keep the hours of limited duty as close as possible to the employee's regular schedule.

d. An employee may be assigned limited duty outside of the work facility to which the employee is normally assigned only if there is not adequate work available within the employee's work limitation tolerances at the employee's facility. In such instances, every effort will

be made to assign the employee to work within the employee's craft, within the employee's regular schedule, and as near as possible to the regular work facility to which normally assigned.

.142 Former Employees. When a former employee has partially recovered from a compensable injury or disability, the USPS must make every effort toward reemployment consistent with medically defined work limitation tolerances. Such an employee may be returned to any position for which qualified, including a lower grade position than that held when compensation began.

.15 Employee Appeal Rights. An employee who believes the proper consideration for reemployment was not received may appeal to the Merit Systems Protection Board, under 5 CFR, 353.

546.2 Collective Bargaining Agreements

Reemployment under this section will be in compliance with applicable collective bargaining agreements. Individuals so reemployed will receive all appropriate rights and protection under the applicable collective bargaining agreement.

.21 Contractual Considerations

.211 Scope. Collective bargaining agreement provisions for filling job vacancies and promotions, and procedures relating to retreat rights due to reassignment, will be complied with before an offer of employment is made to a former postal employee on the OWCP rolls for more than 1 year.

.212 Reemployment. A former employee will be offered reemployment in a residual vacancy (a vacancy which has been posted for bid or application and for which there are no successful bidders or applicants), or may work as an unassigned regular or as a part-time flexible. Regional Directors, Employee and Labor Relations (APMG, Employee Relations, for Headquarters and Administrative Support Facilities (ASFs) may waive minimum qualification requirements (including written examinations) in individual cases for former employees injured on duty who are being considered for reemployment when there is evidence (including that submitted by the medical officer) that the employee can be expected to perform satisfactorily in the position within ninety days after assignment.

.22 Types of Appointments

.221 Former career employees will be reemployed as career full-time or part-time employees.

.222 Former substitute rural carriers will be reemployed as substitute rural carriers or in any other position for which they qualify.

.223 Former casual and temporary employees will be reemployed as casual or temporary employees. Upon satisfactory demonstration of ability to meet job requirements during two 90-day casual appointments or one 180-day temporary appointment, the employee's

status may be noncompetitively converted to a career appointment (NOA 501).

546.3 OWCP Referrals

.31 General. OWCP will make referrals of current and former postal employees who may be candidates for reemployment.

.32 Work Limitation Tolerances. The individual's physician of record, or other physician selected by the individual or OWCP, will furnish OWCP with a definitive medical summary, clearly documenting the medical limitations that will have to be accommodated. The OWCP District Medical Director evaluates the work limitation tolerances, submitted by the physician of record, and upon concurrence, refers them to the USPS for consideration.

.33 USPS Medical Review

.321 Reemployment Physical Examination

a. The medical officer will evaluate fully all medical records referred to the USPS from the OWCP district offices.

b. A complete physical examination, paid for by the USPS, will be required by the appointing officer. The result of the physical examination will be documented on Form 2485, *Certificate of Medical Examination*.

c. The medical officer will make a statement of concurrence with the OWCP documented medical limitations, or further restrict the former employee's work limit tolerances. The medical officer can in no way liberalize the medical limitations tendered by the OWCP district offices.

.322 Special Considerations

a. An individual referred for reemployment consideration by OWCP may have some degree of concurrent disability, not caused by or related to the original job injury or disability. The medical officer should examine for any concurrent medical condition that might prevent the individual from performing the duties of the position for which the individual is being considered.

b. The medical officer will carefully evaluate all concurrent disabilities and include their potential impact in the recommendation for reemployment to the appointing official.

c. All former employees, now permanently, partially disabled, have some type of residual handicap. The medical officer, conducting the physical examination, will be responsible for assigning the correct handicap code as defined in Handbook P-11, *Personnel Operations*, Chapter 6.

546.4 Restoration Rights

.41 OPM Regulations. OPM has responsibility for the implementing regulations of 5 USC 3151. These regulations are codified in 5 CFR Part 353. 5 USC 8151(a) provides that an individual, injured or disabled on duty, who resumes employment with the USPS is to be credited with the time during which compensation

was received for purposes of certain rights and benefits based upon length of service.

.42 Rights and Benefits upon Partial Recovery

.421 Seniority. Individuals, reemployed into bargaining unit positions will be credited with seniority in accordance with the collective bargaining agreement covering the position to which reemployed.

.422 Probationary Period. Reemployed individuals who have completed their probationary periods, or would have completed their probationary periods but for their compensable injuries, will not be required to serve a new probationary period.

.423 Leave Credit. Former employees who were eligible to accrue leave under ELM 510 will be credited with the total time compensation was received from OWCP for purposes of computing leave rate accrual upon reemployment.

.424 Retirement. Former employees who were covered by the Civil Service Retirement Act (see ELM 560) will be credited with the time spent on OWCP compensation in computing retirement credit.

.425 Salary Determination. The following salary restoration criteria must be met (*Note:* The term "Grade/Step," as used below, means "Grade/Salary" for individuals in a non-step salary schedule):

a. Reemployment to the Former Grade/Step. These individuals reemployed into a position with the same grade/step as held at the time of injury or disability will receive the current salary for that grade/step from the appropriate salary schedule.

b. Reemployment to a Higher Grade. Those individuals reemployed to a position with a grade higher than that of the position held at the time of injury or disability will be placed in the higher grade at the current salary for the grade/step held at the time of injury or disability. If that salary is between steps in the higher grade, the individual's salary will be increased to the next higher step.

c. Reemployment to a Lower Grade/Step.

(1) *Salary Below Maximum of Lower Grade.* The individual will be placed in any higher step in the lower grade which is less than one full step above the current salary for the grade/step of the position held at the time of injury or disability.

(2) *Salary Above Maximum of Lower Grade.* In those cases where the current salary for the grade/step held at the time of injury or disability exceeds the maximum salary of the lower grade position, the employee will be afforded a saved rate at the higher grade/step salary. These saved rate provisions apply for an indefinite period and are subject to the rules of the salary schedule to which assigned.

d. Reemployment to a Position in a Different Salary Schedule. When an individual is reemployed to a position in a salary schedule different from the schedule under which paid at the time of injury or disability, once reemployed, the individual will be treated under the rules applicable to the salary schedule to which reemployed:

(1) The individual will be reemployed at the grade appropriate for the position to which reemployed.

(2) The individual will be placed in any higher step in the new grade which is less than one full step above the current salary for the grade/step of the position held at the time of injury or disability.

(3) If reemployment is to a nonstep schedule, the individual will be placed at a salary equal to the current salary for the grade/step of the position held at the time of injury or disability.

(4) If the current salary for the grade/step held at the time of injury or disability exceeds the maximum salary of the new grade, the individual will be given a saved rate. These saved rate provisions apply for an indefinite period and are subject to the rules of the salary schedule to which assigned.

e. Former Position Under Different Salary Schedule. Where the position held at the time of injury or disability is no longer under the same salary schedule, the current salary for the former grade/step will be determined by:

(1) Regional Compensation Division, for field, district, and regional positions.

(2) Office of Compensation, Headquarters, for Headquarters and Headquarters-related positions.

f. Step Increases. Upon reemployment, permanently, partially disabled individuals begin a new waiting period for step increases.

.43 Rights and Benefits Upon Full Recovery. See 546.122.

546.5 Retirement Considerations

.51 Status. Pursuant to the Civil Service Retirement Act, a former employee who applied for and received Civil Service disability retirement status will cease to be an annuitant upon reemployment and restoration of that individual's wage earning capacity.

.52 Reinstatement of Eligibility

.521 If an annuitant, reemployed under the procedures in this section, is later found unable to successfully perform in the new position due to the original compensable injury or disability, and is again separated, the employee will be entitled to the restoration of disability retirement status under the Civil Service Retirement Act.

.522 If an employee becomes disabled for the position due to a new injury or disability after entry into that position, the employee would have a right to apply for a new Civil Service disability retirement status.

.53 Refunded Retirement Deductions. A former employee who withdrew retirement deductions based on previous employment, may redeposit the amount refunded, plus interest, after reemployment to a position from which retirement deductions are withheld.

.54 Notification. Upon reemployment of a disability annuitant (or in advance, if possible), the appointing official must notify the Office of Personnel Management, Compensation Group, Room 3305, Attention: Annuitant

Services Division, Washington, DC 20415. The notification must include the individual's name, social security number, date of birth, Civil Service Annuity claim number (CSA-Civil Service Account), date of reemployment, Form 2485, Certificate of Medical Examination and whether retirement deductions will be made from the salary for the position to which reemployed.

546.6 Relocation Considerations

.61 Scope. In some cases, former employees receiving OWCP compensation may have relocated to other geographic areas. Every effort must be made to reemploy these individuals within their current area of residence by treating them as if they had been employed at that office at the time of injury. Any offer to reemploy in a different location will be considered only after all reasonable attempts have been made to rehire within the area of the former employee's present domicile.

.62 Expense. Any relocation and travel expenses will be the responsibility of the former employee. However, under certain mitigating circumstances the SAPMG for E&LR, or the SAPMG's designee, may authorize relocation and travel expenses consistent with the provisions of Handbook M-9, *Travel*.

546.7 Reemployment Procedures

.71 Offer of Appointment

.711 Evaluation. Upon receipt and evaluation of the OWCP referral containing documented medical limitations, and evaluation of the medical officer's recommendations, the appointing official will determine if a reemployment offer can be made.

.712 Interview. During the preemployment interview, the appointing officer will ensure that the individual receives the following information:

a. In-depth analysis of medical limitations and the individual's responsibility to work within the prescribed work limitation tolerances.

b. If applicable the status of injury compensation and disability retirement benefits and future eligibility.

c. A full explanation of all restoration rights and benefits (see 546.4).

d. Full particulars regarding the position, including title, duties, grade, salary, location of work assignment, and all other information required in a preemployment interview. (See Handbook P-11, 264.8 and 265.)

e. Instructions for completion and submission of any required employment forms.

.713 Appeal

a. Those employees who fully recover in less than one year from the date on which OWCP compensation began, may appeal to the Merit Systems Protection Board (MSPB) if they believe a proposed offer of reemployment does not meet the requirements of Office of

Personnel Management regulations 5 CFR Part 353. The letter of appeal must be submitted within 20 days after the date of the offer or 20 days after the date of reemployment, whichever is later.

b. Those employees or former employees whose full recovery extends beyond one year, or whose partial recovery falls either within or beyond one year of compensation, may appeal to the Merit Systems Protection Board only when they have requested restoration through formal application to the installation head and restoration has been refused them. An appeal to the denial of restoration must be filed with MSPB within 20 days from the day the denial letter is received. Upon restoration, however, the employees are not given the right to appeal the nature of the restoration.

.72 Refusal of Reemployment Offer. When a former employee refuses an offer of suitable employment within the OWCP defined medical limitations, the appointing officer must do the following:

a. Offer the individual an opportunity to sign a declination of employment.

b. Advise the individual that the effect of such refusal may result in the termination or reduction of compensation benefits by the Department of Labor.

c. Notify the OWCP district office by telephone of the declination and reasons given.

d. Within 2 working days, forward a full written summary of the former employee's interview, including the signed declination, and medical evaluations or other pertinent information to the OWCP district office. OWCP has the responsibility to notify the Retirement and Insurance Division, Office of Personnel Management, when disability retirement status is to be evaluated.

.73 Refusal to Reemploy. The appointing official may not be able to accommodate the former employee for medical reasons or other considerations. If the former employee will not be reemployed, the appointing officer must:

a. Notify the employee in writing of that fact, with a copy to the OWCP; and

b. Include a paragraph informing the individual of the right to appeal to the Merit Systems Protection Board.

.74 Processing Personnel Actions. The reemployment of former employees injured or disabled on duty requires uniform information on Form 50-B, *Request for Personnel Action (Processing Copy for New Hires Only)*, before forwarding to the Employee and Labor Relations Information Center. (See 612.5 of Handbook P-11.)

547 Return to Duty

547.1 Therapy Obligations

The installation head must ensure that an employee reports for scheduled therapy treatment. The employee

must be advised that failure to keep appointments with a physician or hospital is a form of absenteeism. Control office/control point personnel will report failures to keep appointments to the OWCP district office.

547.2 Medical Reports

.21 Progress reports received from the attending physician may show the employee is capable of some work during convalescence or after medical treatment has been completed.

.22 If not, this information is requested by the control office/control point from the attending physician or the OWCP district office by use of Form CA-17.

.23 If the attending physician submits a medical report, Form CA-17, indicating that the employee is medically capable of performing some of the normal duties for a limited number of hours, or other work of a different nature than the employee's former assignment, the installation head must make every reasonable effort to place the employee in an appropriate assignment.

547.3 Fitness-For-Duty Determination

.31 **Determining Fitness.** The fact that an injured or ill employee is scheduled for a series of treatments or appointments with a physician or hospital does not, by itself, establish that the employee is not fit-for-duty in the interim. Control personnel will recommend, upon medical justification, to the installation head that any employee being treated by a physician or hospital be required to report to a USPS medical unit (or contract equivalent) for a fitness-for-duty examination. Only an installation head is authorized to approve a fitness-for-duty examination.

.32 **Examination Report.** This physical examination may include the parts of the anatomy being treated, provided the examination in no way disturbs or interferes with the treatment regimen. The results of this examination will be brought to the attention of the OWCP district office for consideration.

.33 **Physician Report Questioned.** If the medical officer questions the medical procedures and/or determination of the employee's attending physician, no administrative action may be taken to change the employee's compensation or employment status until the medical issue is settled.

.34 **Resolving Determination.** The following procedures apply only to fitness-for-duty determinations incident to an on-the-job injury or illness. Fitness-for-duty determinations for other purposes are not covered by this instruction.

a. The physician or hospital must, for each visit of the employee, make a professional statement, using Form CA-17, showing the employee either:

- (1) Fit-for-duty; or
- (2) Fit for limited duty, and the work tolerance limitations due to the injury; or
- (3) Not fit for duty with an expected return-to-duty date.

b. If the physician or hospital is unable to predict an employee's fitness for duty on either a short-term or long-term basis, the control office/control point supervisor may request information from the OWCP by sending Form 2573, Request—OWCP Claim Status, in duplicate, to the OWCP district office. If OWCP does not respond within a maximum of 60 days, or if the OWCP response does not explain the situation, a fitness-for-duty examination may be recommended to the installation head as provided in 547.31, .32, and .33. However, a fitness-for-duty examination can be initiated at any time to determine the duty status of the injured employee.

c. If the results of the fitness-for-duty examination disagree with the findings of the attending physician, the matter, along with justification for the USPS position, is referred by the control office/control point supervisor to the OWCP Deputy Commissioner for resolution.

d. A fitness-for-duty determination is not limited to the employee's regular duties, but should be based on whether the employing installation has any temporary alternative duties available which the employee may safely perform.



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

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SUMMARY and EVALUATION of
Alaska Health Project/ Department of Labor Seminars
HOW TO IMPLEMENT THE NEW RIGHT TO KNOW LAW IN YOUR BUSINESS

January 4, 1985

Authors:

Mark Catlin and David Wigglesworth, Alaska Health Project
Max Andrews, Alaska Department of Labor

The Alaska right to know law requires employers, as of July 1, 1984, to collect information on hazardous substances used on their job sites and train their workers on these hazards. Both the Alaska Health Project and the Department of Labor received numerous requests from Alaskan businesses for assistance in implementing right to know programs during the spring and early summer of 1984. In response to these requests, the Alaska Health Project and Department of Labor decided to conduct a joint seminar series in the summer and fall of 1984. The Alaska chapter of the American Society of Safety Engineers and Collins and Associates cosponsored the seminars.

Five half-day seminars were scheduled, four in Anchorage and one

in Fairbanks. Two additional seminars were added after the original five were filled because of continuing requests from businesses (see seminar outline, Appendix A). Max Andrews and Stan Godsoe from the Department of Labor and Mark Catlin, David Wigglesworth and Lawrence Weiss from the Alaska Health Project developed the seminar program. Max Andrews, David Wigglesworth and Mark Catlin taught the seminars (Stan Godsoe taught at one seminar when Max Andrews was unavailable).

In all, 94 persons attended the seven seminars (see Table 1). Most of those attending were managers in the private and public sector (see Table 2).

After each seminar, participants were asked to complete an evaluation form (see summary of evaluations in Appendix B). These evaluations were very positive, with 90 % rating the seminar as excellent or good and 96% rating the quality of instruction as excellent or good. Many of the participants specifically liked having instructors from both the Department of Labor and the Alaska Health Project. Participants also said they appreciated the informal nature of the seminars, the ample opportunity to ask questions, the case studies and the written material prepared for the seminar.

During these seminars, participants discussed their problems with implementing the right to know law. Common problems mentioned were: delays in obtaining material safety data sheets from distributors and the Department of Labor; lack of final regulations; need for more specific criteria for acceptable training; and the need for more information about chemical hazards.

Overall, the attitude of the participants was positive toward the right to know law. Many saw the need for and advantages to such programs. Several commented that compliance with the law would be fairly easy for their companies and required only "common sense".

This joint seminar series was successful in reaching many employers in the state, and assisting them to begin or improve their right to know programs. Even so, the Department of Labor and the Alaska Health Project continue to receive requests for assistance with the right to know law. We anticipate the need for additional seminars during 1985. In addition, we also suggest exploring the need for a follow up series of seminars covering chemical hazards, air sampling, and hazard control methods.

APPENDIX A: SEMINAR OUTLINE



Alaska Health Project

417 West Eighth Avenue — P. O. Box 10-1037, Anchorage, Alaska 99510 — (907) 276-2864

How To Implement the New Right To Know Law
In Your Business

Denali Tower, Nikko Gardens
July 30, 1984

8:00 a.m. - 12 noon

Anchorage, Alaska

Time	Topic/Speaker	Materials
8:00 - 8:30	Registration	
8:30 - 8:40	Historical Beginnings/Current Perspective Max Andrews, Mark Catlin, David Wigglesworth	Tab #1
8:40 - 8:50	Need for Right-To-Know: Does it Work? Mark Catlin	Tab #1
8:50 - 9:50	Alaskan Right-To-Know Law - A Review Max Andrews, David Wigglesworth	Tab #2
9:50 - 10:00	Break	
10:00 - 11:25	Alaskan Right-To-Know Legislations - How to Comply and How To Communicate the Information Max Andrews, Mark Catlin, David Wigglesworth	Tab #3
11:25 - 11:35	Break	
11:35 - 11:50	Limitations and Uses of Material Safety Data Sheets (MSDSs) Mark Catlin	Tab #4
11:50 - 12:00	Resources for Right-To-Know Issues David Wigglesworth	Tab #5

Table 1: Seminar Attendance

Seminar date	Attendance	Location
July 17	9	Anchorage
July 30	15	Anchorage
August 9	25	Anchorage
August 31	20	Anchorage
September 7	11	Anchorage
September 17	8	Fairbanks
December 11	6	Anchorage
TOTALS: 7 seminars	94 attended	

Table 2: Affiliation of seminar participants

Management, private	66%
Management, public	18%
Labor union	6%
Nonprofit organizations	4%
Other	6%
TOTAL	100%

APPENDIX B: SUMMARY

How To Implement The New Right To Know Seminar
In Your Business

Participant Evaluation

1. Overall, how would you rate this seminar?
Excellent 22%
Good 68%
Fair 9%
Poor 1%
2. How much did you learn that you didn't know before?
Much 51%
Some 41%
Little 8%
Nothing 0%
3. How was the class instruction?
Excellent 26%
Good 70%
Fair 3%
Poor 1%
4. Did you feel that the seminar was
Too long 12%?
Too short 18%?
Just right 70%?
5. Did you have enough time to ask questions?
Yes 90%
No 10%
6. What did you like most about the seminar?
Joint Dept. of Labor/AHP speakers; informal structure; time
to ask questions; case studies; seminar notebook
7. What did you like least about the seminar?
Need more information on training; need more information
on chemical hazards.

Alaska Foreign Trade, Inc.

February 10, 1986

FEB 13 1986

Senator Zharoff
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: H.B. 319

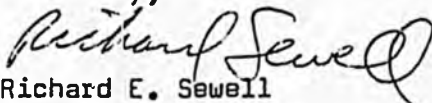
Dear Senator:

I am writing to you in regard to H.B. 319 and my support for it. When the 'Right to Know' law was passed I was pleased to see our legislature act in a responsible manner toward worker and public safety. However at the time it seemed somewhat odd that physical agents were not specifically included. Now with these proposed amendments to the law I believe we are moving more closely to what I believe is necessary in the workplace to protect both the workers and business.

Small business has too much regulation, God only knows. But the long-term health and safety of employees is very important to the longterm profitability of even the smallest of businesses. More complete information for both the business and the worker is good. All too often we in business get so involved in the day to day work that it's hard to keep aware of potential on the job hazards. This bill will force business to rethink their safety efforts at work, and specifically the exposure of workers to potentially harmful physical agents.

Please support this bill and urge others on your committee to push for its approval as well.

Sincerely,


Richard E. Sewell
President

c.c: Governor Bill Sheffield

February 7, 1986

FEB 13 1986

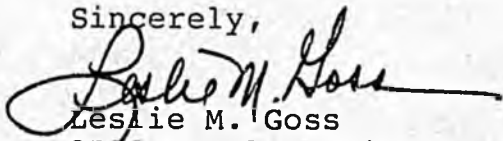
Senator Zharoff
Chairman, Senate Labor &
Commerce Committee
Pouch V
Juneau, AK 99811

Dear Senator Zharoff:

I am writing to let you know that I support HB319, an act relating to physical agents in the workplace, which I believe is currently before your committee for consideration. In my opinion, it ties in perfectly with the existing Right-To-Know Law.

Thank you.

Sincerely,


Leslie M. Goss
2500 Douglas Drive
Anchorage, AK 99517

cc: Governor Sheffield
Representative Pourchot

EXCELL

February 10, 1986

Senator Fred Zharoff
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99801

FEB 18 1986

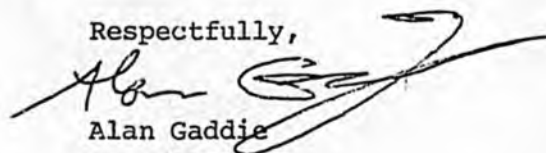
Dear Senator Zharoff,

I am an Alaskan business owner who believes strongly in informing workers about workplace hazards. Existing Worker Right-to-Know legislation has resulted in healthy dialogue between the worker and the employer. The result has been fewer worker injuries and illnesses.

I urge you to support HB 319, that adds physical agents to the workplace hazards covered under the Right-to-Know law.

My understanding is that this bill merely adds ten fact sheets to the information that I, as a business owner, am required by law to provide my employees. If providing information can save a life or circumvent an injury, I am all for it!

Respectfully,



Alan Gaddie

Co-owner/Manager

WETCO
WETCO INCORPORATED

FEB 18 1986

February 11, 1986

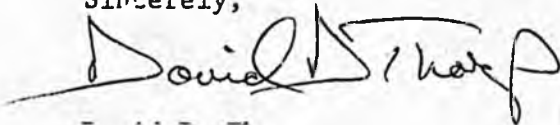
Senator Zharoff
Pouch V
Juneau, Alaska 99811

Dear Senator Zharoff:

As a company that handles a number of chemical compounds and employs many people in manufacturing operations, we are familiar with the many occupational health hazards in the workplace. As an employer, and as concerned citizens, we make a point of being aware of our responsibility and legislation affecting that responsibility.

We feel that the state worker right-to-know law is a good piece of legislation and we further support the proposed amendments to the law currently being considered in both the House and Senate. We urge you to support both HB 319 and SB 253.

Sincerely,



David D. Thorp
Operations Supervisor

DDT/kaw

cc: Representative Pat Pourchot
Senator Joe Josephson
Governor Sheffield



Alaska Laborers Training School

13500 OLD SEWARD HIGHWAY • (907) 345-3853
ANCHORAGE, ALASKA 99515

ADMINISTERED BY
LABOR TRUST SERVICE

EMPLOYER TRUSTEES

DERALD SCHOON
SECRETARY

P. D. KOON
RETIREMENT

WILLIAM REEVES
LEGAL

HARVEY W. MARLIN
TRAINING

EMPLOYEE TRUSTEES

RAY LEE
CHAIRMAN

MANO FREY
TRAINING

JIM SAMPSON
LEGAL

JOE THOMAS
RETIREMENT

TRAINING DIRECTOR
LESLIE N. LAUINGER

AFFILIATED WITH:

LABORERS-AGC
EDUCATION & TRAINING
FUND

February 20, 1986

Senator Zharoff
State Capitol
PO Box V
Juneau, Alaska 99811

Dear Senator:

I would like to support HB 319 which would amend the right to know law to include 10 "physical agents" along with the existing several hundred hazardous and toxic substances of which employers must inform employees.

It should not cost any more to accomplish this goal.

I believe hearings would help to identify different feelings on this issue and gather additional information.

I believe this bill would further the intention of the previously passed right to know legislation. We often "assume" people know things and find out too late that they do not. Informing people of hazards before they are confronted seems a minor inconvenience.

Sincerely,

Leslie N. Lauinger
Training Director

LNL/cz

February 18, 1986

Senator Fred Zharoff
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99508

Dear Senator Zharoff,

As you are chairman of the Senate Labor and Commerce committee, I hope that you are planning to schedule HB 319, the Physical Agent Amendments to the Worker Right-to-Know law, for hearing soon. These amendments are crucial in filling gaps in the information provided to workers under existing Right-to-Know law. It may prevent catastrophe in the workplace.

As someone who has worked with asbestos, I am acutely aware of the need for workers to be provided information about workplace hazards. The resources gained in circumventing loss time will more than compensate for resources spent in producing ten fact sheets required by the bill. As information about chemical hazards is already required by law, I see no reason why physical hazards should not be included.

Sincerely,


Dan Middaugh



Alaska Center for the Environment
~~1069 W. 6th Avenue~~ 411 W 4th Ave, Suite 1A
Anchorage, Alaska 99501 274-3621

February 19, 1986

Senator Fred Zharoff
Alaska State Legislature
P.O. V (MS 3100)
Juneau, AK 99811

HB 319

Dear Senator Zharoff:

Traditionally, the Alaska Center for the Environment has spoken out for legislation that minimizes the risk of exposure to hazardous agents. We supported the original Worker Right-to-know bill, that provides workers with information about hazardous chemicals in the workplace.

However, we think that the existing law does not go far enough in protecting workers from workplace hazards. Physical agents such as noise and microwave radiation have a real effect on worker's health in this state. Technicians at the Clear tracking station have had their lives changed profoundly by exposure to microwave radiation.

Please schedule this important bill for hearing.

Sincerely,

Cliff Landesman, Hazardous Waste Specialist, ACE

cc: Alaska Health Project

Rep. Pourchot



Alaska Health Project

Providing information about hazardous materials on the job and in the community.
417 West Eighth Avenue, Anchorage, Alaska 99501 (907) 276-2864

January 29, 1986

Senator Fred F. Zharoff
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

EBB 3 1986

Dear Senator Zharoff:

Enclosed please find a fact sheet regarding proposed amendments to the current Right to Know law (SB 253 and HB 319). Also included is a summary of responses to seminars addressing implementation of the existing Right-to-Know legislation.

The Alaska Health Project considers the generally positive response to these seminars evidence that the physical agent amendments will be easy to implement. We urge you to schedule this bill for hearing.

Respectfully,

Bill Slayton

Bill Slayton
AHP Intern

Enclosure

cc: Senator Joe P. Josephson
Representative Pat Pourchot
Michael Thill, Legislative Aid
Joyce Thoreson, Legislative Aid

Legislative Alert

FACT SHEET: THE PHYSICAL AGENT AMENDMENTS

HB 319 AND SB 253

BUILD ON EXISTING RIGHT TO KNOW LAW

Three years ago, the Alaska legislature adopted the Worker Right-to-Know Law (CBSB 79) giving workers the right to request and receive from their employers information about workplace hazardous chemicals. The bill received broad-based support from labor, health, business, and environmental groups.

Two bills introduced last year, HB 319 (Pourchot) and SB 253 (Josephson), seek to amend the existing Right-to-Know Law to include physical agents. Physical agents, such as noise and ionizing radiation, similar to chemical agents, are potentially harmful to the health of workers. Health problems such as hearing loss and cancer can be attributed to exposure to some physical agents.

LOGICAL EXTENSION

The physical agent amendments are logical extensions of the existing Right-to-Know Law, building on pre-existing regulatory structures. HB 319 passed the house (34-4) last year. Both bills now reside in the Senate Labor and Commerce Committee. There are no fiscal notes attached to either bill.

NOT DIFFICULT TO IMPLEMENT

The bill makes the Department of Labor responsible for listing, gathering information, and educating employers about potentially harmful physical agents. This amounts to writing and notifying employers of eight additional workplace hazards. Since the department is already carrying out these responsibilities for chemical hazards, the addition of eight fact sheets should not require any major manpower changes.

The bill makes employers responsible for educating employees about how to work with physical agents safely. As they are already required to train employees about chemical hazards, this additional training should be easy to implement. Employee training will include information about the location, properties, and chronic effects of physical agents, handling procedures, and how to use safety equipment. The employer is required to have updated information on hand about potential hazards of physical agents that are a risk in the workplace. Posters and information about physical agents will be provided by the Department of Labor.

PHYSICAL AGENTS

Physical agents covered by this bill are those listed by the respected American Conference of Industrial Hygienists in Threshold Limit Values for Physical Agents. Potentially harmful physical agents include:

NOISE can cause damage to delicate tissues of the ear. Occupations at risk include construction workers, machine operators, and airport employees. Exposure to excess noise has been linked to:

- * Permanent hearing loss and deafness.
- * Stress and high blood pressure.

IONIZING RADIATION can be harmful as it can cause genetic damage to workers tissues. Occupations at risk include laboratory workers and x-ray operators. Exposure has been linked to:

- * Burns, rashes, and skin disease.
- * Cancer.
- * Birth defects.

LASERS are intense beams of light that can cause burns and blindness. Objects that scatter the lasers can cause inadvertant exposure.

HEAT can be harmful when more heat is absorbed into the body than can be dissipated. Occupations at risk include food service workers, roofers, and deep bed miners. Prolonged exposure to heat has been linked to:

- * High blood pressure and heart disease.
- * Sexual impotence.
- * Birth defects.

RADIOFREQUENCY AND MICROWAVE RADIATION are non-ionizing radiation produced by radio and television broadcast that produce heat. Occupations at risk include radio and television workers, radar workers, cooks, users of radiofrequency heaters, physical therapists, and electrical workers. Exposure has been linked to:

- * Depression.
- * High blood pressure and heart disease.
- * Birth defects.

ULTRAVIOLET RADIATION is high energy non-ionizing radiation that can cause burns. Occupations at risk include welders, solderers, and laborers. Exposure has been linked to:

- * Severe burns.
- * Blindness.
- * Skin cancer.

What can you do?

- ** Contact your legislator and ask him or her to support this bill. You can write, call, or send a Public Opinion Message. If you are unsure who represents your district, call the Legislative Information Office nearest you.

- ** Write a letter to sponsoring legislators requesting that this issue be considered a top priority.

- ** Ask your friends and colleagues to do the same.

- ** Call the Alaska Health Project (276-2864) for information about the current status of the bill.

How do you do it?

- 1) During session, write all legislators or committees at:

NAME
ALASKA STATE LEGISLATURE
POUCH V (MS 3100)
JUNEAU, ALASKA 99811

- 2) To call a legislator, contact the Legislative Information Office nearest you. There is an Alaska State Legislature Directory (1985-1986), available through Legislative Information Offices, which lists Juneau phone numbers for all legislators.

- 3) Send a Public Opinion Message (POM) by contacting your nearest Legislative Information Office. This is a free service that can be used by any constituent to wire a message to any individual member of the legislature or to all members of a committee. Always state who should receive the POM and the specific bill number. Be prepared to give your name, address, and phone number. You can request a POM by telephone.

The Anchorage Legislative Information Office is located on 6th Avenue between K and L Streets. The telephone number is 278-3668. Check your phone book for other regional offices.

Bill No. Committee Substitute for House Bill No. 319(L&C) Date April 12, 1985

Title "An Act relating to physical agents."

Contact: Richard Arab
465-4856
Eileen Plate
465-2700

Under existing law, employers are required to provide information and training to employees on certain toxic and hazardous substances. This bill seeks to expand the "Right-to-Know" law to include physical agents.

Physical agents are defined as those listed in the "Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment" as published by the American Conference of Governmental Industrial Hygienists. The latest edition of this publication lists the following physical agents:

- Heat Stress
- Ionizing Radiation
- Lasers
- Noise
- Impulse or Impact Noise
- RF/Microwave Radiation
- Ultraviolet Radiation
- Airborne Upper Sonic and Ultrasonic Acoustic Radiation
- Cold Stress
- Hand-Arm (Segmental) Vibration

Exposure to physical agents can result in permanent disabilities, such as deafness. Often employers and employees are not aware of the harmful effects of a particular physical hazard present in the workplace, and the training and information requirements provided in this bill would assist in filling this void. This would, in turn, effect implementation of protective measures by the employer to safeguard employees, as well as provide employees with an understanding of the importance of following safe and healthful work practices.

As part of its Occupational Safety and Health program, the Department of Labor enforces regulations to protect employees from certain physical hazards (ionizing radiation, lasers, noise, RF/microwave radiation, and ultraviolet radiation). The information and training requirement of this bill would, therefore, enhance the Department's efforts to protect Alaska's workers.

The Department of Labor supports Committee Substitute for House Bill No. 319. It will not have a fiscal impact on the Department.

APPROVED:



Jim Robison, Commissioner
Department of Labor

POSITION PAPER/Department of Labor



SUMMARY CSHB 319 (L&C)
WORKER RIGHT-TO-KNOW LAW AMENDMENTS
TO INCLUDE PHYSICAL AGENTS

HB 319 amends the "worker right-to-know" statutes to include "physical agents" with other toxic and hazardous substances about which employers must inform their employees.

The existing statute (AS 18.60) directs the Department of Labor to prepare for employers information data sheets on hazardous and toxic materials to which employees may be exposed in the workplace. Information which is compiled by the Department is transmitted to the workers by employers and includes: description of the substantiated effects of the substance, known threshold levels where effects occur, activities and situations where the substances are encountered and practices, technology and preventative measures which are available to the workers which will reduce or eliminate the negative impacts of the substance. Safety training for new employees is also required.

The same notice and training requirements for hazardous and toxic substances would be applied to "physical agents" under CSHB 319. "Physical agents" are only those identified by the American Conference of Governmental Industrial Hygienists (ACGIH) and include:

- Ionizing radiation (x-ray)
- Heat and cold stress
- Impulsive and impact noise
- Radiofrequency, microwave, ultraviolet, and infrared radiation
- Lasers
- Hand-arm (segmented) vibration

With enactment of this bill industrial accidents could be reduced in number and severity. For example, accidents such as the microwave exposure at Clear Air Force Station may be avoided if workers are better informed of the substances to which they may be exposed and are aware of preventative and safety precautions. Many occupations are not readily associated with exposure to dangerous levels of physical agents. Welders and pipe fitters, for example, are often exposed to hazardous exposures of ionizing radiation (x-rays) when examining welds and joints.

It should be emphasized that the bill requires only the dissemination of information and safety training by employers. It does not require that employers or employees implement any safety practices or measures.

The fiscal note for the bill is \$0. The Department of Labor essentially will be editing existing information from national organizations relating to health and safety in the workplace, including the ACGIH, the Center for Disease Control, and the Occupational Safety and Health Administration (OSHA).



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

CSHB 319 (L&C): Sectional Analysis

Section 1) Expands the duties of the Department of Labor concerning occupational health and safety regulation and expands the "worker's right to know" law by including physical agents. The department would be required to publish an annual list of physical agents, maintain a current set of OSHA form 20's or equivalent information for each physical agent, and other information relevant to physical agents.

Department would also be required, upon request, to develop employee safety education programs, and obtain information on physical agents.

Section 2) Employer would be required to conduct a safety education program before an employee performs a new work task and is exposed to physical agents for which he has not already been trained. Also defines the employee safety instruction program.

Section 3) Employer is required to make available on the request of an employee, information on the physical agents to which the employee may be exposed. If the employer does not have a copy of the information requested, he shall request a copy within 3 state government working days after the request has been made.

Section 4) Concerns requirements for the posting of information on physical agents by employers.

Department shall print posters and provide information on each physical agent which the employee may be exposed to.

Section 5) defines "being exposed" to a physical agent

Section 6) defines "physical agent" as defined by the department thru regs; department shall initially define the term to include those agents listed in the 84/85 edition of the "Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment". Department shall amend the definition to include physical agents listed in future editions, but not include an agent, the exposure to which does not pose a health hazard.

Section 7) definitions

Section 8) Department may continue using existing posters until the next printing.

CHAIRMAN'S INFORMATION: CSHB 319(L&C)

- 1) BILL TITLE: "An act relating to physical agents"
 - a) Introduced: Pourchot, Gruenberg, Koponen
 - b) Co-sponsors:

- 2) INTENT: This measure expands the "worker right to know law" by including "physical agents" among the list of those hazards which employers must inform employees of. The department of Labor will be required to provide posters and information fact sheets to employers for the education of their employees. Additionally, safety training will be required before new employees become exposed to physical agents in the work place.

FISCAL NOTE: 0

N.B. NO EFFECTIVE DATE CLAUSE

- 3) ADDITIONAL REFERRALS: Finance, Rules

- 4) PUBLIC HEARINGS:
 - a) Sponsor:
 - b) Public Witnesses:

- 5) BILL ACTION:
 - a) Hold in committee?
 - b) Assign to sub committee for further review?
 - c) Move from committee?
 - d) Close public hearings?

- 6) COMMITTEE ACTION?
 - a) amendments?
 - b) CS adoption?

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS HB319 (L&C)
 Title: "An Act relating to physical agents"
 Sponsor: Pourchot, et. al.
 Requestor: House H & SS
 Date of Request: 4/12/85

FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public Protection
 BRU, Program or Subprogram(s) Affected: Occupational Safety & Health

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
900 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert J. Bacolas, Sr.

Division: Labor Standards & Safety

Phone: 465-4870

Date: 4/12/85

Approved by Commissioner: Jim Robison

Agency: Labor

Date: 4/12/85

Distribution (by Agency preparing fiscal note):

Legislative Finance

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 319
 Title: "An Act relating to physical agents"
 Sponsor: Pourchot, et. al.
 Requestor: House Labor & Commerce
 Date of Request: 3/27/85

FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public Protection
 BRU, Program or Subprogram(s) Affected: Occupational Safety & Health

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: ^{MS} *R. Bacolas* Robert J. Bacolas, Sr. Phone: 465-4870
 Division: Labor Standards & Safety Date: 3/28/85

Approved by Commissioner: ^{MS} *Jim Robinson* Jim Robinson Date: 3/28/85
 Agency: Labor

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Jim Robinson
 4/27
 5/6

7/1/84



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

11/24/89
Date

H B

3 5 6



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

HB 356 Summary

Measure would allow the "assignment" of group life insurance policies which provides a means of reducing federal estate taxes and simplifying the estate planning process.

If a person other than the insured is assigned a policy, the proceeds do not pass through the insured's estate, and thus are not subject to federal estate tax. Currently, 48 states have passed similar legislation, and the IRS has concurred as long as state's statutorily authorize "assignment" of group life policies. Without this authorization, the IRS requires payment of estate taxes on the policy before the proceeds go to the heir.

MEMORANDUM

State of Alaska

TO: Don Koch

RECEIVED
DIV. OF INSURANCE


DATE: September 25, 1980

SEP 30 11 51 AM '80

FILE NO:

ALASKA DEPT. OF
COMMERCE & ECONOMIC
DEVELOPMENT

TELEPHONE NO:

FROM: Jim Jordan 

SUBJECT: Assignment - Group Life

I recently had several more inquiries regarding the assignment of group life benefits. However, this time, I have found the insurer's reason for stating that group life benefits are not assignable in Alaska.

The situation described was one in which a two person partnership was looking for a group life contract to provide coverage for themselves as well as their employees. In addition, the two partners wished to assign their group life benefits and to name the assignee as beneficiary (the other partner) in order to obtain the favorable federal estate tax treatment as well as to fund a buy-sell arrangement. The insurer involved would not issue a group life contract allowing for assignment because, by their interpretation, in so doing they would not be contracting with a duly formed group pursuant to AS21.48.020.

AS21.48.020 states, in part, "...The lives of a group of individuals may be insured under a policy issued to an employer...to insure employees of the employer for the benefit of persons other than the employer..." (emphasis added). The insurer's contention is that if assignment were included, then this would benefit the employer and by so doing, violate the AS21.48.020 definition of a duly constituted group. One theory for this type of definition relates to the employer's purpose of providing group life coverage. That theory is the employer's purpose in providing for part or all of the cost of group life insurance is to provide for the employee's family upon death. In this specific case, the insurer deemed the partnership (the employer) would benefit by the assignment upon death of either or both of the partners as opposed to their families (as dependents of employees). However, in this specific instance, this is a very close call situation made by the insurer. The family of a deceased partner surely would benefit by receiving prompt cash for that partner's share of the business. Also, the surviving partner and his family would benefit by not having to liquidate other personal assets in order to satisfy the buy-sell arrangement.

It still appears to me that group life may be assigned pursuant to AS21.42.270 so long as such an assignment does not cause a situation which would violate AS21.48.020. This holds true, in general, for all employees. The only time a problem enters in, is when the employee and the employer are one in the same person, as in the case of a partnership. I believe that AS21.48.020 could be interpreted, in the case of a partnership, so that assignment would be allowed. I would not be surprised if some insurers have not made that interpretation and are allowing for assignment in such instances as the above example. Even where jurisdictions expressly allow for assignment, many group insurers do not allow it because of the additionally complex administration involved. Otherwise, some economies of scale would be lost thus threatening the lower cost, group approach.

Back-up Information

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2515

DIVISION OF INSURANCE

February 11, 1986

The Honorable Fred Zharoff
Chairman
Senate Labor & Commerce Committee
P.O. Box V
Juneau, AK 99811

Dear Senator Zharoff:

Re: HB 356 - Assignment of Group
Life Insurance

A number of questions concerning references to an Attorney General's Opinion were raised at the Senate Labor and Commerce hearing on HB 356 held on February 10, 1986. The suggestions of Mr. Jordan never resulted in a formal request for an Attorney General's Opinion. There were some casual discussions with the director at that time and the Attorney General's Office. The general drift of discussions at that time was, that in view of the potential impact from federal estate tax situations, the preferred method of dealing with the issue would be specific legislation to clarify the extent of assignment possible. The thinking was that interpretations would be subject to question where clear statutory language would probably not be so subject. I'm sorry that I did not anticipate the questions generated by the memo and accompany it with an explanation.

Very truly yours,



Donald P. Koch
Chief of Market Surveillance

DPK/me0220K
021186a

Memorandum to Don Koch
September 25, 1980
Page 2

Historically this has not been a very "hot" issue because of the small group life benefits offered in most schedules. However, this issue has come more to the forefront in the last few years due to the combination of larger amounts of group life offered to groups of lesser size. So, the market now has large amounts of group life coverage which can be issued to small employers who many times are partners interested in low cost ways to fund buy-sell arrangements. The partners can see a way to help provide for two needs - to fund a buy-sell arrangement and at the same time provide an employee benefit which, in theory, will help in retention of employees.

I think at this time we need an attorney general's opinion concerning this situation. If the opinion parallels my interpretation of AS21.48.020 in this circumstance, then we can state positively that assignment is allowable. If not, I think a legislated solution is in order. In either event, this will stop insurer's from using the code and the division's interpretation as excuses for not allowing group life assignment. For many insurers, I'm sure this is the most expedient and painless response to their marketing staff when confronted on this issue.

In any event, opposition to this interpretation or legislated solution will come from the individual product agent. They will see this as an infringement upon their private domain. This is so because there is no doubt that individual life policies can be assigned. However, I think competition would be good for this marketplace. Also, if partners are unable to assign group life benefits, they may reduce or even forgo entirely a group life program for their employees in order to have the capital for premiums for individual life policies to fund a buy-sell arrangement.

I would appreciate your thoughts on this issue both in general and in this specific circumstance. I think the time has come to address this issue with the attorney general.

State of Alaska

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
(Co-Chairman)
HOUSE JUDICIARY
HOUSE COMMUNITY AND
REGIONAL AFFAIRS



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4968

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

January 24, 1986

PRESS RELEASE

RE: HB 356, "Assignment of Group Life Insurance Policies"

Reduced federal taxes for Alaskans could result from legislation scheduled for a House floor vote today, according to Max Gruenberg, Anchorage Democrat and prime sponsor of HB 356, "Assignment of Group Life Insurance Policies."

The bill authorizes assignment of group life insurance policies by an insured person to another party.

"Forty-eight other states already have group life policies assignable by statute. By joining the other states, we correct an inequitable federal tax situation which discriminates against Alaskans," said Gruenberg.

"According to the IRS, for tax purposes you need specific statutory authorization to assign your group life policy to someone else. Without the authorization, IRS requires payment of estate taxes on the policy before the proceeds go to the heir."

"The reduction in federal tax income is insignificant, but the bill makes estate planning simpler and fairer for Alaskans," said Gruenberg.

Rep Gruenberg Press Release

CHAIRMAN'S INFORMATION:

- 1) BILL TITLE: "An act relating to assignment of group life policies of insurance."
 - a) Introduced: Rep Gruenberg
 - b) Co-sponsors: Taylor and Pe:tyjohn

- 2) INTENT: Measure authorizes "assignment" of group life insurance policies by an insured person to another party. The "assignment" creates a method for circumventing federal estate taxes and simplifies estate planning. 48 states currently have such statutory provisions.

FISCAL NOTE: 0

N.B. NO EFFECTIVE DATE CLAUSE

- 3) ADDITIONAL REFERRALS: Judiciary, Rules

- 4) PUBLIC HEARINGS:
 - a) Sponsor:
 - b) Public Witnesses:

- 5) BILL ACTION:
 - a) Hold in committee?
 - b) Assign to sub committee for further review?
 - c) Move from committee?
 - d) Close public hearings?

- 6) COMMITTEE ACTION?
 - a) amendments?
 - b) CS adoption?

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Labor & Commerce Committee 10/25/85, 10:00 am



Official Business

Alaska State Legislature

House

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Representative Gruenberg
FROM: Dave Donley *DB*
RE: April 24, 1985
DATE: HB 356, "Assignment of Group Life Policies of Insurance"

Under current estate tax law, if an insured owns a life insurance policy, upon the insured's death the proceeds of that policy will pass through his estate and be subject to estate tax prior to receipt by the named beneficiary.

If a person other than the insured owns a policy, the proceeds do not pass through the insured's estate and thus are not subject to estate tax.

At common law, it is questionable whether group life policies can be assigned, and the IRS has held that without statutory authorization, assignments are not effective for tax purposes. Accordingly, some 18 states have made group life policies assignable by statute.

Considering that 48 states have already passed similar laws, enactment of HB 356 by the state of Alaska would result in an insignificant reduction in federal revenues. The advantages in estate planning for Alaskans to be provided by this legislation are substantial and fair. Failure to pass this legislation will result in continuance of an inequitable federal tax situation that discriminates against Alaskans.

LAW OFFICES
DAVIS & GOERIG
A PROFESSIONAL CORPORATION
405 WEST 36TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99503

TRIGG T. DAVIS
GEORGE E. GOERIG, JR.

TELEPHONE 561-4420
AREA CODE 907

February 25, 1985

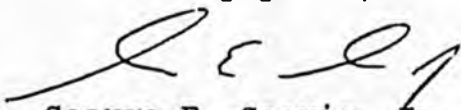
Richard S. Thwaites, Jr.
Chairman of the Alaska Bar Association
Probate Law Section
1031 West 4th Ave., Suite 500
Anchorage, AK 99501

Re: Proposed Statutes Regarding Assignment
of Group Term Life Insurance Policies

Dear Dick:

Enclosed is a proposed statute relating to the assignability of group life insurance policies. This statute shall affirmly establish the right of an individual to transfer his ownership of any group life insurance policy to any individual he wishes. Although at the present time there is no law in effect which specifically prohibits such an assignment, the United States Treasury Department may contest such a person's right unless the state of residency has a statute authorizing such an assignment. The Alaska Bar Association taxation law section supports inactment of this proposed statute.

Very truly yours,


George E. Goerig, Jr.
Attorney At Law

GEG/dvs

Enclosure



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

20 February, 1986

MEMORANDUM:

TO: Senator Eliason, Vice Chairman
Senator Bennett
Senator Ray
Senator Sackett

FROM: Senator Zharoff, Chairman
Senate Labor and Commerce Committee

The Senate Labor and Commerce Committee announces a committee hearing to be held on Friday, February 21st, at 3:30pm in the Beltz Room. On the agenda will be CSHB55(fin)am, originally scheduled for Wednesday's meeting.

CSHB55(Fin)am: "An act relating to liquor licensees' duty to contact taxis for patrons and to display alcohol warning signs."

Wall St. Journal
2/20/81

50 CENTS

Unsafe Harbor

Alaska Pipeline Firm Is Accused of Polluting Sea Water Since 1977

Alyeska Documents Support Claims of Lax Procedures At Water-Treating Plant Company Insists It Complies

By ANDY PASZTOR and ROBERT E. TAYLOR
Staff Reporters of THE WALL STREET JOURNAL

First, federal inspector Dianne Soderlund noticed a layer of brownish scum on water ready to be discharged into Valdez harbor from the trans-Alaska oil pipeline's water-treatment plant. Later, when she spotted an oil slick at the same location, suspicion turned to alarm.

"It appears," she concluded, "there are significant operational problems at the facility." The plant is supposed to screen oil and toxic pollutants from huge quantities of ballast water poured into the harbor by tankers as they queue up at the pipeline terminal to load crude oil at the feet of majestic, snow-shrouded peaks.

But evidence is piling up that the plant hasn't been doing its job effectively and that sludge containing toxic pollutants isn't properly removed from water that the plant discharges back into the harbor.

Larger Questions

The preliminary warning from Ms. Soderlund to the Environmental Protection Agency came 17 months ago. Since then, a flurry of federal and state investigations has shaken public confidence in the pipeline's management and forced it to make costly improvements. The revelations also raise larger questions: Can state and federal officials adequately monitor pollution from such large, complex facilities? And why did it take them so long to act in this case?

Investigators have uncovered a history of questionable plant actions since the 1977 opening of the pipeline's huge southern terminal in Valdez, Alaska, which currently supplies roughly 15% of total U.S. oil needs. And the scrutiny is far from over. Still under investigation are the reasons why some pollution-control devices designed for the plant were never installed and others were disconnected or modified without notification to the EPA.

State probes are looking into further allegations of such criminal violations as submission of fraudulent environmental test results and false testimony to government regulators about potential hazards. Internal company documents show that some pipeline officials years ago suspected that the plant posed potential environmental hazards, but federal and state regulators contend that management failed to take steps to resolve the deficiencies until it was ordered to do so in the past few months.

Improprieties Denied

Alyeska Pipeline Service Co., which operates the pipeline for eight major oil companies, says that it has complied with all anti-pollution laws and that all allegations of record-tampering, improper discharges and other improprieties are unfounded. It calls the pipeline terminal's ballast-water treatment plant "probably the best and most modern" facility of its kind in the industry, arguing that the criticism is fanned by misunderstanding of plant operations.

The focus of all this attention is a sprawling complex of giant tanks and miles of piping designed to remove and dispose of harmful pollutants contained in the roughly 13 million gallons of ballast water discharged by tankers daily. Empty tankers take on ballast water for added stability on the voyage to Valdez, then pump it out to take on crude oil destined for the lower 48 states.

An EPA administrative order issued last summer accuses Alyeska of violating the treatment plant's water-discharge permit by systematically recirculating potentially harmful sludge. A second compliance order was issued in conjunction with Alaska's Department of Environmental Conservation. Government officials contend that transfers of oily water and sludge from tank to tank within the plant allowed high levels of potentially harmful pollutants to build up in the system over the years and flow unnoticed into the bay.

'Serious Threat'

Ihor Lysyj, the main consultant hired by the EPA, recently reported to the agency that the plant's deficiencies allow "uncontrolled quantities" of toxic pollutants to enter the harbor. He also informally told the agency that such pollution presents an "imminent and serious threat to the environment."

Mr. Lysyj, one of the country's leading experts on ballast-water treatment, estimates that the plant currently spews 1,600 pounds of pollution into the harbor every day, including "extremely toxic and hazardous substances." Assuming that that rate has remained steady since the pipeline began operations more than eight years ago, he calculates, the plant may have released enough potentially hazardous sludge to cover completely about four football fields three feet deep.

The EPA's consultant compares Alyeska's sludge-handling procedures to "vacuuming your house, dumping all the collected dust back on the carpet and then starting the whole process over again." Federal and state regulators are conducting tests to determine how much of the sludge ends up in the rich fishing grounds of Prince William Sound and whether there has been any damage to marine life.

Although pipeline executives deny vio-

Please Turn to Page 13, Column 1

6

Unsafe Harbor: Pollution of Ocean By Alaska Pipeline Firm Is Charged

Continued From First Page

lating any laws, they clearly are on the defensive. Under pressure from state and EPA officials, Alyeska appears to be spending millions of dollars to revise operating procedures, install new pollution controls and upgrade laboratory equipment at the treatment plant. The company also has promised to take additional steps that may be necessary to comply with what are likely to be more-stringent requirements for a new federal permit for continued operations at Valdez.

But local fishermen and some environmental groups complain that the state and EPA officials still haven't gone far enough. "The regulators did a very poor job over the years by failing to devote the necessary attention and expertise to supervise plant operations," contends Robert Blake, the president of the Cordova District Fishermen United and one of Alyeska's sharpest critics.

Budget Pressures

Some state and federal enforcement officials concede that budget pressures, staff shortages and the press of other business contributed to the problem. Harold Geren, the regional chief of the EPA's water-pollution-control programs, recalls hearing concerns from his staff about the adequacy of the treatment plant as far back as 1981. But work on permits for pulp mills, offshore oil rigs and other facilities, Mr. Geren says, diverted attention from Alyeska. "We've been hard-pressed keeping permits issued promptly," he says.

The original design called for the plant to remove sludge from the system and burn it in a large incinerator. But Alyeska never constructed the incinerator and says it wasn't legally required to do so. A spokesman says the company decided it was unnecessary because the amount of sludge produced in the beginning was less than anticipated. Alyeska has said it segregated and stored only 450 cubic yards of the stuff since operations began in 1977. Also, under standard procedure, some is channeled into outgoing crude oil.

State and federal officials argue that much more sludge than that should have been removed. They say its recovery was impaired by operating and equipment changes, many of which Alyeska made without the notification that EPA officials say is required. For instance, the company substituted small, paddlewheel skimmers for the large, sweeping arms designed to skim oily scum off the surface of one set of tanks; and it stopped using equipment designed to scrape sludge off the bottom of the same tanks and to heat water to separate it from oil.

Effectiveness Unimpaired?

Alyeska has told federal investigators that such changes didn't reduce the plant's effectiveness. But pipeline officials refuse to answer questions from *The Wall Street Journal* or discuss specifics until their discussions with the EPA are completed. Company officials previously said many of

the changes were intended to reduce costly maintenance problems. The company says it has fully complied with its water permit by generally curbing the plant's releases of oil, grease and three other oil pollutants specifically limited by the permit.

Investigators counter that the plant must be operated as efficiently as possible to remove all pollutants—regardless of whether they are explicitly mentioned in the permit. "There isn't any question that the practices we found are unacceptable, and they are violations of federal permit requirements," asserts Jamie Sikorski, former head of the EPA's clean-water compliance office for the region.

William Lamoreaux, a state environmental official who helped draft the plant's original operating permit, agrees. He says that a sludge pit, originally intended for temporary storage of wastes awaiting incineration, had been converted so that waste material was routinely pumped directly back into the ballast-water treatment tanks. Such recirculation of sludges was "never approved or contemplated by anyone involved at the beginning," Mr. Lamoreaux asserts.

For its part, Alyeska told the EPA in 1982 that toxic pollutants not specifically limited by the permit were found "in concentrations so low as to pose no possibility of significant or deleterious effects" on the port.

Earlier Documents

Nevertheless, company concerns about the amount of sludge generated by the plant—and what to do with it—have surfaced in internal Alyeska documents written at least as far back as 1978. In that year, the terminal's then superintendent, F.C. Jones, wrote a letter to engineers at Exxon Corp., one of the eight owners of the pipeline, complaining that the treatment plant "does not provide any facility to remove solids" and asking for their help in solving the problem. The letter went on to say that while some of the materials "exist in the water effluent," the plant's "high recirculation rate of solids is currently interfering in" the system's overall operation.

State and federal investigators are examining the letter, which was obtained separately by *The Wall Street Journal* along with other Alyeska documents on the plant. Exxon officials say they don't know what their company did in response to the letter. Alyeska documents say that an Exxon official studied the plant, found that the sludge disposal would cost at least \$1.5 million annually and urged instead that more oily waste be diverted into crude oil destined for outgoing tankers.

In December 1978, an internal memo from plant operators estimated that "solids have accumulated at a rate of 1 to 2 tons per day (dry basis)," which, if accurate, would be far more than Alyeska has claimed to have separated and stored. State and federal regulators say that the company appears to be leaning toward building an incinerator at the treatment

plant to dispose of stored sludge.

State officials also are investigating the adequacy of the pipeline's contingency plans for an oil spill. The EPA and congressional investigators are looking into allegations that Alyeska improperly used the treatment plant to dispose of some chemical wastes that didn't come from ballast water. And the state's attorney general has collected documents relating to Alyeska's earlier statements about sludge-handling and to the question of whether some plant workers may have been improperly exposed to harmful chemicals over the years.

Broker's Role

Some of the documents that investigators are using were obtained by Charles Hamel, an independent oil-transportation broker from Alexandria, Va. He has spearheaded criticism of Alyeska's management after contending that he suffered losses on some oil shipped through the pipeline that allegedly contained excess water. His allegations indirectly led to questions about the pollution-control practices at the plant, alerted Alaskan newspapers about the plant's apparent problems and prompted the EPA and the state to step up their investigations.

Investigators also have testimony from several former Alyeska employees claiming that their bosses encouraged or told them to tamper with pollution tests, report incorrect data and engage in other improper activities at the plant.

In sworn testimony to the Alaska Public Utilities Commission, Erlene J. Blake, a former plant laboratory technician, last year alleged it was "standard operating procedure at times" to "alter" such records. She told utility regulators that she was instructed to provide false reports to the EPA when the volume of treated water flowing into the terminal exceeded maximum federal limits.

James Woodle, a former marine superintendent at the terminal, told the utility commission that "problem areas were masked and records modified" to suggest normal conditions at the treatment plant. Mr. Woodle also testified that plant operators were under instruction to disregard required safeguards if necessary in order to deal with unusually heavy incoming ballast flows. The operating principle, he said, was, "Just empty the tanks and make room."

Mr. Woodle is suing Alyeska, alleging that he was unfairly forced to leave the company before the investigations started. The company won't comment on the pending litigation.

Bill Röss, Alaska's top environmental official, several months ago confirmed that state officials, "working in concert with" the EPA, are conducting interviews and combing through Alyeska files to determine "whether any criminal violations may have occurred."

Many questions about the "sludge problem" at Valdez remain unanswered. But even the preliminary conclusions reached so far worry many scientists. David Shaw, a professor at the University of Alaska's Institute of Marine Sciences, who has studied Valdez harbor for Alyeska since the late 1970s, says of the increasing pollution on the sea bottom there: "I'm concerned it could be the tip of a serious problem."



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

20 February, 1986

MEMORANDUM:

TO: Senator Eliason, Vice Chairman
Senator Bennett
Senator Ray
Senator Sackett

FROM: Senator Zharoff, Chairman
Senate Labor and Commerce Committee

The Senate Labor and Commerce Committee announces a committee hearing to be held on Friday, February 21st, at 3:30pm in the Beltz Room. On the agenda will be CSHB55(fin)am, originally scheduled for Wednesday's meeting.

CSHB55(Fin)am: "An act relating to liquor licensees' duty to contact taxis for patrons and to display alcohol warning signs."

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

FISCAL DETAIL

Bill/Resolution No. : SCS CSHB 28 (Fin)
 Title : Special appropriation from PF undistributed income to PF principal

Agency Affected : Department of Revenue

BRU : _____

Sponsor : Duncan

Components : _____

Requestor : _____

Date of Request : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL		0	0	0	0	0
----------------	--	---	---	---	---	---

REVENUE		0	0	0	0	0
----------------	--	---	---	---	---	---

FUNDING : (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

The Department of Revenue estimates that \$1,017,400,000 will be deposited into the principal of the Permanent Fund from the Undistributed Income Account on July 1, 1986.

Prepared by : Jan Faiks, Co-chairman

Phone : 465-4523

Division : Senate Finance Committee

Date : 2/19/86

Approved by Commissioner : _____

Date : _____

Agency : _____

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

20 February, 1986

MEMORANDUM:

TO: Senator Eliason, Vice Chairman
Senator Bennett
Senator Ray
Senator Sackett

FROM: Senator Zharoff, Chairman
Senate Labor and Commerce Committee

The Senate Labor and Commerce Committee announces a joint hearing with the Senate Judiciary Committee to be held on Wednesday, February 26th, at 3:00pm in the Senate Finance Chambers. The agenda for the meeting will be a presentation on insurance.

HB 356: "AN ACT RELATING TO THE ASSIGNMENT OF GROUP LIFE
POLICIES OF INSURANCE."

THIS MEASURE WOULD ALLOW THE "ASSIGNMENT" OF GROUP LIFE
INSURANCE POLICIES, PROVIDING A MEANS OF REDUCING FEDERAL
ESTATE TAXES, AND SIMPLIFYING THE ESTATE PLANNING PROCESS.

IF A PERSON OTHER THAN THE INSURED IS ASSIGNED A POLICY, THE
PROCEEDS DO NOT PASS THRU THE INSURED'S ESTATE, AND THUS ARE
NOT SUBJECT TO FEDERAL ESTATE TAX.

CURRENTLY, 48 STATES HAVE PASSED SIMILAR LEGISLATION. WITHOUT
STATUTORY AUTHORIZATION, THE IRS REQUIRES PAYMENT OF ESTATE
TAXES ON THE POLICY BEFORE THE PROCEEDS GO TO THE HEIR. I
URGE SUPPORT FROM THE BODY.

Introduced: 4/8/85
Referred: Labor & Commerce
and Judiciary

BY GRUENBERG, TAYLOR AND
PETTYJOHN

1 IN THE HOUSE

2

HOUSE BILL NO. 356

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to assignment of group life policies
of insurance."

7

8

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

9

* Section 1. AS 21.42.270 is amended to read:

10

Sec. 21.42.270. ASSIGNMENT OF POLICIES. A policy may be assign-

11

able or nonassignable, depending upon its terms. Subject to its terms

12

relating to its assignability, a life, group life or disability

13

policy, whether issued before or after July 1, 1966, under the terms

14

of which the beneficiary may be changed upon the sole request of the

15

insured, may be assigned either by pledge or transfer of title by an

16

assignment executed by the insured alone and delivered to the insurer,

17

whether or not the pledgee or assignee is the insurer. The assignment

18

entitles the insurer to deal with the assignee as the owner or pledgee

19

of the policy in accordance with the terms of the assignment until the

20

insurer has received at its home office written notice of termination

21

of the assignment or pledge, or written notice by or on behalf of some

22

other person claiming an interest in the policy which is in conflict

23

with the assignment.

STATE OF ALASKA 1985 LEGISLATIVE SESSION

FISCAL NOTE

CC
4/26

Revision Date: _____

REQUEST

Bill/Resolution No.: HR 356
 Title: An assignment of group life policies of insurance
 Sponsor: Gruenberg et al.
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce & Econ. Dev.
 Program Category Affected: _____
Consumer Protection
 BRU, Program or Subprogram(s) Affected: Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: John George, Director Phone: 465-2515
 Division: Insurance Date: 4/25/85
 Approved by Commissioner: Loren H. Lounsbury Date: 4/25/85
 Agency: Commerce and Economic Development

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

2219WB42585a

Fiscal Note