

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4768 HJUD SB 322 (FILE 1) - SB 322 (FILE 2)

50

Sec. 27

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 22, line 26, after "filed", through page 23, line 6:

Delete all material.

Insert "the reports in a timely manner, the commissioner may waive a percentage or all of the penalties assessed under (c) of this section."

Page 23, line 7:

Delete "waived."

Sec. 33

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 26, line 15:

Delete "net"

Page 26, line 16, after "person":

Delete ", and"

Insert ". The percentage of permanent impairment of the whole person is the percentage of impairment to the particular body part, system, or function converted to the percentage of impairment to the whole person as provided under (b) of this section. The compensation is"

Sec 44

A M E N D M E N T

~~Handwritten scribble~~

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 33, line 7:

Delete "REDUCTION"

Insert "FREEZE"

Page 33, lines 8 - 11:

Delete "shall provide at least a six percent reduction in the premium rate charged within the state for workers' compensation insurance, for the period beginning July 1, 1988, and ending January 1, 1990"

Insert "may not increase the premium rate charged within the state for workers' compensation insurance during the period beginning April 18, 1988, and ending January 1, 1991"

Page 33, after line 22:

Insert a new bill section to read:

"* Sec. 48. Section 44 of this Act is retroactive to April 18, 1988."

Renumber the following bill sections accordingly.

Page 33, line 23, after "40":

Delete "and 47"

Insert ", 44, 47, and 48"

Delete "takes"

Insert "take"

Page 33, line 25:

Delete "and 41 - 46"

Insert "41 - 43, 45, and 46"

Sec 44

A M E N D M E N T

Offered in the HOUSE

By

TO: HCS CSSB 322(L&C)

Page 2, after line 6:

Insert a new bill section to read:

"* Sec. 2. AS 21.39.155 is amended by adding a new subsection to
(c) An insurer may not impose a surcharge for assigned risk
insurance unless the insured has received an experience rating."

Renumber remaining bill sections accordingly.

Page 32, line 29:

Delete "sec. 8"

Insert "sec. 9"

Page 33, line 1:

Delete "sec. 27"

Insert "sec. 28"

Page 33, line 13:

Delete "sec. 9"

Insert "sec. 10"

Page 33, line 18:

Delete "secs. 8, 25, 27, 28, 40, and 44"

Insert "secs. 9, 26, 28, 29, 41, and 45"

Page 33, line 21:

Delete "Section 40"

Insert "Section 41"

Page 33, line 22:

Delete "sec. 40"

Insert "sec. 41"

Page 33, line 23:

Delete "Sections 40 and 47"

Insert "Sections 41 and 48"

Page 33, line 25:

Delete "Sections 1 - 39, and 41 - 46"

Insert "Sections 1 - 40, and 42 - 47"

A M E N D M E N T



Offered in the HOUSE

By Su

TO: HCS CSSB ??2(L&C)

Page 31, after line 9:

Insert a new bill section to read:

** Sec. 39. AS 23.30.260 is amended to read:

Sec. 23.30.260. PENALTY FOR RECEIVING UNAPPROVED FEES SOLICITING. A person is guilty of a misdemeanor, and upon conviction is punishable for each offense by a fine of not more than \$1,000, by imprisonment for not more than one year, or by both, if the person

(1) receives a fee, other consideration, or a gratuity account of services rendered to an employer, employee, insurer, insurance adjuster regarding [IN RESPECT TO] a claim, unless consideration or gratuity is approved by the board, a designee of the board, or the court; or

(2) makes it a business to solicit employment for a lawyer or for oneself in respect to a claim or award for compensation."

Page 33, line 18:

Delete "40, and 44"

Insert "41, and 45"

Page 33, line 21:

Delete "Section 40"

Insert "Section 41"

Page 33, line 22:

Delete "sec. 40"

Insert "sec. 41"

Page 33, line 23:

Delete "Sections 40 and 47"

Insert "Sections 41 and 48"

Page 33, line 25:

Delete "39, and 41 - 46"

Insert "40, and 42 - 47"

A M E N D M E N T

~~AMENDMENT~~

Offered in the HOUSE

TO: HCS CSSB 322(L&C)

Sec 24
25
26

~~Page 21 line 7, after "penalty"~~
~~Insert "to be employed"~~

ON HCS

Page 21, line 8:

Delete "\$100"

Insert "\$1,000 [\$100]"

Delete "\$10"

Insert "\$100 [\$10]"

Page 21, line 10:

Delete "\$1,000"

Insert "\$10,000 [\$1,000]"

Page 22, after line 4:

Insert a new bill section to read:

"* Sec. 26. AS 23.30.155(e) is amended to read:

(e) If any installment of compensation payable without a
is not paid within seven days after it becomes due, as provided
of this section, there shall be added to the unpaid installm
amount equal to ⁵⁰~~25~~ [20] percent of it ³⁰⁰ or \$100, whichever amc
greater. This additional amount shall be paid at the same ti

ADOPTED

5.

and in addition to, the installment, unless notice is filed u
of this section or unless the nonpayment is excused by the bo
a showing by the employer that owing to conditions over w
employer had no control the installment could not be paid wi
period prescribed for the payment."

Renumber remaining bill sections accordingly.

Page 22, line 8, after "it":

Insert "^{\$1,000,} ~~\$100,~~ whichever amount is greater"

Page 23, line 11:

Delete "\$100"

Insert "\$1,000"

Page 23, line 12:

Delete "\$10"

Insert "\$100"

Page 33, line 1:

Delete "sec. 27"

Insert "sec. 28"

Page 33, line 18:

Delete "27, 28, 40, and 44"

Insert "28, 29, 41, and 45"

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: HCS CSSB 322 (Judiciary)

Page 29, after line 29:

Insert a new bill section to read:

"* Sec. 39. AS 23.30.244 is amended to read:

Sec. 23.30.244. CIVIL DEFENSE AND DISASTER RELIEF FORCES AS STATE EMPLOYEES. A resident of Alaska temporarily engaged in a civil defense or disaster relief function in another state or country under [THE PROVISION OF] AS 26.23.130 or as a volunteer in this state is considered an employee of the state for purposes of this chapter."

Renumber the following bill sections accordingly.

Page 33, line 1:

Delete "41, and 45"

Insert "42, and 46"

Page 33, line 4:

Delete "41"

Insert "42"

Page 33, line 5:

Delete "41"

Insert "42"

Page 33, line 6:

Delete "Sections 41 and 48"

Insert "Sections 42 and 49"

Page 33, line 8:

Delete "40, and 42 - 47"

Insert "41, and 43 - 48"

Not read

*Section 1
Version A*

A M E N D M E N T

Offered in the HOUSE

By Suno

TO: HCS CSSB 322(L&C)

Page 1, lines 14 - 17:

Delete "The legislature declares that the workers' compensation must not be construed by the courts in favor of any party. It is specific intent of the legislature that workers' compensation cases decided on their merits, except when otherwise provided by statute."

not read

Section 1
version B

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 1, lines 15 - 21:

Delete all material and insert:

"be fairly and impartially construed by the courts. In order to achieve that goal, it is the intent of the legislature that the preponderance of the evidence standard be used in determining the compensability of a workers' compensation claim. "Preponderance of evidence" means evidence that when weighed with that opposed to it has more convincing force and a greater probability of truth. When weighing the evidence, the test is not the relative number of witnesses, but the relative convincing force of the evidence."

Sec. 1
Version C Failed

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 1, lines 14 - 21:

Delete all material.

Reletter following subsections accordingly.

Sec. 2

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: HCS CSSB 322 (Judiciary)

Page 2, line 27, after "program":

Insert "; an insurer may charge a fee separate from the premium for services provided under this paragraph."

failed

Section 13

A M E N D M E N T

version A

Offered in the HOUSE

By :

TO: HCS CSSB 322(L&C)

Page 15, line 6:

Delete "amended"

Insert "repealed and reenacted"

Page 15, lines 7 - 27:

Delete all material and insert:

"(c) A claim for treatment is not valid and enforceable against the employer unless

(1) if the claim is for medical or surgical treatment, physician giving the treatment or the employee receiving it furnishes notice to the employer and the board notice of the injury and treatment within 14 days after the treatment is received; the board shall excuse the failure to furnish notice within 14 days when the board finds it to be in the interests of justice to do so, and the board may, upon application of a party in interest, make an award for the reasonable value of the medical or surgical treatment obtained by the employee and

(2) if a claim is for a course of treatment requiring continuing and multiple treatments of a similar nature, the treatments are carried out under a written treatment plan prescribed before commencement of the course of treatment and the plan is completed

-1-(Continued)

4/18/88

signed by the attending physician and mailed to the employer within one week of the beginning of treatment; the treatment plan must include objectives, modalities, and frequency of treatment; the initial treatment plan may not include more than 20 outpatient visits in the first 60 days; if more than 20 outpatient visits are required within the first 60 days, or more than four outpatient visits a month after the first 60 days, the physician shall document the need for services in excess of the guidelines in the written treatment plan."

Section ~~12~~ 13
Version B

Failed

A M E N D M E N T

Offered in the HOUSE

By Su

TO: HCS CSSB 322(L&C)

Page 15, line 6:

Delete "amended"

Insert "repealed and reenacted"

~~All~~

Page 15, lines 7 - 27:

Delete all material and insert:

"(c) A claim for treatment is not valid and enforceable against the employer unless

(1) if the claim is for medical or surgical treatment, physician giving the treatment or the employee receiving it furnishes notice to the employer and the board notice of the injury and treatment within 14 days after the treatment is received; the board shall excuse the failure to furnish notice within 14 days when the board finds it to be in the interests of justice to do so, and the board may, upon the application of a party in interest, make an award for the reasonable value of the medical or surgical treatment obtained by the employee and

(2) if a claim is for a course of treatment requiring continuing and multiple treatments of a similar nature, the treatments are carried out under a written treatment plan prescribed before commencement of the course of treatment and the plan is completed

(continued)

signed by the attending physician and mailed to the employer within
one week of the beginning of treatment; the treatment plan must in-
clude objectives, modalities, and frequency of treatment."

Section ~~13~~ 13
Version C

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 15, line 7, after "treatment":

Delete "is"

Insert ", or treatment requiring continuing and multiple treatments of a similar nature are [IS]"

Page 15, lines 16 - 27, after "employee.":

Delete all material.

Sec. 13

Ch. #1

AS 23.30.095(c)

PROPOSAL I

(c) A claim for medical or surgical treatment, or treatment requiring continuing and multiple treatments of a similar nature is not valid and enforceable against the employer unless, within 14 days following treatment, the physician or provider giving the treatment or the employee receiving it furnishes to the employer and the board notice of the injury and treatment, preferably on a form prescribed by the board. The board shall, however, excuse the failure to furnish notice within 14 days when it finds it to be in the interest of justice to do so, and it may, upon application by a party in interest, make an award for the reasonable value of the medical treatment so obtained by the employee. When a claim is made for a course of treatment requiring continuing and multiple treatments of a similar nature, in addition to the notice the physician or provider must furnish a ^{written} treatment plan if the course of treatment will require more than 20 outpatient visits in the first 60 days. The treatment plan must be furnished to the employee and the employer within 14 days after treatment begins. The treatment plan must include objectives, modalities, frequency of treatments, and reasons for the frequency of treatments. If the treatment plan is not furnished in the time provided, neither the employer nor the employee may be required to pay for treatments that exceed the frequency standard set out in this subsection.

PROPOSAL II

(c) A claim for medical or surgical treatment, or treatment requiring continuing and multiple treatments of a similar nature is not valid and enforceable against the employer unless, within 14 days following treatment, the physician or provider giving the treatment or the employee receiving it furnishes to the employer and the board notice of the injury and treatment, preferably on a form prescribed by the board. The board shall, however, excuse the failure to furnish notice within 14 days when it finds it to be in the interest of justice to do so, and it may, upon application by a party in interest, make an award for the reasonable value of the medical treatment so obtained by the employee. When a claim is made for a course of treatment requiring continuing and multiple treatments of a similar nature, in addition to the notice the physician or provider must furnish a treatment plan if the course of treatment will require more frequent outpatient visits than the standard treatment frequency for the nature and degree of the injury and the type of treatment. The treatment plan must be furnished to the employee and the employer within 14 days after treatment begins. The treatment plan must include objectives, modalities, frequency of treatments, and reasons for the frequency of treatments. If the treatment plan is not furnished in the time provided, neither the employer nor the employee may be required to pay for treatments that exceed the frequency standard.

Sec 13

ch 13

PROPOSAL III

(c) A claim for medical or surgical treatment, or treatment requiring continuing and multiple treatments of a similar nature is not valid and enforceable against the employer unless, within 14 days following treatment, the physician or provider giving the treatment or the employee receiving it furnishes to the employer and the board notice of the injury and treatment, preferably on a form prescribed by the board. The board shall, however, excuse the failure to furnish notice within 14 days when it finds it to be in the interest of justice to do so, and it may, upon application by a party in interest, make an award for the reasonable value of the medical treatment so obtained by the employee. When a claim is made for a course of treatment requiring continuing and multiple treatments of a similar nature, in addition to the notice the physician or provider must furnish a treatment plan if the course of treatment will require more frequent outpatient visits than the standard treatment frequency for the nature and degree of the injury and the type of treatments. The treatment plan must be furnished to the employee and the employer within 14 days after treatment begins. The treatment plan must include objectives, modalities, frequency of treatments, and reasons for the frequency of treatments. If the treatment plan is not furnished in the time provided, neither the employer nor the employee may be required to pay for treatments that exceed the frequency standard. The board shall adopt regulations establishing the standards for frequency of treatment.

Sec. 33

A M E N D M E N T

Offered in the HOUSE

By Sun

TO: HCS CSSB 322 (Judiciary)

Page 26, line 29, through page 27, line 2:

Delete all material.

Reletter the following subsection accordingly.

Sec. 36

A M E N D M E N T

Offered in the HOUSE



By Sund

TO: HCS CSSB 322(Judiciary)

Page 28, line 9, after "employee":

Insert "(A)"

Page 28, line 10, after "injury":

Insert "; (B) was absent from the labor market for six months or more of the two calendar years preceding the injury because the employee was receiving medical treatment, was enrolled as a student in a career education, undergraduate or graduate program, or was parenting a child;"

After "or":

Insert "(C)"

See. 36

AMENDMENT

Offered in the HOUSE

By Sund

TO: HCS CSSB 322 (L&C)

Page 28, line 17:

Delete "at the time of injury."

Insert "for the week of the injury."

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: HCS CSSB 322 (Judiciary)

Page 2, after line 17:

Insert a new bill section to read:

"* Sec. 2. AS 21.39.155 is amended by adding a new subsection to read:

(c) An insurer may not impose a surcharge for assigned risk pool insurance unless the insured has received an experience modification debit. After the insured has received an experience modification debit, the insured may impose a surcharge if ^{percentage of the} the surcharge does not exceed ^{the percentage} ~~an amount~~ applied as an experience modification debit or 25 percent of the premium developed after application of the experience modification factor, whichever is less."

Renumber remaining bill sections accordingly.

Page 31, line 24:

Delete "sec. 7"

Insert "sec. 8"

Page 31, line 25:

Delete "sec. 27"

Insert "sec. 28"

Page 32, line 8:

Delete "sec. 9"

Insert "sec. 10"

Page 32, line 13:

Delete "secs. 7, 24, 27, 28, 40, and 44"

Insert "secs. 8, 25, 28, 29, 41, and 45"

Page 32, line 16:

Delete "Section 40"

Insert "Section 41"

Page 32, line 17:

Delete "sec. 40"

Insert "sec. 41"

Page 32, line 18:

Delete "40 and 47"

Insert "41 and 48"

Page 32, line 20:

Delete "39, and 41 - 46"

Insert "40, and 42 - 47"

Sec. 44

A M E N D M E N T

Offered in the HOUSE

By Su

TO: HCS CSSB 322 (Judiciary)

Page 32, line 2, after "REDUCTION.":

Insert "(a)"

Page 32, after line 6:

Insert a new subsection to read:

"(b) This section does not apply to assigned risk pool insurance under AS 21.39.155."

OVERVIEW - WORKERS' COMPENSATION BILL
House CS CSSB 322 (Judiciary)

This bill is some 33 pages with 50 sections covering an extremely complicated subject. Its intent is to lower workers' compensation insurance premium rates by streamlining the comp delivery system, reapportioning benefits and reducing litigation. The following are highlights of the bill.

A. INJURED WORKER-RELATED ISSUES

1. Vocational Rehabilitation

- a. Change from a mandatory to a voluntary program.
- b. Limit program to those injured workers whose injury prevents them from performing duties of their profession.
- c. Limit voc rehab programs to two years.
- d. Cap rehab plan costs to \$10,000.
- e. Change purpose of rehab to make an injured worker employable versus employed.

2. Medical

- a. Subject medical payments to usual, customary and reasonable rates.
- b. Allow injured worker and employer to change treating physician and independent medical examiner respectively only once without each other's written consent.
- c. Require a written treatment plan for continuing subject to frequency guidelines to be established by the Department.
- d. Allow for a Board appointed Independent Medical Examiner (IME).

3. Compensation

- a. Change the maximum weekly benefit from 200% of state average weekly wage, currently \$1,100, to set maximum of \$700.
- b. Change the minimum weekly benefit from \$110 to \$154 if the worker submits wage documents. Without wage documents, the minimum benefit remains \$110.
- c. Allow an employee's vested pension contributions to be considered in determining weekly wage benefits and allow employers to offset comp benefits for pension benefits paid to workers.
- d. Clarify board determination of gross weekly earnings in an attempt to reduce litigation on this subject.
- e. Adjust weekly comp benefits for differences in cost of living for claimants living outside of Alaska.

4. Benefits
 - a. Schedule all injuries (including presently unscheduled injuries such as back and neck) and determine the degree of disability and amount of payment based upon "whole person" concept as provided in American Medical Association guidelines. Lost earnings would not be considered. This refers only to Permanent Partial Disability payments (PPD). Temporary Total (TTD), Temporary Partial (TPD) and Permanent Total (PTD) would continue as at present.
 - b. Increase the cap on PPD benefits from \$60,000 to \$135,000 and readjust the benefits so that the more severely injured workers receive higher benefits.
 - c. Broaden market for employees' services to reduce claims for PTD due to lack of employment opportunities.
5. Other
 - a. Bar an employee from making a workers' comp claim if the employee knowingly made false representations as to his physical condition, such representations were material to the hiring and they are connected to the injury.
 - b. Remove the presumption of compensability for stress claims by requiring claimants to prove the mental injury resulted from work-related stress.
 - c. Require the last employer to pay benefits if a claim is controverted on the grounds that another employer is liable.
 - d. Prohibit discrimination in hiring, retaining or promoting an employee who has received workers' comp benefits.

B. INSURER/EMPLOYER-RELATED ISSUES

1. Safety Program
 - a. Requires all insurers to make available to all insureds a safety program that includes consulting services and a rate reduction for successful program implementation. The cost of the services may be separate from premium rates.
2. Second Injury Fund
 - a. Permits insureds to contribute to the fund annually instead of on the anniversary of each claim.
 - b. Administrative costs of the fund are supported by the fund itself instead of through General Fund dollars.
3. Reporting and Penalties
 - a. Clarifies reporting requirements and increases penalties for late and incomplete reports.

4. Assigned Risk Pool

- a. Restructures the pool so that not all companies are automatically charged a 20% surcharge on their premiums.
- b. Tries to make the pool more equitable in that those companies proven to be a poor risk are surcharged while those proven to be good risks are not surcharged.
- c. Reduces potential abuse of the pool as a "dumping ground" for small or new companies.

5. Rate Reduction

- a. Mandates a 6% premium rate reduction for the period July 1, 1988 through Dec. 31, 1989.

AMENDMENTS TO SB 322
IN HOUSE JUDICIARY COMMITTEE
DRAFT DATED 4/20/88

Note: Further amendments were made to the 4/20/88 draft and appear in the 4/26/88 draft. A list of those amendments follow.

<u>Amdmt. #</u>	<u>Effect</u>	<u>Page-Line Judiciary CS</u>	<u>Page-Line Hse L&C CS</u>
<i>minor</i> 33	Rewrote "reduce disincentives" to read "increase the incentives."	1 - 27	1 - 27
<i>revised</i> 18	Added intent language urging the Administration to enforce reporting requirements and penalties under the Workers' Compensation Act.	2 - 7	2 - 7
<i>based on testimony</i> 19	Rewrote the Safety Program Refund to leave the parameters of the refund open to each insurers discretion, but require that all workers' comp. insurers offer a safety program rate reduction and consulting services.	2 - 19	2 - 7
<i>good clean up</i> 1	Clarified that the board retains two provider rosters -- one for rehab. specialists, one for physicians.	3 - 2	2 - 26
<i>clean up</i> 2	Deleted previous Sec. 4 which allowed the Department to write new regulations if the Supreme Court found regulations to be invalid. The Committee determined that this did not accomplish the original intent -- to make new regs. retroactive.	3 - 13	3 - 9
<i>pro ins</i> 20	Rewrote the provision for semi-annual premium payments to reflect seasonal employers who make their entire yearly earnings in a few months per year.	3 - 29	3 - 29
<i>business</i> 21	Rewrote "unusual and extenuating physical limitations" to read "unusual and extenuating circumstance." This refers to reasons why an injured worker may extend past the 90-day limit for taking a voc. rehab. evaluation.	6 - 25	6 - 23

2	4	Clarified the reference dictionary used in vocational rehab. codes.	7 - 26	7 - 24
1	3	Increased from 60 to 75 the percentage of a worker's wage at injury that the employer can offer which would make the worker ineligible for voc. rehab.	8 - 2	7 - 28
	22	Deleted the typo "of injury."	8 - 4	8 - 1
	23	Rewrote the clarification for the physician that an employee may elect by using the term "to provide all medical and related benefits" because "medical and related benefits" is in present definitions. It includes "transportation charges to the nearest point where adequate medical facilities are available."		
MAJOR	24	Rewrote AS 23.30.095(c) regarding notification and length of treatment.	15 - 9	15 - 7
	25	The new language treats continuing and multiple treatments very similar to medical and surgical treatment. It also deletes any reference to number of visits for ongoing treatment.		
	26	(Note: This section was amended again. See attached list of amendments to 4/26/88 draft)		
MAJOR	27	Deleted the reference to the board IME being in the same speciality as the employee's chosen treating physician.	17 - 27	18 - 1
MAJOR	28	Deleted the notion that the board IME's opinion carries more weight than those of the employer's and employee's physicians.	18 - 2	18 - 8
MINOR	5	Left a window open for hearing continuances and allowed for a hearing request with necessary discovery and evidence, but not necessarily <u>all</u> evidence. Also deleted reference to admission of evidence after the hearing is complete.	18 - 24	19 - 5
	6		19 - 4	19 - 1
	29		19 - 8	19 - 1
7	8	Increased penalties for late compensation payments to 50 percent or \$300, whichever is greater.	21 - 27	22 - 5
changed		(Note: This section was amended again. See attached list of amendments to	22 - 8	22 - 8

4/26/88 draft)

why not

why not

clearly

TF

TF

TF

TF

TF

??

*redundant
minor*

minor

30	Added a penalty of \$1,000 for the filing of incomplete reports.	23 - 12	23 - 12
9	Added that penalties for lack of reporting apply to uninsureds as well as self-insureds.	23 - 16	23 - 14
10	Deleted the use of certified checks for compensation payments.	23 - 26	23 - 25
11	Fixed an incorrect cite.	26 - 1	25 - 29
12	Returned Temporary Total Disability benefits to an unlimited time period.	26 - 7	26 - 8
13	Lowered the Permanent Partial Disability cap to \$135,000.	26 - 14	26 - 15
13 31	Deleted the use of adjustment factors for figuring PPD payments and more clearly defined the whole person impairment theory.	26 - 15	26 - 18
14	Returned Temporary Partial Disability benefits to a five year period.	27 - 16	28 - 19
15	Rewrote the computation of gross weekly earnings so that earnings for anyone who is absent from the labor market for 18 months or more in two years, regardless of the reason for the absence, will be compensated based on work and work history.	28 - 10	29 - 13
32	Deleted the notion of "employee misperceptions" in the stress language.	31 - 8	32 - 12
16	Added the definition of "suitable gainful employment" to the repealers.	31 - 22	32 - 27
17	Changed "takes" to "take."	32 - 18	33 - 23

AMENDMENTS TO SB 322
IN HOUSE JUDICIARY COMMITTEE
DRAFT DATED 4/26/88

<u>Amdmt. #</u>	<u>Effect</u>	<u>Page-Line Judiciary CS</u>	<u>Page-Line Hse L&C CS</u>
<i>MAJOR</i> 8	Restructured the assigned risk pool so that not all companies are automatically charged a 20% surcharge on their premiums. It tries to make the pool more equitable in that those companies proven to be a poor risk are surcharged while those proven to be a good risk are not surcharged. It also reduces the potential abuse of the pool as a "dumping ground" for small or new companies.	2 - 18	NA
<i>MAJOR</i> 1	Permits an insurer to charge for safety program consulting services separately from the premium rate.	3 - 6	NA
<i>MAJOR</i> 2	Maintained the intent of the earlier amendment to this section (in the 4/20 draft) but better clarified the section. The Board would be required to establish standards for frequency of treatment.	15 - 19	15 - 7
<i>Minor</i> 6	Changed penalties for late comp. benefits to 25% or \$100, whichever is greater. Note: The House Labor and Commerce Committee had increased the percentage from the present 20% to 25%. The House Judiciary Committee earlier increased that to 50% with a minimum of \$300.	22 - 16 22 - 26	22 - 8
<i>TF</i> 3	Deleted a section that required minimum PPD payments of \$250 because the changes made to the PPD schedule in the 4/20 draft remove the need for this section. Payments could not be that low under the present language.	27 - 18	28 - 3
4	Withdrawn		
<i>TF</i> 5	Deleted unnecessary language.	28 - 24	29 - 12

MAIR 7

Added language to the rate reduction section that requires rate filings in 1989 and thereafter to reflect changes in the workers' comp system due to this bill.

32 - 21

33 - 11

SB

322

file 2

WHAT'S IN IT FOR WORKERS?

<u>ITEM</u>	<u>PRESENT LAW</u>	<u>PROPOSED BILL</u>
<u>RELATIONSHIP COMPENSATION AND DEGREE OF INJURY</u>		
Substantial Payment For Serious Injury	Temporary total disability paid until medically recovered Temporary total disability paid during vocational rehab.	Temporary total disability limited to 2 years and eliminated after medical stability. No provision for payment of TTD during rehab, after 2 years or after medical stability.
Significant Compensation For Permanent Partial Disability	Yes	Totally Eliminated
Payment For Medical Impairment	Yes, for scheduled injuries only	Yes, for all injuries. Complete information isn't available but often will be less than what is now treated as scheduled injuries due to the adjustment factor.
<u>WEEKLY BENEFITS</u>		
Medium and High Income Workers	Based on actual earnings or earning capacity of employee but maximum of 200% of the State's weekly wage	Based on past earnings to maximum of \$700 per week. Right to compensation rate adjustment restricted.
Lower Income Workers	Right to establish likely future earning capacity	Right to compensation rate adjustment restricted.
Employers Right To Unilaterally Reduce Compensation Rate For Lower Paid Workers	No	Yes

<u>ITEM</u>	<u>PRESENT LAW</u>		<u>PROPOSED BILL</u>
	<u>Pre-1984</u>	<u>Post-1984</u>	
<u>FRINGE BENEFITS</u>			
All Fringe Benefits Included	Yes	No	No, only pension benefits included
All Members Included	Yes, under Supreme Court Decision; No under Board Decision	No	No, only vested members included
<u>Ragland</u> Decision Entitles Worker To Increased Compensation	Yes	No	Only if worker is not receiving pension benefits
<u>PROVIDES PAYMENT TO INJURED WORKER PENDING DISPUTE BETWEEN MULTIPLE EMPLOYERS</u>	No, but could be done by administrative regulation		Yes, this is a very desirable provision
<u>DISCRIMINATION AGAINST INJURED WORKERS PROHIBITED</u>	No		Yes, this is a very desirable provision
<u>REHABILITATION</u>			
Voluntary	Yes		Yes
Goal Is To Return to Earning Capacity At Time Of Injury	Yes		No, only to 60% of pre-injury earning capacity
Right To Rehabilitation Can Be Lost If Immediate Election Is Not Made By Injured Worker	No		Yes
Injured Worker Required To Pay For Own Rehabilitation Two Years After Injury or After Medical Stability	No		Yes



Original sponsor: Labor and Commerce
Committee

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 322 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to workers' compensation; and pro-
7 viding for an effective date."

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

9 * Section 1. LEGISLATIVE INTENT. (a) It is the intent of the legisla-
10 ture that AS 23.30 be interpreted so as to ensure the quick, efficient,
11 fair, and predictable delivery of indemnity and medical benefits to injured
12 workers at a reasonable cost to the employers who are subject to the pro-
13 visions of AS 23.30.

14 (b) The legislature declares that the workers' compensation laws must
15 not be construed by the courts in favor of any party. It is the specific
16 intent of the legislature that workers' compensation cases be decided on
17 their merits, except when otherwise provided by statute. It is also the
18 intent of the legislature that the board possess the greatest possible
19 authority in the exercise of its fact finding responsibilities and that the
20 board's decisions be conclusive unless the court finds that a reasonable
21 person could not have reached the conclusion made by the board.

22 (c) It is the intent of the legislature in amending AS 23.30.175
23 regarding benefits payable to recipients not residing in the state to

24 (1) recognize the levels of workers' compensation benefits
25 brought about by the high cost of living that exists in the state as com-
26 pared to other localities;

27 (2) increase the incentives to return to work; and

28 (3) remove obstacles to the utilization of vocational rehabili-
29 tation that may be brought about by the payment of workers' compensation

1 benefits at the high levels provided by the Alaska workers' compensation
2 law to individuals residing in localities with living costs lower than
3 those in Alaska.

4 (d) It is the intent of the legislature to encourage employers to
5 improve safety practices in the workplace and to use improved safety prac-
6 tices to reduce work related injuries.

7 (e) It is the intent of the legislature in amending AS 23.30.075(b)
8 and 23.30.155 that the division of workers' compensation, division of
9 insurance, and Department of Law strictly enforce the punishment authorized
10 under AS 23.30.075(b) and the reporting requirements and penalties for
11 noncompliance under AS 23.30.155. Strict enforcement is necessary because

12 (1) the state has failed to impose the punishment authorized
13 under AS 23.30.075(b) against those employers who fail to obtain workers'
14 compensation insurance or to qualify as a self-insurer; and

15 (2) there is a lack of specific data from the division of work-
16 ers' compensation and division of insurance to adequately assess the effi-
17 ciency and costs of the workers' compensation system.

18 * Sec. 2. AS 21.39.155 is amended by adding a new subsection to read:

19 (c) An insurer may not impose a surcharge for assigned risk pool
20 insurance unless the insured has received an experience modification
21 debit. After the insured has received an experience modification
22 debit, the insurer may impose a surcharge if the percentage of the
23 surcharge does not exceed the percentage applied as an experience
24 modification debit or 25 percent of the premium developed after appli-
25 cation of the experience modification factor, whichever is less.

26 * Sec. 3. AS 21.89 is amended by adding a new section to read:

27 Sec. 21.89.015. WORKPLACE SAFETY PROGRAM. An insurer who pro-
28 vides workers' compensation insurance in this state shall establish
29 and maintain a workplace safety rate reduction program available to

1 all insureds. The program must include

2 (1) a reduction in future workers' compensation premiums
3 based on the insured's documented and successful implementation of a
4 safety program; and

5 (2) consulting services available to the insured to estab-
6 lish a workplace safety program; an insurer may charge a fee separate
7 from the premium for services requested under this paragraph.

8 * Sec. 4. AS 23.30.005(h) is amended to read:

9 (h) The department shall [MAY] adopt [IDENTICAL] rules for all
10 panels, and procedures for the periodic selection, retention, and re-
11 moval of both rehabilitation specialists and physicians under AS 23.-
12 30.041 and 23.30.095, and shall [MAY] adopt regulations to carry out
13 the provisions of this chapter. Process and procedure under this
14 chapter shall be as summary and simple as possible. The department,
15 the board or a member of it may for the purposes of this chapter
16 subpoena witnesses, administer or cause to be administered oaths, and
17 may examine or cause to have examined the parts of the books and
18 records of the parties to a proceeding that relate [WHICH RELATED] to
19 questions in dispute. The superior court, on application of the
20 department, the board or any members of it, shall enforce the atten-
21 dance and testimony of witnesses and the production and examination of
22 books, papers, and records.

23 * Sec. 5. AS 23.30.020 is amended by adding a new subsection to read:

24 (b) An employee who knowingly makes a false statement as to the
25 employee's physical condition on an employment application or preem-
26 ployment questionnaire may not receive benefits under this chapter if

27 (1) the employer relied upon the false representation and
28 this reliance was a substantial factor in the hiring; and

29 (2) there was a causal connection between the false

1 representation and the injury to the employee.

2 * Sec. 6. AS 23.30.025 is amended by adding a new subsection to read:

3 (c) An insurer extending coverage required under this chapter by
4 specifying Alaska in the other states section or similar provision of
5 the insurance policy shall provide notice to the department under
6 AS 23.30.085.

7 * Sec. 7. AS 23.30.030 is amended by adding a new paragraph to read:

8 (8) An annual insurance premium that exceeds \$2,000 may be
9 paid on an installment basis of not fewer than two payments, if re-
10 quested by the insured. Premiums paid by installment must be struc-
11 tured to reflect seasonal peaks in the basis of the premium. The
12 insurer shall include this provision in the insurance policy in a
13 manner that clearly informs the insured of the provision.

14 * Sec. 8. AS 23.30.040(b) is amended to read:

15 (b) If an employee suffers a compensable injury that results in
16 temporary total disability, temporary partial disability, permanent
17 partial disability, or permanent total disability, the employer or
18 insurance carrier shall contribute to the second injury fund. The
19 contribution shall be made annually at the time of the report filing
20 required by AS 23.30.155(m) [BY ONE YEAR FROM THE DATE OF THE INJURY
21 OR ON TERMINATION OF THE EMPLOYEE'S CLAIM, WHICHEVER IS SOONER. IF
22 THE CLAIM IS NOT TERMINATED WITHIN ONE YEAR, SUBSEQUENT CONTRIBUTIONS
23 SHALL BE MADE YEARLY UNTIL THE TERMINATION OF THE EMPLOYEE'S CLAIM].
24 The amount of the contribution is the product of the compensation to
25 which the employee is entitled for temporary total disability, tempo-
26 rary partial disability, permanent partial disability, or permanent
27 total disability and the applicable contribution rate set out in
28 column A of this subsection. Payment need not be made to the second
29 injury fund if the total contribution under this subsection is less

1 than \$20. By December 15 of each year the commissioner shall deter-
 2 mine and make available to the public the applicable contribution rate
 3 for the following calendar year according to the reserve rate of the
 4 second injury fund in column B of this subsection:

Column A	Column B	
Second Injury Fund	Reserve Rate	
Contribution Rate	At Least	But Less Than
(Percent)	(Percent)	(Percent)
6	0	50
5	50	75
4	75	100
3	100	125
2	125	150
1	150	175
0	175	

16 * Sec. 9. AS 23.30.040(h) is amended to read:

17 (h) Administration expenses of the state under this section and
 18 AS 23.30.205 must [SHALL] be paid from the second injury [GENERAL]
 19 fund.

20 * Sec. 10. AS 23.30.041 is repealed and reenacted to read:

21 Sec. 23.30.041. REHABILITATION OF INJURED WORKERS. (a) The
 22 board shall select and employ a reemployment benefits administrator.
 23 The board may authorize the administrator to select and employ addi-
 24 tional staff. The administrator is in the partially exempt service
 25 under AS 39.25.120.

26 (b) The administrator shall perform the following functions:

27 (1) enforce regulations adopted by the board to implement
 28 this section;

29 (2) recommend regulations for adoption by the board that

1 establish performance and reporting criteria for rehabilitation spe
2 cialists;

3 (3) enforce the quality and effectiveness of reemployment
4 benefits provided for under this section;

5 (4) review on an annual basis the performance of rehabili
6 tation specialists to determine continued eligibility for delivery o
7 rehabilitation services;

8 (5) submit to the department, on or before January 1 of
9 each year, a report of reemployment benefits provided under this
10 section for the previous fiscal year; the report must include a gener-
11 al section, sections related to each rehabilitation specialist em-
12 ployed under this section, and a statistical summary of all reha-
13 bilitation cases, including

14 (A) the estimated and actual cost of each active
15 rehabilitation plan;

16 (B) the estimated and actual time of each rehabilita-
17 tion plan;

18 (C) a status report on all individuals completing or
19 terminating a reemployment benefits program including a return to
20 work date;

21 (D) the cost of reemployment benefits;

22 (6) maintain a list of rehabilitation specialists who meet
23 the qualifications established under this section;

24 (7) promote awareness among physicians, adjusters, injured
25 workers, employers, employees, attorneys, training providers, and
26 rehabilitation specialists of the reemployment program established in
27 this subsection.

28 (c) If an employee suffers a compensable injury that may perma-
29 nently preclude an employee's return to the employee's occupation at

1 the time of injury, the employee or employer may request an eligibil-
2 ity evaluation for reemployment benefits. The employee shall request
3 an eligibility evaluation within 90 days after the employee gives the
4 employer notice of injury unless the administrator determines the
5 employee has an unusual and extenuating circumstance that prevents the
6 employee from making a timely request. The administrator shall, on a
7 rotating and geographic basis, select a rehabilitation specialist from
8 the list maintained under (b)(6) of this section to perform the eli-
9 gibility evaluation.

10 (d) Within 30 days after the referral by the administrator, the
11 rehabilitation specialist shall perform the eligibility evaluation and
12 issue a report of findings. The administrator may grant up to an
13 additional 30 days for performance of the eligibility evaluation upon
14 notification of unusual and extenuating circumstances and the re-
15 habilitation specialist's request. Within 14 days after receipt of
16 the report from the rehabilitation specialist, the administrator shall
17 notify the parties of the employee's eligibility for reemployment
18 preparation benefits. Within 10 days after the decision, either party
19 may seek review of the decision by requesting a hearing under AS 23.-
20 30.110. The hearing shall be held within 30 days after it is re-
21 quested. The board shall uphold the decision of the administrator
22 except for abuse of discretion on the administrator's part.

23 (e) An employee shall be eligible for benefits under this sec-
24 tion upon the employee's written request and by having a physician
25 predict that the employee will have permanent physical capacities that
26 are less than the physical demands of the employee's job as described
27 in the United States Department of Labor's "Selected Characteristics
28 of Occupations Defined in the Dictionary of Occupational Titles" for

29 (1) the employee's job at the time of injury; or

1 (2) other jobs that exist in the labor market that the
2 employee has held or received training for within 10 years before the
3 injury or that the employee has held following the injury for a period
4 long enough to obtain the skills to compete in the labor market,
5 according to specific vocational preparation codes as described in the
6 United States Department of Labor's "Selected Characteristics of Occu-
7 pations Defined in the Dictionary of Occupational Titles."

8 (f) An employee is not eligible for reemployment benefits if

9 (1) the employer offers employment within the employee's
10 predicted post-injury physical capacities at a wage equivalent to at
11 least the state minimum wage under AS 23.10.065 or 75 percent of the
12 worker's gross hourly wages at the time of injury, whichever is great-
13 er, and the employment prepares the employee to be employable in other
14 jobs that exist in the labor market;

15 (2) the employee has been previously rehabilitated in a
16 former workers' compensation claim and returned to work in the same or
17 similar occupation in terms of physical demands required of the em-
18 ployee at the time of the previous injury; or

19 (3) at the time of medical stability no permanent impair-
20 ment is identified or expected.

21 (g) Within 10 days after the employee receives the adminis-
22 trator's notification of eligibility for benefits, an employee who
23 desires to use these benefits shall give written notice to the em-
24 ployer of the employee's selection of a rehabilitation specialist who
25 shall provide a complete reemployment benefits plan. If the employer
26 disagrees with the employee's choice of rehabilitation specialist to
27 develop the plan and the disagreement cannot be resolved, then the
28 administrator shall assign a rehabilitation specialist. The employer
29 and employee each have one right of refusal of a rehabilitation

1 specialist.

2 (h) Within 90 days after the rehabilitation specialist's selec-
3 tion under (g) of this section, the reemployment plan must be formu-
4 lated and approved. The reemployment plan must include at least the
5 following:

6 (1) a determination of the occupational goal in the labor
7 market;

8 (2) an inventory of the employee's technical skills, phys-
9 ical and intellectual capacities, academic achievement, emotional
10 condition and family support;

11 (3) a plan to acquire the occupational skills to be employ-
12 able;

13 (4) the cost estimate of the reemployment plan, including
14 provider fees; the amount of tuition, books, tools, and supplies;
15 transportation; temporary lodging; or job modification devices;

16 (5) the estimated length of time that the plan will take;

17 (6) the date the plan will commence;

18 (7) the estimated time of medical stability as predicted by
19 the physician;

20 (8) a detailed description and plan schedule; and

21 (9) a finding by the rehabilitation specialist that the
22 inventory under (2) of this subsection indicates that the employee can
23 be reasonably expected to satisfactorily complete the plan and perform
24 in a new occupation within the time and cost limitations of the plan.

25 (i) Reemployment benefits shall be selected from the following
26 in a manner that ensures remunerative employability in the shortest
27 possible time:

28 (1) on the job training;

29 (2) vocational training;

- 1 (3) academic training;
2 (4) self-employment; or
3 (5) a combination of (1) - (4) of this subsection.

4 (j) The employee, rehabilitation specialist, and the employer
5 shall sign the reemployment benefits plan. If the employer and em-
6 ployee fail to agree on a reemployment plan, either party may submit a
7 reemployment plan for approval to the administrator; the adminis-
8 trator shall approve or deny a plan within 14 days after the plan is
9 submitted; within 10 days of the decision, either party may seek
10 review of the decision by requesting a hearing under AS 23.30.110; the
11 board shall uphold the decision of the administrator unless evidence
12 is submitted supporting an allegation of abuse of discretion on the
13 part of the administrator; the board shall render a decision within 30
14 days after completion of the hearing.

15 (k) Benefits related to the reemployment plan may not extend
16 past two years from date of plan approval or acceptance, whichever
17 date occurs first, at which time the benefits expire. If an employee
18 reaches medical stability before completion of the plan temporary
19 total disability benefits shall cease and permanent impairment bene-
20 fits shall then be paid at the employee's temporary total disability
21 rate. If the employee's permanent impairment benefits are exhausted
22 before the completion or termination of the reemployment plan, the
23 employer shall provide wages equal to 60 percent of the employee's
24 spendable weekly wages but not to exceed \$525, until the completion or
25 termination of the plan. A permanent impairment benefit remaining
26 unpaid upon the completion or termination of the plan shall be paid to
27 the employee in a single lump sum. The fees of the rehabilitation
28 specialist or rehabilitation professional shall be paid by the em-
29 ployer and may not be included in determining the cost of the

1 reemployment plan.

2 (l) The cost of the reemployment plan incurred under this sec-
3 tion shall be the responsibility of the employer, shall be paid on an
4 expense incurred basis, and may not exceed \$10,000.

5 (m) Only a rehabilitation specialist may accept case assignments
6 as a case manager and sign eligibility determinations and reemployment
7 plans. A person who is not a rehabilitation specialist may perform
8 rehabilitation casework if the work is performed under the direct
9 supervision of a rehabilitation specialist employed in the same firm
10 and location.

11 (n) After the employee has elected to participate in reemploy-
12 ment benefits, if the employer believes the employee has not coop-
13 erated the employer may terminate reemployment benefits on the date of
14 noncooperation. Noncooperation means unreasonable failure to

15 (1) keep appointments;

16 (2) maintain passing grades;

17 (3) attend designated programs;

18 (4) maintain contact with the rehabilitation specialist;

19 (5) cooperate with the rehabilitation specialist in devel-
20 oping a reemployment plan and participating in activities relating to
21 reemployability on a full-time basis;

22 (6) comply with the employee's responsibilities outlined in
23 the reemployment plan; or

24 (7) participate in any planned reemployment activity as
25 determined by the administrator.

26 (o) Upon the request of either party, the administrator shall
27 decide whether the employee has not cooperated as provided under (n)
28 of this section. A hearing before the administrator shall be held
29 within 30 days after it is requested. The administrator shall issue a

1 decision within 14 days after the hearing. Within 10 days after the
2 administrator files the decision, either party may seek review of the
3 decision by requesting a hearing under AS 23.30.110; the board shall
4 uphold the decision of the administrator unless evidence is submitted
5 supporting an allegation of abuse of discretion on the part of the
6 administrator; the board shall render a decision within 30 days after
7 completion of the hearing.

8 (p) In this section

9 (1) "administrator" means the reemployment benefits admin-
10 istrator under AS 23.30.041(a);

11 (2) "employability" means possessing the ability but not
12 necessarily the opportunity to engage in employment that is consistent
13 with the employee's physical status imposed by the compensable injury;

14 (3) "labor market" means a geographical area that offers
15 employment opportunities in the following priority:

16 (A) area of residence;

17 (B) area of last employment;

18 (C) the state;

19 (D) other states;

20 (4) "physical capacities" means objective and measurable
21 physical traits such as ability to lift and carry, walk, stand or sit,
22 push, pull, climb, balance, stoop, kneel, crouch, crawl, reach, han-
23 dle, finger, feel, talk, hear or see;

24 (5) "physical demands" means the physical requirements of
25 the job such as strength, including positions such as standing, walk-
26 ing, sitting, and movement of objects such as lifting, carrying,
27 pushing, pulling, climbing, balancing, stooping, kneeling, crouching,
28 crawling, reaching, handling, fingering, feeling, talking, hearing, or
29 seeing;

1 (6) "rehabilitation specialist" means a person who is a
2 certified insurance rehabilitation specialist, a certified rehabilita-
3 tion counselor, or a person who has equivalent or better qualifica-
4 tions as determined under regulations adopted by the department;

5 (7) "remunerative employability" means having the skills
6 that allow a worker to be compensated with wages or other earnings
7 equivalent to at least 60 percent of the worker's gross hourly wages
8 at the time of injury; if the employment is outside the state, the
9 stated 60 percent shall be adjusted to account for the difference
10 between the applicable state average weekly wage and the Alaska aver-
11 age weekly wage.

12 * Sec. 11. AS 23.30.055 is amended to read:

13 Sec. 23.30.055. EXCLUSIVENESS OF LIABILITY. The liability of an
14 employer prescribed in AS 23.30.045 is exclusive and in place of all
15 other liability of the employer and any fellow employee to the em-
16 ployee, the employee's legal representative, husband or wife, parents,
17 dependents, next of kin, and anyone otherwise entitled to recover
18 damages from the employer or fellow employee at law or in admiralty on
19 account of the injury or death. The liability of the employer is
20 exclusive even if the employee's claim is barred under AS 23.30.-
21 020(b). However, if an employer fails to secure payment of compen-
22 sation as required by this chapter, an injured employee or the em-
23 ployee's legal representative in case death results from the injury
24 may elect to claim compensation under this chapter, or to maintain an
25 action against the employer at law or in admiralty for damages on
26 account of the injury or death. In that action the defendant may not
27 plead as a defense that the injury was caused by the negligence of a
28 fellow servant, or that the employee assumed the risk of the employ-
29 ment, or that the injury was due to the contributory negligence of the

1 employee.

2 * Sec. 12. AS 23.30.075(b) is amended to read:

3 (b) If an [AN] employer [WHO] fails to insure and keep insured
4 employees subject to this chapter or fails to obtain a certificate of
5 self-insurance from the board, upon conviction the court shall impose
6 a fine of \$10,000 and may impose a sentence of [, IS PUNISHABLE BY A
7 FINE OF NOT MORE THAN \$1,000, OR BY] imprisonment for not more than
8 one year [, OR BY BOTH]. If an employer is a corporation, all persons
9 who, at the time of the injury or death, had authority to insure the
10 [SAID] corporation or apply for a certificate of self-insurance, and
11 the person actively in charge of the business of the [SUCH] corpo-
12 ration shall be subject to the penalties prescribed in this subsection
13 [HEREIN] and shall be personally, jointly, and severally liable to-
14 gether with the corporation for the payment of all compensation or
15 other benefits for which the corporation is liable under this chapter
16 if the [SAID] corporation at that [SUCH] time is not insured or quali-
17 fied as a self-insurer.

18 * Sec. 13. AS 23.30.095(a) is amended to read:

19 (a) The employer shall furnish medical, surgical, and other
20 attendants or treatment, nurse and hospital service, medicine, crutch-
21 es, and apparatus for the period which the nature of the injury or the
22 process of recovery requires, not exceeding two years from and after
23 the date of injury to the employee. However, if the condition requir-
24 ing the treatment, apparatus, or medicine is a latent one, the two-
25 year period runs from the time the employee has knowledge of the
26 nature of the employee's disability and its relationship to the em-
27 ployment and after disablement. It shall be additionally provided
28 that, if continued treatment or care or both beyond the two-year
29 period is indicated, the injured employee has the right of review by

1 the board. The board may authorize continued treatment or care or
2 both as the process of recovery may require. When medical care is
3 required, the injured employee may designate a licensed physician to
4 provide all medical and related benefits. The employee may not make
5 more than one change in the employee's choice of attending physician
6 without the written consent of the employer. Referral to a specialist
7 by the employee's attending physician is not considered a change in
8 physicians [INSIDE THE STATE TO RENDER THE CARE EXCEPT IN CASES WHERE,
9 IN THE JUDGMENT OF THE BOARD, CARE OR TREATMENT OR BOTH CAN BEST BE
10 ADMINISTERED BY THE SELECTION OF ANOTHER PHYSICIAN]. Upon procuring
11 the services of a physician, the injured employee shall give proper
12 notification of the election to the employer within a reasonable time
13 after first being treated. Notice of a change in the attending physi-
14 cian shall be given before the change [IF FOR ANY REASON DURING THE
15 PERIOD WHEN MEDICAL CARE IS REQUIRED THE EMPLOYEE WISHES TO CHANGE TO
16 ANOTHER PHYSICIAN, THE EMPLOYEE MAY DO SO IN ACCORDANCE WITH REGU-
17 LATIONS ADOPTED BY THE BOARD].

18 * Sec. 14. AS 23.30.095(c) is amended to read:

19 (c) A claim for medical or surgical treatment, or treatment
20 requiring continuing and multiple treatments of a similar nature is
21 not valid and enforceable against the employer unless, within 14 days
22 following treatment, the physician or health care provider giving the
23 treatment or the employee receiving it furnishes to the employer and
24 the board notice of the injury and treatment, preferably on a form
25 prescribed by the board. The board shall, however, excuse the failure
26 to furnish notice within 14 days when it finds it to be in the inter-
27 est of justice to do so, and it may, upon application by a party in
28 interest, make an award for the reasonable value of the medical or
29 surgical treatment so obtained by the employee. When a claim is made

1 for a course of treatment requiring continuing and multiple treatments
2 of a similar nature, in addition to the notice, the physician or
3 health care provider shall furnish a written treatment plan if the
4 course of treatment will require more frequent outpatient visits than
5 the standard treatment frequency for the nature and degree of the
6 injury and the type of treatments. The treatment plan shall be furn-
7 ished to the employee and the employer within 14 days after treatment
8 begins. The treatment plan must include objectives, modalities,
9 frequency of treatments, and reasons for the frequency of treatments.
10 If the treatment plan is not furnished as required under this subsec-
11 tion, neither the employer nor the employee may be required to pay for
12 treatments that exceed the frequency standard. The board shall adopt
13 regulations establishing standards for frequency of treatment.

14 * Sec. 15. AS 23.30.095(e) is amended to read:

15 (e) The employee shall, after an injury, at reasonable times
16 during the continuance of the disability, if requested by the employer
17 or when ordered by the board, submit to an examination by a physician
18 or surgeon of the employer's choice authorized to practice medicine
19 under the laws of the jurisdiction in which the physician resides
20 [STATE IN WHICH THE EMPLOYEE MAY BE FOUND], furnished and paid for by
21 the employer. The employer may not make more than one change in the
22 employer's choice of a physician or surgeon without the written con-
23 sent of the employee. Referral to a specialist by the employer's
24 physician is not considered a change in physicians. An examination
25 requested by the employer not less than 14 days after injury, and
26 every 60 days thereafter, shall be presumed to be reasonable, and the
27 employee shall submit to the examination without further request or
28 order by the board. Unless medically appropriate, the physician shall
29 use existing diagnostic data to complete the examination. Facts

1 relative to the injury or claim communicated to or otherwise learned
2 by a physician or surgeon who may have attended or examined the em-
3 ployee, or who may have been present at an examination are not priv-
4 ileged, either in the hearings provided for in this chapter or an
5 action to recover damages against an employer who is subject to the
6 compensation provisions of this chapter. If an employee refuses to
7 submit to an [ANY] examination provided for in this section, the
8 employee's rights to compensation shall be suspended until the ob-
9 struction or refusal ceases, and the employee's compensation during
10 the period of suspension may, in the discretion of the board or the
11 court determining an action brought for the recovery of damages under
12 this chapter, be forfeited. The board in any case of death may re-
13 quire an autopsy at the expense of the party requesting the autopsy.
14 An autopsy may not be held without notice first being given to the
15 widow or widower or next of kin if they reside in the state or their
16 whereabouts can be reasonably ascertained, of the time and place of
17 the autopsy and reasonable time and opportunity given the widow or
18 widower or next of kin to have a representative present to witness the
19 autopsy. If adequate notice is not given, the findings from the
20 autopsy may be suppressed on motion made to the board or to the supe-
21 rior court, as the case may be.

22 * Sec. 16. AS 23.30.095(f) is amended to read:

23 (f) All fees and other charges for medical treatment or service
24 [ARE LIMITED TO THE CHARGES THAT PREVAIL IN THE SAME COMMUNITY FOR
25 SIMILAR TREATMENT OF INJURED PERSONS OF LIKE STANDARD OF LIVING AND]
26 shall be subject to regulation by the board but may not exceed usual,
27 customary, and reasonable fees for the treatment or service in the
28 community in which it is rendered, as determined by the board. An
29 employee may not be required to pay a fee or charge for medical

1 treatment or service.

2 * Sec. 17. AS 23.30.095(j) is repealed and reenacted to read:

3 (j) The board may appoint a medical services review committee,
4 or contract with an existing organization in the state or another
5 state, to assist and advise the board in matters involving the appro-
6 priateness, necessity, and cost of medical and related services pro-
7 vided under this chapter.

8 * Sec. 18. AS 23.30.095 is amended by adding a new subsection to read:

9 (k) In the event of a medical dispute regarding determinations
10 of causation, medical stability, ability to enter a reemployment plan,
11 degree of impairment, functional capacity, the amount and efficacy of
12 the continuance of or necessity of treatment, or compensability be-
13 tween the employee's attending physician and the employer's independ-
14 ent medical evaluation, a second independent medical evaluation shall
15 be conducted by a physician or physicians selected by the board from a
16 list established and maintained by the board. The cost of the exami-
17 nation and medical report shall be paid by the employer. The report
18 of the independent medical examiner shall be furnished to the board
19 and to the parties within 14 days after the examination is concluded.
20 A person may not seek damages from an independent medical examiner
21 caused by the rendering of an opinion or providing testimony under
22 this subsection, except in the event of fraud or gross incompetence.

23 * Sec. 19. AS 23.30.105(a) is amended to read:

24 (a) The right to compensation for disability under this chapter
25 is barred unless a claim for it is filed within two years after the
26 employee has knowledge of the nature of the employee's disability and
27 its relation to the employment and after disablement. However, the
28 maximum time for filing the claim in any event other than arising out
29 of an occupational disease shall be four years from the date of

1 injury, and the right to compensation for death is barred unless a
2 claim therefor is filed within one year after the death, except that
3 if payment of compensation has been made without an award on account
4 of the injury or death, a claim may be filed within two years after
5 the date of the last payment of benefits under AS 23.30.180, 23.30.-
6 185, 23.30.190, 23.30.200, or 23.30.215. It is additionally provided
7 that, in the case of latent defects pertinent to and causing com-
8 pensable disability, the injured employee has full right to claim as
9 shall be determined by the board, time limitations notwithstanding.

10 * Sec. 20. AS 23.30.110(c) is repealed and reenacted to read:

11 (c) Before a hearing is scheduled, the party seeking a hearing
12 shall file a request for a hearing together with an affidavit stating
13 that the party has completed necessary discovery, obtained necessary
14 evidence, and is prepared for the hearing. An opposing party shall
15 have 10 days after the hearing request is filed to file a response.
16 If a party opposes the hearing request, the board or a board designee
17 shall within 30 days of the filing of the opposition conduct a pre-
18 hearing conference and set a hearing date. If opposition is not
19 filed, a hearing shall be scheduled no later than 60 days after the
20 receipt of the hearing request. The board shall give each party at
21 least 10 days' notice of the hearing, either personally or by cer-
22 tified mail. After a hearing has been scheduled, the parties may not
23 stipulate to change the hearing date or to cancel, postpone, or con-
24 tinue the hearing, except for good cause as determined by the board.
25 After completion of the hearing the board shall close the hearing
26 record. If a settlement agreement is reached by the parties less than
27 14 days before the hearing, the parties shall appear at the time of
28 the scheduled hearing to state the terms of the settlement agreement.
29 Within 30 days after the hearing record closes, the board shall file

1 its decision. If the employer controverts a claim on a board-pre-
2 scribed controversion notice and the employee does not request a
3 hearing within two years following the filing of the controversion
4 notice, the claim is denied.

5 * Sec. 21. AS 23.30.120 is amended by adding a new subsection to read:

6 (c) The presumption of compensability established in (a) of this
7 section does not apply to a mental injury resulting from work-related
8 stress.

9 * Sec. 22. AS 23.30.125 is amended by adding a new subsection to read:

10 (f) Subject to an employer's or employee's burden of proof, a
11 finding of fact made by the board as a part of a compensation order is
12 conclusive unless the court specifically finds that a reasonable
13 person could not have reached the conclusion made by the board.

14 * Sec. 23. AS 23.30.130(a) is amended to read:

15 (a) Upon its own initiative, or upon the application of any
16 party in interest on the ground of a change in conditions, including,
17 for the purposes of AS 23.30.175, a change in residence, or because of
18 a mistake in its determination of a fact, the board may, before one
19 year after the date of the last payment of compensation benefits under
20 AS 23.30.180, 23.30.185, 23.30.190, 23.30.200, or 23.30.215, whether
21 or not a compensation order has been issued, or before one year after
22 the rejection of a claim, review a compensation case under [IN ACCOR-
23 DANCE WITH] the procedure prescribed in respect of claims in AS 23.-
24 30.110. Under [IN ACCORDANCE WITH] AS 23.30.110 the board may issue a
25 new compensation order which terminates, continues, reinstates, in-
26 creases, or decreases the compensation ~ award compensation.

27 * Sec. 24. AS 23.30.155(c) is amended to read:

28 (c) The insurer or adjuster [EMPLOYER] shall notify the board
29 and the employee on a form prescribed by the board that the payment of

1 compensation has begun or has been increased, decreased, suspended,
2 terminated, resumed, or changed in type. An initial report shall be
3 filed with the board and sent to the employee within 28 days after the
4 date of issuing the first payment of compensation. If at any time 21
5 days or more pass and no compensation payment is issued, a report
6 notifying the board and the employee of the termination or suspension
7 of compensation shall be filed with the board and sent to the employee
8 within 28 days after the date the last compensation payment was is-
9 sued. A report shall also be filed with the board and sent to the
10 employee within 28 days after the date of issuing a payment increas-
11 ing, decreasing, resuming, or changing the type of compensation paid.
12 If the [EMPLOYER FAILS TO NOTIFY THE] board and the employee are not
13 notified within the 28 days prescribed by this subsection for report-
14 ing, the insurer or adjuster [EMPLOYER] shall pay a civil penalty of
15 \$100 for the first day plus \$10 for each day thereafter that the
16 [EMPLOYER FAILED TO GIVE] notice was not given. Total penalties under
17 this subsection [SECTION] may not exceed \$1,000 for a failure to file
18 a required report. Penalties assessed under this subsection are
19 eligible for reduction under (m) of this section. A penalty assessed
20 under this subsection after penalties have been reduced under (m) of
21 this section shall be increased by 25 percent and shall bear interest
22 at the rate established under AS 45.45.010.

23 * Sec. 25. AS 23.30.155(d) is amended to read:

24 (d) If the employer controverts the right to compensation the
25 employer shall file with the board and send to the employee a notice
26 of controversion on or before the 21st day after the employer has
27 knowledge of the alleged injury or death. If the employer controverts
28 the right to compensation after payments have begun, the employer
29 shall file with the board and send to the employee a notice of

1 controversion within seven days after an installment of compensation
2 payable without an award is due. When payment of temporary disability
3 benefits is controverted solely on the grounds that another employer
4 or another insurer of the same employer may be responsible for all or
5 a portion of the benefits, the most recent employer or insurer who is
6 party to the claim and who may be liable shall make the payments
7 during the pendency of the dispute. When a final determination of
8 liability is made, any reimbursement required, including interest at
9 the statutory rate, and all costs and attorneys' fees incurred by the
10 prevailing employer, shall be made within 14 days of the determina-
11 tion.

12 * Sec. 26. AS 23.30.155(e) is amended to read:

13 (e) If any installment of compensation payable without an award
14 is not paid within seven days after it becomes due, as provided in (b)
15 of this section, there shall be added to the unpaid installment an
16 amount equal to 25 [20] percent of it or \$100, whichever amount is
17 greater. This additional amount shall be paid at the same time as,
18 and in addition to, the installment, unless notice is filed under (d)
19 of this section or unless the nonpayment is excused by the board after
20 a showing by the employer that owing to conditions over which the
21 employer had no control the installment could not be paid within the
22 period prescribed for the payment.

23 * Sec. 27. AS 23.30.155(f) is amended to read:

24 (f) If compensation payable under the terms of an award is not
25 paid within 14 days after it becomes due, there shall be added to that
26 unpaid compensation an amount equal to 25 [20] percent of it or \$100,
27 whichever is greater, which shall be paid at the same time as, but in
28 addition to, the compensation, unless review of the compensation order
29 making the award is had as provided in AS 23.30.125 and an interlocu-

1 tory injunction staying payments is allowed by the court.

2 * Sec. 28. AS 23.30.155(m) is repealed and reenacted to read:

3 (m) On or before March 1 of each year the insurer or adjuster
4 shall file a verified annual report on a form prescribed by the board
5 stating the total amount of all compensation by type, the number of
6 claims received and the percentage controverted, medical, and related
7 benefits, vocational rehabilitation expenses, legal fees, including a
8 separate total for fees paid to attorneys and fees paid for the other
9 costs of litigation, and penalties paid on all claims during the
10 preceding calendar year. If the annual report is timely and complete
11 when received by the board and provides accurate information about
12 each category of payments, the commissioner shall review the timeli-
13 ness of the insurer's or adjuster's reports filed during the preceding
14 year under (c) of this section. If during the preceding year the
15 insurer or adjuster filed at least 99 percent of the reports on time,
16 the penalties assessed under (c) of this section shall be waived. If
17 during the preceding year the insurer or adjuster filed at least 97
18 percent of the reports on time, 75 percent of the penalties assessed
19 under (c) of this section shall be waived. If during the preceding
20 year the insurer or adjuster filed 95 percent of the reports on time,
21 50 percent of the penalties assessed under (c) of this section shall
22 be waived. If during the preceding year the insurer's or adjuster's
23 reports have not been filed on time at least 95 percent of the time,
24 none of the penalties assessed under (c) of this section shall be
25 waived. The penalties that are not waived are due and payable when
26 the insurer or adjuster receives notification from the commissioner
27 regarding the timeliness of the reports. If the annual report is not
28 filed by March 1 of each year, the insurer or adjuster shall pay a
29 civil penalty of \$100 for the first day the annual report is late, and

1 \$10 for each additional day the report is late. If the annual report
2 is incomplete when filed, the insurer or adjuster shall pay a civil
3 penalty of \$1,000.

4 * Sec. 29. AS 23.30.155 is amended by adding new subsections to read:

5 (n) If the employer is self-insured or uninsured, the require-
6 ments of (c) and (m) of this section apply to the employer.

7 (o) The board shall promptly notify the division of insurance if
8 the board determines that the employer's insurer has frivolously or
9 unfairly controverted compensation due under this chapter. After
10 receiving notice from the board, the division of insurance shall
11 determine if the insurer has committed an unfair claim settlement
12 practice under AS 21.36.125.

13 (p) When an employer pays compensation due under this chapter to
14 an employee residing in this state, the payment must be made by check
15 or other negotiable instrument drawn on funds deposited in this state.

16 * Sec. 30. AS 23.30.175 is repealed and reenacted to read:

17 Sec. 23.30.175. RATES OF COMPENSATION. (a) The weekly rate of
18 compensation for disability or death may not exceed \$700 and initially
19 may not be less than \$110. However, if the board determines that the
20 employee's spendable weekly wages are less than \$110 a week as com-
21 puted under AS 23.30.220, or less than \$154 a week in the case of an
22 employee who has furnished documentary proof of the employee's wages,
23 it shall issue an order adjusting the weekly rate of compensation to a
24 rate equal to the employee's spendable weekly wages. If the employer
25 can verify that the employee's spendable weekly wages are less than
26 \$154, the employer may adjust the weekly rate of compensation to a
27 rate equal to the employee's spendable weekly wages without an order
28 of the board. If the employee's spendable weekly wages are greater
29 than \$154, but 80 percent of the employee's spendable weekly wages is

1 less than \$154, the employee's weekly rate of compensation shall be
2 \$154. Prior payments made in excess of the adjusted rate shall be
3 deducted from the unpaid compensation in the manner the board deter-
4 mines. In any case, the employer shall pay timely compensation.

5 (b) The following rules apply to benefits payable to recipients
6 not residing in the state at the time compensation benefits are pay-
7 able:

8 (1) the weekly rate of compensation shall be calculated by
9 multiplying the recipient's weekly compensation rate calculated under
10 AS 23.30.180, 23.30.185, 23.30.190, 23.30.200, or 23.30.215, by the
11 ratio of the cost of living of the area in which the recipient resides
12 to the cost of living in this state;

13 (2) the calculation required by (1) of this subsection does
14 not apply if the recipient is absent from the state for medical or re-
15 habilitation services not reasonably available in the state;

16 (3) if the gross weekly earnings of the recipient and the
17 resulting compensation rate is determined under AS 23.30.220(a)(2),
18 the calculation required by this subsection applies only to the por-
19 tion of the recipient's weekly compensation rate attributable to wages
20 earned in the state;

21 (4) application of this subsection may not reduce the
22 weekly compensation rate to less than \$154 a week, except as provided
23 in (a) of this section.

24 (c) The board shall provide by regulation for the determination
25 and comparison of living costs for this state and the other areas in
26 which recipients reside and for the annual redetermination and com-
27 parison of these costs.

28 * Sec. 31. AS 23.30.180 is amended to read:

29 Sec. 23.30.180. PERMANENT TOTAL DISABILITY. In case of total

1 disability adjudged to be permanent 80 percent of the injured em-
2 ployee's spendable weekly wages shall be paid to the employee during
3 the continuance of the total disability. If a permanent partial
4 disability award has been made before a permanent total disability
5 determination, permanent total disability benefits must be reduced by
6 the amount of the permanent partial disability award, adjusted for
7 inflation, in a manner determined by the board. Loss of both hands,
8 or both arms, or both feet, or both legs, or both eyes, or of any two
9 of them, in the absence of conclusive proof to the contrary, consti-
10 tutes permanent total disability. In all other cases permanent total
11 disability is determined in accordance with the facts. In making this
12 determination the market for the employee's services shall be

13 (1) area of residence;

14 (2) area of last employment;

15 (3) the state of residence; and

16 (4) the State of Alaska.

17 * Sec. 32. AS 23.30.180 is amended by adding a new subsection to read:

18 (b) Failure to achieve remunerative employability as defined in
19 AS 23.30.041(p) does not, by itself, constitute permanent total dis-
20 ability.

21 * Sec. 33. AS 23.30.185 is amended to read:

22 Sec. 23.30.185. COMPENSATION FOR TEMPORARY TOTAL DISABILITY. In
23 case of disability total in character but temporary in quality, 80
24 percent of the injured employee's spendable weekly wages shall be paid
25 to the employee during the continuance of the disability. Temporary
26 total disability benefits may not be paid for any period of disability
27 occurring after the date of medical stability.

28 * Sec. 34. AS 23.30.190 is repealed and reenacted to read:

29 Sec. 23.30.190. COMPENSATION FOR PERMANENT PARTIAL IMPAIRMENT.

1 (a) In case of impairment partial in character but permanent in
2 quality, and not resulting in permanent total disability, the compen-
3 sation is \$135,000 multiplied by the employee's percentage of perma-
4 nent impairment of the whole person. The percentage of permanent
5 impairment of the whole person is the percentage of impairment to the
6 particular body part, system, or function converted to the percentage
7 of impairment to the whole person as provided under (b) of this sec-
8 tion. The compensation is payable in a single lump sum, except as
9 otherwise provided in AS 23.30.041, but the compensation may not be
10 discounted for any present value considerations.

11 (b) All determinations of the existence and degree of permanent
12 impairment shall be made strictly and solely under the whole person
13 determination as set out in the American Medical Association Guides to
14 the Evaluation of Permanent Impairment, except that an impairment
15 rating may not be rounded to the next five percent. The board shall
16 adopt a supplementary recognized schedule for injuries that cannot be
17 rated by use of the American Medical Association Guides.

18 (c) The impairment rating determined under (a) of this section
19 shall be reduced by a permanent impairment that existed before the
20 compensable injury. If the combination of a prior impairment rating
21 and a rating under (a) of this section would result in the employee
22 being considered permanently totally disabled, the prior rating does
23 not negate a finding of permanent total disability.

24 * Sec. 35. AS 23.30.200 is amended to read:

25 Sec. 23.30.200. TEMPORARY PARTIAL DISABILITY. In case of tempo-
26 rary partial disability resulting in decrease of earning capacity the
27 compensation shall be 80 percent of the difference between the injured
28 employee's spendable weekly wages before the injury and the wage-
29 earning capacity of the employee after the injury in the same or

1 another employment, to be paid during the continuance of the disabili-
2 ty, but not to be paid for more than five years. Temporary partial
3 disability benefits may not be paid for a period of disability occur-
4 ring after the date of medical stability.

5 * Sec. 36. AS 23.30.200 is amended by adding a new subsection to read:

6 (b) The wage-earning capacity of an injured employee is deter-
7 mined by the actual spendable weekly wage of the employee if the
8 actual spendable weekly wage fairly and reasonably represents the
9 wage-earning capacity of the employee. The board may, in the interest
10 of justice, fix the wage-earning capacity that is reasonable, having
11 due regard to the nature of the injury, the degree of physical impair-
12 ment, the usual employment, and other factors or circumstances in the
13 case that may affect the capacity of the employee to earn wages in a
14 disabled condition, including the effect of disability as it may
15 naturally extend into the future.

16 * Sec. 37. AS 23.30.220(a) is amended to read:

17 (a) The spendable weekly wage of an injured employee at the time
18 of an injury is the basis for computing compensation. It is the
19 employee's gross weekly earnings minus payroll tax deductions. The
20 gross weekly earnings shall be calculated as follows:

21 (1) The gross weekly earnings are computed by dividing by
22 100 the gross earnings of the employee in the two calendar years
23 immediately preceding the injury.

24 (2) If the employee was absent from the labor market for 18
25 months or more of the two calendar years preceding the injury [THE
26 BOARD DETERMINES THAT THE GROSS WEEKLY EARNINGS AT THE TIME OF THE
27 INJURY CANNOT BE FAIRLY CALCULATED UNDER (1) OF THIS SUBSECTION], the
28 board shall [MAY] determine the employee's gross weekly earnings for
29 calculating compensation by considering the nature of the employee's

1 work and work history, but compensation may not exceed the employee's
2 projected gross weekly earnings at the time of injury.

3 (3) If an employee when injured is a minor, an apprentice,
4 or a trainee in a formal training program, as determined by the board,
5 whose wages under normal conditions would increase during the period
6 of disability, the projected increase may be considered by the board
7 in computing the gross weekly earnings of the employee.

8 (4) If the employee is injured while performing duties as a
9 volunteer ambulance attendant, policeman, or fireman, the gross weekly
10 earnings for calculating compensation shall be the minimum gross
11 weekly earnings paid a full-time ambulance attendant, policeman, or
12 fireman employed in the political subdivision where the injury oc-
13 curred, or, if the political subdivision has no full-time ambulance
14 attendants, policemen, or firemen, at a reasonable figure previously
15 set by the political subdivision to make this determination but in no
16 case may the gross weekly earnings for calculating compensation be
17 less than the minimum wage computed on the basis of 40 hours work per
18 week.

19 * Sec. 38. AS 23.30.225 is amended by adding a new subsection to read:

20 (c) If employer contributions to a qualified pension or profit
21 sharing plan have been included in the determination of gross earnings
22 and the employee is receiving pension or profit sharing payments,
23 weekly compensation benefits payable under this chapter shall be
24 reduced by the amount paid or payable to the injured worker under the
25 plan for any week or weeks during which compensation benefits are also
26 payable. The amount of the reduction may not in any week exceed the
27 increase in weekly compensation benefits brought about by the inclu-
28 sion of employer contributions to a qualified pension or profit shar-
29 ing plan in the determination of gross earnings.

1 * Sec. 39. AS 23.30.244 is amended to read:

2 Sec. 23.30.244. CIVIL DEFENSE AND DISASTER RELIEF FORCES AS
3 STATE EMPLOYEES. A resident of Alaska temporarily engaged in a civil
4 defense or disaster relief function in another state or country under
5 [THE PROVISION OF] AS 26.23.130 or as a volunteer in this state is
6 considered an employee of the state for purposes of this chapter.

7 * Sec. 40. AS 23.30 is amended by adding a new section to read:

8 Sec. 23.30.247. DISCRIMINATION PROHIBITED. (a) An employer may
9 not discriminate in hiring, promotion, or retention policies or prac-
10 tices against an employee who has in good faith filed a claim for or
11 received benefits under this chapter. An employer who violates this
12 section is liable to the employee for damages to be assessed by the
13 court in a private civil action.

14 (b) This section may not be construed to prevent an employer
15 from basing hiring, promotion, or retention policies or practices on
16 considerations of the employee's safety practices or the employee's
17 physical and mental abilities; nor may this section be construed so as
18 to create employment rights not otherwise in existence.

19 (c) This section may not be construed to prohibit an employer
20 from requiring a prospective employee to fill out a preemployment
21 questionnaire or application regarding the person's prior health or
22 disability history as long as it is meant to either document written
23 notice for second injury fund reimbursement under AS 23.30.205(c) or
24 to determine whether the employee has the physical or mental capacity
25 to meet the documented physical or mental demands of the work.

26 * Sec. 41. AS 23.30.265(15) is amended to read:

27 (15) "gross earnings" means periodic payments, by an em-
28 ployer to an employee for employment before any authorized or lawfully
29 required deduction or withholding of money by the employer, including

1 compensation that is deferred at the option of the employee, and
2 excluding irregular bonuses, reimbursement of expenses, expense allow-
3 ances, and any benefit or payment to the employee that is not fully
4 taxable to the employee during the pay period, except that the total
5 amount of contributions made by an employer to a qualified pension or
6 profit sharing plan during the two plan years preceding the injury,
7 multiplied by the percentage of the employee's vested interest in the
8 plan at the time of injury, shall be included in the determination of
9 gross earnings; the value of room and board if taxable to the employee
10 may be considered in determining gross earnings; however, the value of
11 room and board that would raise an employee's gross weekly earning
12 above the state [ALASKA] average weekly wage at the time of injury may
13 not be considered;

14 * Sec. 42. AS 23.30.265(17) is amended to read:

15 (17) "injury" means accidental injury or death arising out
16 of and in the course of employment, and an occupational disease or
17 infection which arises naturally out of the employment or which natu-
18 rally or unavoidably results from an accidental injury; "injury" [,
19 AND] includes breakage or damage to eyeglasses, hearing aids, den-
20 tures, or any prosthetic devices which function as part of the body
21 and further includes an injury caused by the wilful act of a third
22 person directed against an employee because of the employment; "in-
23 jury" does not include mental injury caused by mental stress unless it
24 is established that (A) the work stress was extraordinary and unusual
25 in comparison to pressures and tensions experienced by individuals in
26 a comparable work environment, and (B) the work stress was the predom-
27 inant cause of the mental injury; the amount of work stress shall be
28 measured by actual events; a mental injury is not considered to arise
29 out of and in the course of employment if it results from a disciplin-

1 ary action, work evaluation, job transfer, layoff, demotion, termina-
2 tion or similar action, taken in good faith by the employer;

3 * Sec. 43. AS 23.30.265 is amended by adding a new paragraph to read:

4 (34) "medical stability" means the date after which further
5 objectively measurable improvement from the effects of the compensable
6 injury is not reasonably expected to result from additional medical
7 care or treatment, notwithstanding the possible need for additional
8 medical care or the possibility of improvement or deterioration re-
9 sulting from the passage of time; medical stability shall be presumed
10 in the absence of objectively measurable improvement for a period of
11 45 days; this presumption may be rebutted by clear and convincing
12 evidence.

13 * Sec. 44. AS 23.30.210 and 23.30.265(28) are repealed.

14 * Sec. 45. TRANSITIONAL PROVISIONS. Notwithstanding AS 23.30.040(b),
15 as amended by sec. 8 of this Act, and AS 23.30.155(m), as amended by
16 sec. 28 of this Act, on or before March 1, 1989, each employer that is
17 subject to those sections shall file a report and make the appropriate
18 contribution for all claims existing as of December 31, 1988. The period
19 covered in the report shall be from the date of the termination report or
20 the last anniversary report filed, if one has been filed, through
21 December 31, 1988.

22 * Sec. 46. TEMPORARY RATE REDUCTION; FUTURE FILINGS. (a) Notwith-
23 standing AS 21.39.030, an insurer providing workers' compensation insurance
24 in the state shall provide at least a six percent reduction in the premium
25 rate charged within the state for workers' compensation insurance, for the
26 period beginning July 1, 1988, and ending January 1, 1990.

27 (b) Rate filings made after December 31, 1988, must fully reflect the
28 legal effect of changes made to the workers' compensation system by this
29 Act.

1 * Sec. 47. TRANSITIONAL PROVISION. Notwithstanding AS 23.30.041(p), as
2 enacted by sec. 10 of this Act, for the period from July 1, 1988, until
3 June 30, 1989, the term "rehabilitation specialist" as used in AS 23.30.041
4 includes a person who was actively employed for at least one year before
5 June 30, 1988, in providing rehabilitation services to an injured worker
6 receiving benefits under AS 23.30.

7 * Sec. 48. APPLICABILITY. Except for secs. 8, 25, 28, 29, 42, and 46
8 of this Act, this Act applies only to injuries sustained on or after
9 July 1, 1988.

10 * Sec. 49. Section 42 of this Act applies to injuries sustained on or
11 after the effective date of sec. 42 of this Act.

12 * Sec. 50. Sections 42 and 49 of this Act take effect immediately under
13 AS 01.10.070(c).

14 * Sec. 51. Sections 1 - 41, and 43 - 48 of this Act take effect July 1,
15 1988.

HOUSE LABOR AND COMMERCE COMMITTEE

REPRESENTATIVE DAVE DONLEY, CHAIRMAN

WORKERS' COMPENSATION LEGISLATION
 Comparative Analysis - House and Senate Bills
 Prepared by the House Labor and Commerce Committee
 February 23, 1988

ISSUE	HB 352/SB 322	CURRENT LAW	PUBLIC TESTIMONY	CS SB 322 (L&C)
<u>(1) Standard of evidence to uphold a Board decision</u>	"Any evidence" standard set in AS 23.30.(b) under legislative intent language in Section 1.	"Substantial evidence"	Several participants argued that the "any evidence" standard was too broad and should be amended to read "any reasonable" or "preponderance of evidence".	The "any evidence" standard is changed to provide that a Board's decision is conclusive "unless the court finds that a reasonable person could not have reached the conclusion made by the Board".
<u>(2) Adjust benefits by COLA</u>	Adjusts benefits for workers by the cost of living (COLA) for their area of residence	Adjusts benefits for workers by a formula based on the difference between the hourly wage in Alaska vs the hourly wage for the same kind of work in another state.	Some participants expressed concern that this change may have constitutional problems, particularly since a reliable source of information about the COLA by states is hard to obtain. Generally, testimony favored this change.	Legislative intent language in Section 1. is amended to include the word "fair" under the purposes for which the workers' compensation program was created.
<u>(3) Board established list of providers</u>	Board establishes and maintains a list of health care providers and may choose providers on a rotating basis to conduct IME's and other services at the request of the Board.	Health care providers picked at random by employer/insurer, employee, or by the Board.	Some participants expressed concern that some providers may be "black-balled" from the list and have no recourse to address their grievance under this section.	AS 23.30.005(h) is amended to change "may" to "shall", thus requiring the Board to establish the list of providers.
<u>(4) Reporting of prior existing injury</u>	AS 23.30.020(b) denies benefits to a worker who "knowingly makes a false statement" about a pre-existing injury and the employer (1) depends on that statement in hiring and (2) the prior injury has a causal relationship to the second injury.	Current law is silent on this particular circumstance although there is a general prohibition in AS 23.30.250 that makes it a felony (perjury) for anyone to make a false or misleading statement for the purposes of obtaining or denying a workers' comp benefit.	There was some testimony that a worker may make a false statement through omission or misunderstanding and later he denied benefits. Generally this addition was supported because an employer has to have the information to meet reporting requirements under the second injury fund. Fairbanks United supported this change but suggested (1) that a standardized form be used, (2) adding provisions for making a prompt determination as to whether fraud was committed and (3) that an employer have immunity from civil liability from a worker denied benefits under (b).	AS 23.30.005 (m) is amended to change "shall" immediately adopt new regulations" to "may". A new Section 5 (AS 23.30.025) is added to provide that any "all states' rider" on a workers' compensation policy issued from another state must designate whether Alaska is one of the states covered by the rider and the report must be submitted to the Department of Labor under AS 23.30.085. (Upon receipt of the report, DOL could to refuse to recognize a policy if the rates paid by the employer/firm are not adequate for Alaska coverage.) See #5 under "OTHER ISSUES". A new Section 6 (AS 23.30.030) is added to provide that a premium paid for insurance may be paid semi-annually if requested by the insured and if the annual policy is \$2,000 or more and requires the insurer to notify the insured of this provision.

ISSUE	HB 352/SB 322	CURRENT LAW	PUBLIC TESTIMONY	PROPOSED (Senate) CS
<p>(5) Vocational Rehabilitation Services</p> <p>Selection of Rehab Serv. Administrator</p> <p>Rotating roster for selection:</p>	<p>AS 23.30.041 (a) Board selects a Reemployment Services Administrator (RSA) to (b) perform functions outlined in paragraphs (1) through 4) including: enforcement of regulations, recommending regulations and monitoring the quality and effectiveness of programs and (5) (a through d) monitoring the costs of rehab programs and following up on clients and (b) establish and maintain a list of qualified specialists and (7) promote awareness of the program</p> <p>AS 23.30.041 (c) requires the RSA to establish and maintain a rotating roster of specialists to perform eligibility evaluations for rehab and to make selections from the list when needed.</p>	<p>AS 23.30.041(a) provides that the Board shall select a rehabilitation administrator to (b) implement the section and study the program.</p>	<p>Some participants objected to what they termed as the "sweeping powers" granted to the RSA under pending legislation.</p> <p>Fairbanks United was not convinced that the proposed changes to the rehab section would work and suggested, (1) requirements for reporting/compiling data on the costs of rehab evaluations, (2) implementation of regulations that require timely action on cases, (3) establishing a task force to track the rehab section, and (4) redirecting the second injury fund to provide incentives for employers to rehire injured workers.</p>	<p>A new Section 8 (AS 23.30.040(h) is added to roll in the major provision of HB 177 to provide that administrative expenses for the second injury fund will be paid from the fund. The effect of this cost-saving measure is to give the pending legislation (HB 352/SB 322) a zero fiscal note.</p> <p>AS 23.30.041 is amended into a new format with only a few substantive changes that include:</p> <p>AS 23.30.041(c) is further amended to provide that the list maintained by the RSA shall be "on a rotating and geographic basis".</p>
<p>Eligibility for rehab services</p>	<p>AS 23.30.041 (d) provides that an employee shall be eligible for rehab services if a doctor predicts that the worker will have a permanent impairment from their injury that will leave them with less than what it takes to do the job they were (1) doing at the time of injury or (2) held during the last ten years long enough to learn the necessary skills.</p> <p>AS 23.30.041(e) provides that an employee is not eligible if (1) employer offers employee a job at no less than 60% of pre-injury gross hourly wage or (2) employee has been previously injured, completed a rehab program, and returned to a similar job.</p>	<p>AS 23.30.041(c) provides that an employee is eligible for rehab if a doctor predicts that the injury will cause a permanent impairment that precludes a return to "gainful employment"</p>	<p>Several participants complained that this section would make rehab a "once in a lifetime deal" under workers comp and asked that the section be amended to permit subsequent rehab services to an injured worker if their current injury had no substantial relationship to the first injury that resulted in rehabilitation.</p>	<p>AS 23.30.041(e)(2) is amended to include "jobs that exist in the labor market that the employee has held or received training for within 10 years before the injury....".</p> <p>AS 23.30.041(f)(1) is amended to provide that "the employer offers employment within the employee's predicted post-injury physical capacities at a wage equivalent to at least the state minimum wage under AS 23.10.065 or 60% of....".</p>

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ISSUE	HB 352/SB 322	CURRENT LAW	PUBLIC TESTIMONY	PROPOSED (Senate) CS
(5) Cont'd <u>Rehab Services</u>	AS 23.30.041 (f) provides that a worker eligible for rehab shall select a rehab specialist from the rotating roster.	No Board maintained roster under current law.	Several voc rehab specialists objected to being chosen from a rotating roster because, (1) it was not cost effective for doing several evaluations in adjacent communities and (2) it interferes with free enterprise and free choice by employee of a rehab specialist who has demonstrated quality results.	AS 23.30.041(f)(2) is amended to provide that "the employee has been previously rehabilitated in a former workers' compensation claim and returned to work in the same or similar occupation in terms of physical demands required of the employee at the time of the previous injury, or"
Conflicts	If there is a conflict between the employee/er over the choice the RSA shall appoint a specialist to perform the eligibility determination. Both parties have one right of refusal for a specialist.	AS 23.30.041(f) provides that if there is a disagreement between the employee/er, the RS shall appoint or deny a plan by any party within 14 days and any party can seek a review of the decision within 10 days under AS 23.30.110.		
Design of Rehab Plan	The rehabilitation plan shall include (1) the occupational goals in the labor market (2) plan to acquire skills to be employed (3) cost estimate of the plan (4) length of time the plan will take (5) date plan begins (6) date of medical stability as predicted by a doctor	AS 23.30.041(d) provides that the first evaluation shall judge whether rehab is necessary including (1) if the plan allows the worker to return to work, (2) if worker can return to work without the plan, (3) costs of plan including all costs to employer and whether worker will be more or less able to work after the plan	A new paragraph (3) is added to AS 23.30.041(f) to provide that "at the time of medical stability no permanent impairment is identified or expected."	
Agreement to the Plan	AS 23.30.041 (h) requires employee/er to sign the plan.	AS 23.30.041(e) provides that the plan may consist of the following with the highest preference on that which will get the worker back to work the soonest, (1) prosthetic devices (2) work site modification, (3) on the job training, (4) vocational training for a new job, (5) academic training.		AS 23.30.041(h) is amended by adding a new paragraph (2) to require an inventory of the employee's abilities in formulating a rehab plan.
				AS 23.30.041(h)(7) is amended to read "the <u>estimated</u> time of medical stability as predicted by the physician".
				AS 23.30.041(h) is amended by adding a new paragraph (8) to require a detailed description of the rehab plan.

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ISSUE	HB 352/SB 322	CURRENT LAW	PUBLIC TESTIMONY	PROPOSED (Senate) CS
<u>(5) Vocational Rehabilitation Services</u>	<p>AS 23.30.041 (i) provides that noncooperation by an employee shall mean loss of benefits from the date of noncooperation which is defined as failure to: (1) keep appointments, (2) maintain average grades, (3) attend programs as assigned by the specialist, (4) maintain contact, (5) cooperate in the development of the plan and participate in assigned activities, (6) comply with employees responsibilities outlined in the plan and (7) participate in activities as determined by the RSA</p>	<p>AS 23.30.041 (h) provides that refusal to participate means loss of benefits for the time of refusal until refusal stops. If a person who refuses to participate begins a rehab plan within two months, completes the plan and works for at least 30 days, they shall receive a lump sum of 25% of their forfeited benefits.</p>	<p>There was considerable public testimony in opposition to this section because people felt, (1) it gave too much power to the RSA and rehab specialist, (2) it made "too many hoops" for an injured worker to jump through when a miss on any of them would mean a loss of rehab benefits, (3) there was no adequate way for a worker to argue in their defense if they were determined to be "noncooperative".</p>	<p>AS 23.30.041(n) is amended to read "noncooperation means <u>unreasonable</u> failure to"</p> <p>AS 23.30.041(n)(2) is amended by deleting "average" and inserting "passing grades".</p> <p>AS 23.30.041 is amended by adding a new subsection (o) to provide an appeal process in the determination of noncooperation.</p>
Goals for Rehab Plan	<p>AS 23.30.041 (g) sets priority goals for the plan as, (1) on the job training, (2) vocational training, (3) academic training, (4) self employment, or (5) any combination of the above.</p>	<p>AS 23.30.041(i) defines priority goals for the plan as restoring a workers to gainful employment (1) at the same job or similar job with the same employer or industry, (2) a job using the same skills at a different industry, (3) a job using different skills but the same level of academic training, (4) a job requiring higher academic skills.</p>	<p>There was testimony in opposition to changing the goal of the plan from a goal of "gainful employment".</p>	
Time Limits	<p>AS 23.30.041 (j) establishes a time limit on rehab so that (1) reemployment benefits may not exceed 2 years, (2) an employee or employer must ask for an eligibility evaluation within 60 days of injury, (3) determination for eligibility must be complete within 30 days of referral, (4) a rehab specialist must be selected within 10 days of being determined eligible.</p>		<p>There was concern expressed that the two year cut-off was arbitrary and unfair, particularly to the more seriously injured worker who may need substantial rehabilitation.</p> <p>There was concern expressed that 60 days was too soon in some cases and that the language should be amended to allow for extenuating circumstances.</p>	<p>AS 23.30.041 (c) is amended to provide that a worker must request a rehab evaluation within <u>90</u> days instead of the <u>60</u> days under proposed legislation.</p>

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ISSUE	HB 352/SB 322	CURRENT LAW	PUBLIC TESTIMONY	PROPOSED (Senate) CS
(5) Vocational Rehabilitation Services Time Limits	AS 23.30.041 (j) cont'd. (5) plan must be approved by all parties within 90 days. (6) plan begins when doctor determines that worker is medically ready and		There was considerable public comment that the time limits established under this section are too tight and that more time should be allowed or that language should be added to give the RSA a mandate to allow more time when needed.	
Standard to uphold a RSA decision	As 23.30.041 (j) (7) provides that the Board will uphold a decision by the RSA unless "abuse of discretion" can be demonstrated.		Several participants testified that the "abuse of discretion" standard would be impossible to prove and that an injured party would not have an adequate ability to protest or address a grievance.	
Cost of Plan and Benefits under Rehab	AS 23.30.041(k) provides that the cost of the plan may not exceed \$10,000. If a worker reaches medical stability before completion of the plan, temporary total disability payments cease and permanent impairment benefits will be paid at TTD rates. If PPD benefits are exhausted before the plan is complete, the employer shall pay wages not less than 60% of the workers' pre-injury spendable weekly wage, not to exceed \$525/week until completion of the plan.		There was concern expressed that the \$10,000 limit was too low. Several participants expressed concern about the cut-off in TTD after medical stability, specifically because a worker will begin to assume some of the costs of the rehab plan in some cases.	
	(k) cont'd.. Any permanent impairment benefits remaining after completion of the plan shall be paid in a lump sum. Fees paid to rehab specialists shall be paid by employer and are not included in the \$10,000 limit on the cost of the plan.			

5) Vocational Rehabilitation Services

Definitions

AS 23.30.041(1) provides that only a rehab specialist may accept a case. A non-specialist may work under the direct supervision of a specialist.

See below on definition of rehab specialists.

AS 23.30.041 (m) is the definitions section including:

(1) "employability" means the ability to but not necessarily the opportunity to engage in remunerative employment.

AS 23.30.041(i) defines a priority for restoring a worker to "gainful employment".

There was considerable public testimony in opposition to the definition of (1) employability as the ability to hold a job as opposed to the current standard of actual having a job ("gainful employment") and

(2) "labor market" is the area that offers employment opportunities in the following priority:
(a) area of residence, (b) area of last employment, (c) the state, (d) other states.

(2) the expanded definition of "labor market" that is used to determine whether a worker is eligible for rehab services.

(3) "physical capacity"
(4) "physical demands"
(5) "employment benefits"

(6) "rehabilitation specialist" as a person who holds at least a CIRS certificate or the equivalent or better.

Several professional groups objected to the definition of a specialist and asked that the licenses and degrees of other specialists be included in the definition and that a new section be added making a "grandmother" clause to allow currently practicing rehab specialists to continue to practice.

AS 23.30.041(p)(6) is amended to include "a certified rehabilitation counselor" under the definition of a "rehabilitation specialist".

(7) "remunerative employability" as employment with wages equal to or greater than 50% of the gross hourly wages prior to injury, adjusted by the applicable area of residence.

There was considerable public testimony that the 60% standard for post-injury wages was too low and was unfair. Participants requested that the standard be amended so that the 60% could not be less than minimum wage.

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ISSUE	HB 352/SB 322	CURRENT LAW	PUBLIC TESTIMONY	PROPOSED (Senate) CS
5) Vocational rehabilitation services	AS 23.30.041(1) provides that only a rehab specialist may accept a case. A non-specialist may work under the direct supervision of a specialist.	See below on definition of rehab specialists.		
Definitions	AS 23.30.041 (m) is the definitions section including:			
	(1) "employability" means the ability to but not necessarily the opportunity to engage in remunerative employment.	AS 23.30.041(i) defines a priority for restoring a worker to "gainful employment".	There was considerable public testimony in opposition to the definition of (1) employability as the ability to hold a job as opposed to the current standard of actual having a job ("gainful employment") and	
	(2) "labor market" is the area that offers employment opportunities in the following priority: (a) area of residence, (b) area of last employment, (c) the state, (d) other states.		(2) the expanded definition of "labor market" that is used to determine whether a worker is eligible for rehab services.	
	(3) "physical capacity" (4) "physical demands" (5) "reemployment benefits"			
	(6) "rehabilitation specialist" as a person who holds at least a CIRS certificate or the equivalent or better.		Several professional groups objected to the definition of a specialist and asked that the licenses and degrees of other specialists be included in the definition and that a new section be added making a "grandmother" clause to allow currently practicing rehab specialists to continue to practice.	AS 23.30.041(p)(6) is amended to include "a certified rehabilitation counselor" under the definition of a "rehabilitation specialist".
	(7) "remunerative employability" as employment with wages equal to or greater than 50% of the gross hourly wages prior to injury, adjusted by the applicable area of residence.		There was considerable public testimony that the 60% standard for post-injury wages was too low and was unfair. Participants requested that the standard be amended so that the 60% could not be less than minimum wage.	

HOUSE LABOR AND COMMERCE COMMITTEE

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ISSUE

HB 352/SB 322

CURRENT LAW

PUBLIC TESTIMONY

PROPOSED (Senate) CS

(6) Exclusiveness of Liability

Excludes workers' comp benefits for workers who make a false statement about a preexisting injury under AS 23.30.20(b)



Fairbanks United suggested that this section be amended to make the employer immune from liability when a worker is denied benefits under this section.

(2) MEDICAL

"Doctor Shopping"

AS 23.30.095 (a) is amended to provide that an employee can make only one change in the choice of treating physician without written permission of the employer. Referral to a specialist by a treating physician is not considered a choice.

No limit on number of changes in the choice of doctor by either employee or employer although a changes is supposed to occur only through regulations developed by the Board.

Public comment pointed out that "doctor shopping" was as much a problem with employers as it was with employees and that an employers choice for a physician to perform IME's should be limited in the same way an employees choice is under the proposed legislation.

Notice of change in treating physician must be made to employer before change is made.

"Continuous and Multiple Treatments"

AS 23.30.095 (c) is amended to provide that claims for continuing and multiple treatments are not valid unless they were submitted in a written plan before treatment commences that is completed and signed by treating physician and mailed to employer one week before beginning of treatment.

Fairbanks United suggested that this approach won't work, will increase costs, and should be deleted from the bill.

Participants, particularly patients of chiropractors and the doctors themselves, objected to the limits on continuing and/or multiple treatments as arbitrary, unfair, and discriminatory against a specific medical practitioner.

Initial treatment plan shall not exceed more than 20 visits in first 60 days. If more than 20 visits in 60 days or more than 4/month after first 60 days, a physician shall document the need for services in excess of the guidelines in the plan.

Chiropractors submitted eight pages of suggested amendmens to this section of the bill.

AS 23.30.095(e) is amended to provide that an IME requested by an employer every 60 (30) days is considered reasonable.