954

Sund

PROPOSED LANGUAGE FOR ASSIGNED RISK POOL

Version A -
New businesses subject to surcharge for three years
No surcharge without exp. mod. debit
Surcharge = 30%

"An insurer may not impose a surcharge for assigned risk pool insurance unless the insured has not been in business in the state for three full years or the insured has received an experience modification debit. The amount of the surcharge shall be equal to 30 percent of the premium after consideration of the experience modification debit. The assigned risk pool premium for insureds who have or are entitled to an experience modification credit shall not exceed that derived from the application of standard rates for the insured's classification adjusted for the experience modification credit."

Version B -
No surcharge without exp. mod. debit - including new business
Surcharge = 25%

"An insurer may not impose a surcharge for assigned risk pool insurance unless the insured has received an experience modification debit. The amount of the surcharge shall be equal to 25 percent of the premium after consideration of the experience modification debit. The assigned risk pool premium for insureds who have or are entitled to an experience modification credit shall not exceed that derived from the application of standard rates for the insured's classification adjusted for the experience modification credit."

Version C -
New business subject to surcharge for two years
No surcharge without exp. mod. debit
Surcharge = 20%

"An insurer may not impose a surcharge for assigned risk pool insurance unless the insured has not been in business in the state for two full years or the insured has received an experience modification debit. The amount of the surcharge shall be equal to 20 percent of the premium after consideration of the experience modification debit. The assigned risk pool premium for insureds who have or are entitled to an experience modification credit shall not exceed that derived from the application of standard rates for the insured's classification adjusted for the experience modification credit."

Variables to play with: Number of years for new business and percent of surcharge.

PROPOSED ALTERNATIVE LANGUAGE
SECTION 2
Page 2, Lines 18-25

Kelly

Replace language on lines 19 through 25 with the following:

"(c) An insurer may impose a surcharge not to exceed 25 percent of premium for assigned risk pool insurance provided that no surcharge may be applied to the first $2,500 of premium in any policy year."

Comment:

This provision provides a limit on pool surcharge by premium size. Only that portion of premium in excess of $2,500 would be subject to surcharge. This provision has the advantage of being relatively simple to administer.

Alaska Independent Insurance Agents & Brokers, Inc.

FAX # (907) 262-2736

FACSIMILE COVER PAGE

DATE 5/3/88

COMPANY Senators, [redacted], Fisher, Szymanski, Representatives, Sund Menard & Navarre

LOCATION Juneau, AK.

TELECOPIER # 586-9548 Rm 204 Phone # 465-3764 Rep. Navarre
586-9544 Senator Fisher

ATTENTION: Whomever

FROM: Patrick S. Cowan, Executive Director, AIIAB, Inc.

REGARDING: Workers Compensation, Proposed Legislation

NUMBER OF PAGES 1 INCLUDING THIS COVER PAGE.

MESSAGE: Our position on the proposed Legislation, now in Pre-Conference Committee is as follows: We Support the Senate version of the Workers Compensation Committee without any of the amendments offered by the House. If some sort of a compromise is necessary, we support the AIA's position on these amendments.

There is no way we can support any Legislative mandated rate decreases. In order to provide the best insurance product to the public, the free enterprise system must be allowed to work.

The Legislation as passed by the Senate was a compromise bill offered by Labor & Management, the people that this bill is going to affect. We suggest that you pass the Senate version as presented and allow the free market system to take care of rate decreases as they actually occur in the marketplace. Respectfully submitted,

Patrick S. Cowan

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL US BACK, AS SOON AS POSSIBLE.

P.O. Box 1547 • Soldotna, AK 99669 • (907) 262-4136

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION : HCS SCS SB322(L&C)
PUBLISH DATE :

FISCAL NOTE

REQUEST:
Revision Date:
Agency Affected: Labor
Title: "An Act relating to Worker's Compensation"
BRU: Worker's Compensation
Sponsor: Senate Labor & Commerce
Components:
Requestor: House Labor & Commerce
Worker's Compensation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		124.0	49.7	49.7	49.7	49.7
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	124.0	49.7	49.7	49.7	49.7
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND			(74.3)	(74.3)	(74.3)	(74.3)
FEDERAL FUNDS						
OTHER *		124.0	124.0	124.0	124.0	124.0
TOTAL	0.0	124.0	49.7	49.7	49.7	49.7

* Second Injury Fund

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

(See Attached)

Prepared by: Jacque McClintock
Phone : 465-2790
Division: Worker's Compensation
Date : 3/16/88

Approved by Commissioner: Jim Sampson
Date: 3/16/88
Agency: Department of Labor

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

Analysis of Fiscal Note

For HCS SCS SB 322(L&C)

This bill would require the Department of Labor to keep track of certain Workers' Compensation information it is not currently tracking, and would also require an annual cost of living survey of the 50 states and 10 foreign countries. Details of these two additional costs are as follows:

1. Additional Information Requirements

As a result of this bill, additional detail on information items for each workers' compensation claim would have to be reported by employers/ insurers on a by claim and annual basis. This additional information would be input into our computer database which would require a change in the computer programs associated with that system. Estimated costs are $57,500 to modify the programs, and an additional $13,000 in CPU time to test and verify the modifications. The total one-time data processing cost would therefore be $70,500.

2. Annual Cost of Living Survey

An annual cost of living survey would be required to adjust the compensation to those workers compensation recipients who move from Alaska. We estimate that 250 locations (an average of 5 per state) would have to be surveyed each year. In addition, we estimate that 10 foreign locations would have to be surveyed each year at an approximate cost of $350 per site. At $200 per site, the total cost the first year would be $53,500. The cost of the survey in future years would decrease slightly to an estimated $49,700 a year.

Assumptions:

1. An effective date of July 1, 1988.

2. Per the bill, Second Injury Funds will now be utilized to pay the administrative costs associated with the Second Injury program. The savings to the existing general funds in the Worker's Compensation BRU will then be available to fund the costs of this bill.

KENAI PENINSULA BOROUGH
144 N. BINKLEY • SOLDOTNA, ALASKA 99669
PHONE (907) 262-4441

DON GILMAN
MAYOR

TELECOPIER COVER LETTER

DATE: 5-2-88

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: John Ringstad

FIRM: C/o Tim Kelly - Labor & Commerce Committee

CITY: Juneau

TELEPHONE NUMBER: _____ TELECOPY NUMBER: _____

FROM: Don Gilman - Kenai Peninsula Borough Mayor

DESCRIPTION OF MATERIAL: _____

TOTAL NUMBER OF PAGES (INCLUDING COVER LETTER): 3

If you do not receive all the pages, please call back as soon as possible.

Phone: (907) 262-4441, ext. 224

Operator: Liz

We are transmitting from a CANON FAX-520.

Telecopier # (907) 262-1892

KENAI PENINSULA CAUCUS

RESOLUTION 88-6

A RESOLUTION SUPPORTING APPROVAL OF VARIOUS REFORMS TO THE WORKERS COMPENSATION INSURANCE STATUTES AS CONTAINED IN SB 322, BUT OPPOSING ANY LEGISLATIVE MANDATE TO REDUCE WORKERS COMPENSATION INSURANCE PREMIUMS

WHEREAS, the Kenai Peninsula Caucus represents Kenai Peninsula municipal governments and Chambers of Commerce and serves to promote the physical, social and economic well being of the Kenai Peninsula Borough; and,

WHEREAS, Workers Compensation premiums have risen by up to 68% for some Alaskan businesses, and the average premium increase in 1988 is 25%, which effects both public and private sectors of the Alaskan economy; and,

WHEREAS, a group of Alaskan citizens, representative of both labor and management formed a task force called the WCCA to focus on Workers Compensation Reform; and,

WHEREAS, the WCCA has focused on specific aspects of Workers Compensation law which, if changed will save employers millions of dollars and make the system better serve both the employee and the employer; and,

WHEREAS, our Legislators in the second half of the Fifteenth Legislature have an excellent opportunity to make actual, favorable Workers Compensation Reform, working with the WCCA; and,

WHEREAS, the WCCA has proposed legislative amendments contained in Senate Bill 322 to work out REAL rate reductions based on sound actuarial information; now, therefore,

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE KENAI PENINSULA CAUCUS:

Section 1: Kenai Peninsula Caucus respectfully requests the Alaska State Legislature to enact various reforms to the Workers Compensation Insurance Statutes as contained in Senate Bill 322 and to work with the WCCA and the Division of Insurance to work out real rate reductions based on actuarial information.

Section 2. Kenai Peninsula Caucus respectfully requests the Alaska State Legislature **NOT** to attempt to mandate incorrect, unsound rate reductions, that will most certainly create the opposite in the market place.

Section 3. The Kenai Peninsula Caucus supports statutory language based on the original findings of the WCCA and opposes efforts of special interest groups to change the original intent.

Section 4. The Secretary is authorized to send a copy of this Resolution to the Honorable Steve Cowper, Governor of the State of Alaska, to all State Legislators who represent the Kenai Peninsula Borough and to the House Labor and Commerce Committee members of the Alaska State Legislature.

Resolution 88-6 Kenai Peninsula Caucus

ADOPTED this 4th day of April, 1988.

Betty J. Glick

Betty J. Glick, President

ATTEST:

Mitchel Robinson, Secretary

National
Council
on Compensation
Insurance

Stanley V. Sparks
Director
Government, Consumer
and Industry Affairs

April 5, 1988

Honorable Paul Roller
Director of Insurance
State of Alaska
Department of Commerce and Economic Development
Division of Insurance
State Office Building - 9th Floor
Pouch D
Juneau, Alaska 99811

Re: Senate Bill 322

Dear Director Roller:

The Alaska Classification and Rating Committee met via telephone conference call on April 4, 1988 to discuss the progress of the workers compensation insurance reform legislation which is pending in Juneau. By unanimous decision the Committee in effect acknowledged that the potential overall cost savings contained in the existing version of SB 322 amounted to 5.7 percent. Accordingly, if the bill is enacted in its present form, the Committee will direct NCCI to file a law amendment rate filing in Alaska which provides for an overall rate decrease of 5.7 percent on new, renewal and outstanding policies effective as of July 1, 1988.

The Committee wishes to make it clear that such a mid-term rate adjustment would not in any way interfere or preclude the normal review of Alaska experience and the making of an appropriate 1/1/89 rate filing based upon that experience.

Sincerely,

Stanley V. Sparks

Stanley V. Sparks
Director
Government, Consumer
and Industry Affairs

SVS/gls

cc: Alaska Classification and Rating Committee
Don Koch
R. Fein
M. Mulvaney

AS 23.30.110(c) is repealed and reenacted to read:

(c) Before a hearing is scheduled, the party seeking a hearing shall file a request for a hearing together with an affidavit stating that the party has completed all necessary discovery, has obtained all evidence it needs for the hearing, and will not seek a continuance or request the hearing record remain open at the conclusion of the hearing. Within 10 days the opposing party must notify the board if it is not ready for a hearing. If the opposing party notifies the board that it is not ready for hearing, the board or a board designee will conduct a pre-hearing conference within 30 days, and determine the hearing date. If no opposition is filed, a hearing will be scheduled no later than 60 days after the receipt of the request and affidavit. The parties shall be given at least 10 days' notice of the hearing, either personally or by certified mail. Once a hearing has been scheduled, no continuances will be permitted. The board shall close the hearing record at the end of the hearing; any evidence or arguments filed after the conclusion of the hearing will be excluded from the record. The only exception will be in case of surprise as determined by the board. The board may then extend the time to file additional evidence or argument. The parties cannot stipulate to leave the hearing record open. The parties may not stipulate to change the date, cancel, postpone, or continue the hearing, except for cases of illness of a party or its representative or because of a conflict with a matter scheduled by a state or federal court. If the parties reach a settlement agreement less than 14 days before the hearing, the parties shall appear at the time of the scheduled hearing to state the terms of the settlement agreement. Within 30 days after the hearing record closes, the board shall file its decision. If the employer controverts a claim on a board prescribed controversion notice and the employee does not request a hearing within two years following the filing of the controversion notice, the claim is denied.

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE P.O. BOX Y, JUNEAU 99811

Chairman - Representative Dave Donley (907) 465-3892

March 15, 1988

M E M O R A N D U M

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: Proposed HCS for CS SB 322 (L&C)

Following is a brief synopsis of the changes proposed in the House Labor and Commerce Committee Substitute for SB 322 - relating to workers' compensation. The changes include:

1. A mandated rate decrease for workers' compensation premiums of no less than 6%, effective July 1, 1988 through January 1, 1990. (Page 33, line 7, Section 44)

2. Additional intent language under section 1 (Page 2, line 4, paragraph (d)) regarding workplace safety with two new sections (Page 2, beginning on line 7) mandating a 10% rebate for employers in an assigned risk pool and a 5% rebate for employers not in an assigned risk pool if they have a safety program that meets the standards established under the occupational safety code and have had no OSHA violations subject to fines during the period covered by the annual premium.

3. Raising the mandatory fine for failure to carry workers' compensation insurance from $1,000 to $10,000. (Page 13, line 22)

4. Amend language governing contents of insurers annual report to the Division of Workers' Compensation to include the number of claims filed and the percent of claims controverted during the year for which the annual report was submitted. (Page 22, line 16)

   Include language to require the Board to notify the Division of Insurance when they determine that a carrier's controversions are frivolous or unfairly deny employees benefits that are due them. Upon receipt of a notice from the Board, the Division of Insurance will initiate an investigation of the carrier for violation of the unfair claims settlement act. (Page 23, line 15, paragraph (o))

5. Amend language governing the contents of the annual report to break out the costs of legal fees to reflect the fees paid to both the plaintiff and defense attorney, including all other costs associated with litigation. (Page 22, line 17)

6. Amend Section 11 (AS 23.30.095(a) to provide that an employers choice of physician for an IME is limited to no more than one

change in choice, as is an employees right of choice under the proposed legislation. (Page 16, line 6)

7. Amend Section 41 (effective date) so that this act applies to any "stress" injury that occurred on or after the date of adoption of this bill by the Legislature. (Page 33, line 21, Section 47)

8. Include language requiring that an IME must be in the same speciality as the treating physician unless the Board agrees, on a case by case basis, to authorize an IME by a physician who is not within the same speciality of the employees physician. (Page 18, line 2)

9. Amend Section 21 (AS 23.30.155(c) (Page 19, line 3) to provide that penalties assessed under this subsection (penalties for failing to file notification of changes in payment of benefits on time) shall be increased to (20) 25 percent.

10. PROPOSED AMENDMENT - The attached amendment would increase the penalty for late payment of compensation under AS 23.30.155(e) from (20) to 25%, to make this subsection consistent with other proposed changes in AS 23.30.155.

11. Include new language amending AS 23.30.155 (f) (governing penalties for unfair denial of claims) to increase penalties from (20 percent), under current law, to 25 percent. (Page 22, line 7).

12. Amend Section 29 (AS 23.30.190(b) to change "may" to "shall" on page 27, line 29.

13. Include a new section requiring that benefits paid to recipients residing in Alaska be paid by checks drawn on Alaska banks or other method of payment that is accepted as immediately redeemable by a bank in this state. (Page 23, paragraph (p))

14. Amend AS 23.30.041(k) (Page 9, line 14) to read: (k) "Benefits related to the reemployment plan may not extend past two years from date of plan approval or acceptance at which time the benefits.....". (Page 10, line 3)

15. Amend Section 13 (AS 23.30.095(e) to reinstate the deleted language and to add new language so that it reads: "AUTHORIZED TO PRACTICE MEDICINE UNDER THE LAWS OF THE jurisdiction in which the physician resides (STATE IN WHICH THE EMPLOYEE MAY BE FOUND)". (Page 16, line 4)

16. Add a new section to repeal and reenact AS 23.30.110(C) in response to public testimony that there has been a significant increase in the amount of time between filing a case and obtaining a formal hearing before the Board. (Page 19, line 2, paragraph (c))

17. Include a "grandfather" clause (Page 33, Section 45) to authorize current rehab specialists who do not have the credentials required under the bill to be able to practice for one year after adoption

of this act at which time they have to have gained the required credentials or are barred from practicing independently as a rehab specialist.

REPLACE

INSURER PROVIDING INSURANCE

SHALL ESTABLISH, MAINTAIN

& USE FOR INSURED

W/P SAFETY PROG

DESIGNED TO REDUCE LOSSES

& QUALITY THESE INSUREDS

FOR EXPERIENCE RATING

CREDITS.

PROPOSED ALTERNATIVE LANGUAGE
SECTION 2
Page 2, Lines 18-25

Replace language on lines 19 through 25 with the following:

"(c) An insurer may impose a surcharge not to exceed 25 percent of premium for assigned risk pool insurance provided that no surcharge may be applied to the first $2,500 of premium in any policy year."

Comment:

This provision provides a limit on pool surcharge by premium size. Only that portion of premium in excess of $2,500 would be subject to surcharge. This provision has the advantage of being relatively simple to administer.

1) Section 1 (e); it is the legislature's intent to enforce the law.
H - Judiciary version

2) Section 2 - 21.89.015; delete the workplace safety program; it may increase short term rates and may have no effect.
open NEW LANGUAGE

3) Section 11 - 23.30.075(b); increasing the fine for not carrying compensation insurance; $10,000 is excessive.
open H- JUD

4) Section 17 - 23.30.095(k); the board's IME should have a more weighted opinion than either of the biased medical opinions. H- JUD
open either clear & convincing or this goes

5) Section 19 - 23.30.110(c); the language for scheduling the hearing needs tightening; re-insert the "all, all, fully".
open H-JUD

6) Sections 25 & 26; fines of 25% or $100 whichever is less; the minimum of $100 can be excessive on smaller payments; delete the "or $100, whichever is less".
delete or $100 - YES

7) Section 27 - 23.30.155(m); penalty of $1,000 if insurer does not fully complete the form; could be excess as written; change to "may be fined up to $1,000".
H - Judiciary version

8) Section 28 - 23.30.155(p); payments must be on in state banks; this won't solve the problem being addressed.
delete

9) Section 36 - 23.30.220(a)2; to determine the weekly wage of someone out of work the previous 2 years; the original language better fits the intent of this section.
H - Judiciary version

10) Section 40 - 23.30.265(17); the stress section; re-insert the phrase "rather than misperceptions by the employee"; this is needed to tighten this section.
insert rather than perceptions by the employee
H-JUD

11) Section 44; mandatory rate reduction; delete mandated reduction; accept the 5.7% reduction; insert language to prevent increases for 18 months.
1) should increases be allowed for bad experience - y
2) do they get rebate on half yr premiums paid - credits
NEW LANGUAGE

12) Assigned risk pool amendment adopted 4/25; delete this section; if this is workable, it will likely increase overall costs.
open NEW LANGUAGE

13) √projected weekly wage
√delete projected

Alaska National
INSURANCE COMPANY
A policy of service and protection

April 18, 1988

The Honorable John Sund, Chairman
House Judiciary Committee
House of Representatives
Juneau, AK 99801

Dear Mr. Sund:

After observing two days of hearings in Juneau, I thought it would be appropriate to summarize our position on several issues which, I believe, need clarification to your Committee.

Mandated Rate Reduction or Freeze

On its face, the approach of an arbitrary mandated rate reduction or freeze is offensive to almost anyone in business. We believe that if there is a real reduction in the cost of claims, it will show up quickly in the reduction of premiums. Pricing in our industry is, admittedly, cyclical and this frustrates all of us because its beyond our control. However, our industry is sensitive to supply and demand. If prices for insurance become too high, competition forces them down, often too far.

Understandably, your Committee members express frustration with the "actuarially shrouded mystery" of the pricing process. The fact is that prices for workers' compensation are determined prospectively based on past experience. We don't know what that past experience will be under a prescribed law or set of rules until we've experienced it. Frankly, we're skeptical that out-of-state actuaries or rating organizations can make an accurate determination of how benefit changes will affect future experience, if for no other reason, than that they don't have adequate information regarding the cost components of past payouts against which to apply the projected impact of benefit changes.

As you know, the Alaska Classification and Rating (C & R) Committee adopted a 5.7% rate decrease for the original Senate Bill 322. The majority of the projected savings represented the so-called unquantifiable "soft dollar" items in the bill. Only time will tell if that decision was appropriate or in the proper amount.

7001 Jewel Lake Road • Anchorage, Alaska 99502 • Telephone (907) 248-2642 • Telex (090) 25-456 • FAX 248-4100

As Dick Cattanach reminded the Committee, everyone was willing to bet insurance industry surplus in 1983 that the original Rehabilitation Law would provide savings. As we well know, such confident appraisals were woefully wrong. Is it unreasonable for the insurance industry to view current favorable forecasts with caution?

The impact of these decisions can be substantial and of long lasting effect. One must remember that it is not to the advantage of the public for the insurance industry to take an optimistic view and jeopardize the solvency of carriers writing business in Alaska.

Alaska National Insurance Company paid $465,000 to the Alaska Insurance Guaranty Association for claims of seven insolvent insurance carriers during 1987. This assessment did not include any amount for the Pacific Marine Insurance Companies. The potential future assessment for those companies is very real and will have an impact for years to come.

The insurance industry has a responsibility to keep its house in good financial order to be in a position to honor all claims as they become due far into the future.

We believe the mandated approach will not be received well by national companies and market availability will diminish. A loss of business in Alaska for national companies would not even be noticed in their financial statements. A public company which must demonstrate an upward earnings curve to its stockholders will not think twice about reallocating its capital (and related underwriting capacity) away from states with an adverse and uncertain legislative environment to one based upon the free enterprise system.

Finally, the mandated rate decrease was compared to other limitations placed upon the medical, rehab and legal professions. I contend that the analogy is groundless. The difference is that the insurance industry exposure is geometrically greater and limitless while the others have well defined limits.

For example, the medical profession is asked to use an usual and customary schedule. Few would agree that a physician would actually lose money using that approach. He theoretically may limit his gross fees but his bottom line will never become negative. The rehab limit may be $10,000 but no-one will exceed that amount and lose money.

However, if the optimists are wrong and the bill doesn't decrease costs, there is no cap on the amount of money an insurance company can lose. Whether it be a miscalculation on the benefit provisions, increased litigation, constitutional reversals of provisions, etc., the insurance industry will foot the bill unconditionally - without any limit. I truly believe an independent observer would not call these separate financial limitations comparable.

Safety Program Rebates

This provision has many of the defects cited for the mandatory rate decrease. In addition, the following points need to be made.

The system currently provides for incentives to employers who have good loss experience. In fact, the incentives far exceed the reduction proposed by this amendment. The workers' compensation rating process includes an individual rate reduction (or increase) based upon individual loss experience. Alaska National wrote one account with a rate credit of 68% based upon loss experience. Rate credits in the 10% to 20% range are not unusual.

Also, the current system is readily measurable. Proper and consistent measurement of safety violations is just not workable. It will place undue pressure on safety inspectors and will result in numerous inequities between employers.

The true measure of an employer's safety program is his actual loss experience. The system is effective, it's fair and it's working now.

At Alaska National, we currently have four full-time professional safety engineers and are looking to hire a fifth. Their assignment is to evaluate safety conditions (or lack thereof) at our insureds' place of business, make recommendations and assist in the development of good safety programs.

Assigned Risk Pool

It appeared to me that your Committee did not receive a good explanation of how an employer ends up in the Assigned Risk Pool. The impression was left that the insurance carrier makes an unilateral decision to place an employer in the Pool.

In fact, the process works like this: An insurance broker or agent will submit an application on behalf of an employer to an insurance carrier. That insurance carrier will evaluate the application based upon its own individual underwriting criteria (which may vary widely by carrier). The carrier may reject the application for a variety of reasons such as high exposure business, poor safety history, bad loss experience, reinsurance restrictions, little or no prior history, etc.

At that point or earlier on a simultaneous basis, the broker or agent will search out other insurance carriers to attempt to find a carrier willing to insure the account. The insurance carriers have no knowledge (unless told by the brokers) that the broker is shopping the account with other insurance carriers. The underwriting decision is made individually and independently by each insurance carrier based upon its own underwriting standards and guidelines. If the broker is unable to place the account, then the employer as a final resort may obtain coverage in the Assigned Risk Pool.

Six insurance companies act as servicing carriers to process the business, issue policies and adjust all claims. All statistics related to business placed in the Pool are reported to the National Council on Compensation Insurance.

In response to recent questions about the equity of the surcharge under certain situations and conditions, the Alaska Classification and Rating Committee at its meeting on April 14, 1988, took steps to begin gathering past data for insureds placed in the Pool.

The National Council on Compensation Insurance collects premium and loss data from the six servicing carriers. The C & R Committee intends to obtain the appropriate data, evaluate it and come up with any needed changes to correct inequities in the system. While I cannot speak for the C & R Committee, it is my understanding that the Committee will summarize its findings, so advise the Division of Insurance as well as the interested legislators and take any action necessary to make corrective changes.

In absence of an orderly evaluation of the actual data, I believe it would be imprudent to adopt legislative provisions which may not address the proper issues.

Conclusion

Alaska National, perhaps to it disadvantage, initially attempted to maintain a low profile in the current political process. Our viewpoint has always been that it is the province of the legislature to make the social and economic determination of the appropriate benefit structure. We, in turn, attempt to implement the law in good faith and at the appropriate price. We believe that it is improper for the insurance industry to attempt to influence the outcome of legislative workers' compensation benefits.

While we do not agree with all of the provisions of original Senate Bill 322, we believe it represents a legislative compromise that, if its intent is followed, will result in savings.

If we can provide further information, we will be pleased to offer our assistance. Thank you for your consideration.

Yours truly,

James E. Pfeifer
President

cc: Senator Tim Kelly
Representative Dave Donley

JEP/rlj

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM February 19, 1988

SUBJECT: Workers' Compensation - CSSB 322 (L&C)

TO: Senator Tim Kelly
Chairman
Senate Labor and Commerce Committee

FROM: Michael F. Ford M. F.
Legislative Counsel

The following is a sectional analysis of CSSB 322 (L&C).

Section 1 - Establishes the legislative intent of the bill.

Section 2 - Creates additional departmental authority regarding rehabilitation specialists and physicians who are involved in rehabilitation.

Section 3 - Allows the department to adopt new regulations if an existing regulation is held invalid by the state supreme court.

Section 4 - Precludes certain employees who knowingly make a false statement on an employment application from receiving compensation benefits.

Section 5 - Requires an insurer to provide notice to the department, if certain coverage is extended.

Section 6 - Requires that worker's compensation insurance premiums be paid semiannually, if requested by the insured.

Section 7 - Alters the time for an employer to make required contributions to the second injury fund.

Section 8 - Requires that administrative expenses of the second injury fund must be paid from the second injury fund.

Section 9 - Establishes the responsibility and authority of the department regarding rehabilitation of injured workers. Establishes specific eligibility criteria requirements for rehabilitation plans, specifies reemployment benefits, and duties of the employee while receiving reemployment benefits. Provides time limits for reemployment plans, limits the cost to the employer of the plan, and provides that only a rehabilitation specialist may perform certain casework. Also includes a definitions subsection.

Section 10 - Establishes that the liability of the employer is limited to workers compensation even if the employee is barred from receiving compensation because the employee knowingly made a false employment application.

Section 11 - Limits the employee's designation of a physician to the state where the employee resides. Provides the employee may make only one change of physician without consent of the employer and requires notice of the change.

Section 12 - Establishes that a written plan is required for continuing medical treatment. Specifies the contents of the treatment plan and requires certain documentation.

Section 13 - Provides that the employee shall submit to examination by a physician chosen by the employer, and establishes a presumption of reasonableness for certain examinations.

Section 14 - Establishes a fee standard for medical treatment.

Section 15 - Authorizes the board to appoint a medical services review committee to assist the board in issues regarding the cost of medical services.

Section 16 - Establishes procedures in the event of conflicting medical opinions. Provides for independent medical examination and creates a presumption that this opinion is correct.

Section 17 - Specifies that a claim may be filed within two years of the last payment of certain benefits.

Section 18 - Provides that the presumption of compensability does not apply to a mental injury resulting from work related stress.

Section 19 - Establishes that a finding of fact made by the board in a compensation order and supported by any evidence, is conclusive unless the court specifically finds that a reasonable person could not have reached the conclusion made by the board, if the employer and employee have also met their proof requirements.

Section 20 - Specifies that the board may review a compensation case brought within one year after the last payment of certain benefits.

Section 21 - Provides that certain insurer or adjuster penalties may be reduced as provided under AS 23.30.155(m).

Section 22 - Requires the most recent employer to make temporary disability payments when there is a dispute as to which employer is responsible for compensation.

Section 23 - Requires the employer to submit a report regarding total compensation paid and provides for a reduction in certain late report penalties.

Section 24 - Provides that certain reporting requirements are the duty of the employer, if the employer is self-insured.

Section 25 - Establishes the weekly rate of compensation for disability or death for in-state and out-of-state recipients. Requires the board to establish regulations for determining living costs.

Section 26 - Establishes a market for an employee's services in determining permanent total disability. Requires a reduction in permanent total disability benefits if an award for permanent partial disability has been received.

Section 27 - Provides that failure to achieve remunerative employment as defined in AS 23.30.041(m)(7) does not by itself constitute permanent total disability.

Section 28 - Establishes limits on payment of temporary total disability.

Section 29 - Provides compensation for permanent partial impairment and establishes guidelines for determining the existence and degree of impairment.

Section 30 - Limits payment of temporary partial disability compensation to two years or the date of medical stability.

Section 31 - Provides for determination of an employee's wage earning capacity, for purposes of temporary partial disability compensation.

Section 32 - Provides for calculation of an employee's spendable weekly wage. Limits the compensation due an employee who had no earnings during the two calendar years preceding injury, or was voluntarily absent for 18 months or more of the previous two years.

Section 33 - Establishes a reduction in weekly compensation benefits when an employer makes a contribution to a pension or profit sharing plan of the employee.

Section 34 - Prohibits discrimination against an employee who files a good faith claim for compensation benefits.

Section 35 - Redefines "gross earnings" to include certain pension and profit sharing contributions.

Section 36 - Redefines "injury" to exclude certain mental injuries.

Section 37 - Definition of medical stability.

Section 38 - Repeals existing wage earning determination for partial disability compensation.

Section 39 - Transitional provision for contributions to the second injury fund.

Section 40 - Applicability section.

Section 41 - Effective date.

MFF:bb
WKB3/008

TO: Senate President
House Speaker

FROM: SB 322 Conference Committee
Sen. Tim Kelly, Senate Chair
Rep. John Sund, House Chair

DATE: May 2, 1988

RE: Limited powers of free conference

Members of the SB 322 conference committee request limited powers of free conference on the following items:

1) Assigned Risk Pool
House CS - Section 2; page 2, line 18

2) Workplace Safety Program
House CS - Section 3; page 2, line 27

3) Fine for failure to carry workers' comp. insurance
House CS - Section 12; page 14, line 6

4) Determination of gross weekly earnings
House CS - Section 38; page 30, line 2
Senate CS - Section 32; page 26, line 18

5) Rate Reduction
House CS - Section 46; page 32, line 22

Sen. Tim Kelly

Rep. John Sund

Sen. Paul Fischer

Rep. Mike Navarre

Sen. Mike Szymanski

Rep. Curt Menard

4/25/98 not read

Section 1
Version A

AMENDMENT

Offered in the HOUSE By Sur

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 case decided on their merits, except when otherwise provided by statute."

Not read

Section 1
version B

AMENDMENT

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 achieve that goal, it is the intent of the legislature that the p ponderance of the evidence standard be used in determining the comp sability of a workers' compensation claim. "Preponderance of evidence" means evidence that when weighed with that opposed to has more convincing force and a greater probability of truth. W weighing the evidence, the test is not the relative number of witne es, but the relative convincing force of the evidence."

Sec. 1 Version C Failed

5-1514Lii
Ford

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.

4/19/88

5-1514Xb
Ford

Sec. 2

AMENDMENT

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

AMENDMENT version A

Offered in the HOUSE

By S

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 aga the employer unless

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

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

 (Continued)

4/18/88

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

Section 13
Version B

Failed

AMENDMENT

Offered in the HOUSE By Sur

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 aga the employer unless

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

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

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

Section #13
Version C

AMENDMENT

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 15, line 7, after "treatment":

Delete "is"

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

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

Delete all material.

Sec. 13

AS 23.30.095(c)

Ch. #1

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.

Sec 13

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

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.

AMEND #2
UNANIMOUS

See. 33

AMENDMENT

Offered in the HOUSE By Sund

TO: HCS CSSB 322 (Judiciary)

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

Delete all material.

Reletter the following subsection accordingly.

TASK FORCE RECOMMENDED
AMND #3
UNAMMOUS

5-1514Xc
Ford

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

By Sund

Offered in the HOUSE

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)

ADOPTED 4/21/88

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 the percentage of the surcharge does not exceed ~~an amount~~ the percentage 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

AMENDMENT

Offered in the HOUSE By Sur

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 insuran under AS 21.39.155."

4/25/88

1/28

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).

IME decision should carry more weight than employee/employer physician.

3. Compensation
   a. Change the maximum weekly benefit from 200% of statea 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 severly 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 inself 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.

Costs spread to everyone — thereby increasing overall workers' comp. rates.

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

Amend to include [illegible] [illegible] 12-month [illegible] precedent of mandating rate reductions (not a good policy)

arctic slope regional corp.

P.O. BOX 129 BARROW, ALASKA 99723
PHONE (907) 852-8633 OR 852-8633
PANAFAX TELECOPIER (907) 852-5733

April 28, 1988

Representative Al Adams
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Re: SB 322

Dear Representative Adams:

It is our understanding that the House Finance Committee will shortly be considering SB 322 relating to worker's compensation legislation and we would like to add our comments for your consideration. The Arctic Slope Regional Corporation (ASRC) is vitally concerned with the worker's compensation provisions of the state statutes and efforts to make changes in them. We supported the efforts of the Worker's Compensation Committee of Alaska (WCCA), and encourage changes designed to lower the costs of providing coverage through third party insurance companies or by self-insurance. ASRC has several operating entities that purchase worker's compensation insurance and they have experienced tremendous increases in the cost of that coverage. Our primary areas of activity are in the construction and oilfield support arenas and these increases in insurance costs have significantly impacted our profitability and ability to remain competitive.

There are several versions of SB 322 and numerous amendments that have been proposed. Our initial evaluation of the Senate passed version was positive. It seemed to be headed towards the original objective of attempting to lower the underlying costs of providing worker's compensation. It is difficult to assess, but our expectation was that our premiums for worker's compensation insurance would be stabilized or reduced somewhat. A five percent reduction suggested by others appeared to be reasonable. We have experienced an increase of over 40% in the last two years in our worker's compensation insurance premiums. Simply stopping such increases will help. However, after such tremendous increases, reductions of 5% or 6% do not appear that significant. The real question, of whether the reasons for those increases are fully understood and whether the system would be accordingly changed by the legislation as passed by the Senate, was not

totally answered by the bill. While the cooperation of management and labor has been positive, additional consideration of these issues appeared valuable. One area of particular concern to our companies has been pre-existing injuries and proper allocation of responsibility for injuries of a current claimant.

The draft (dated 4/20/88) proposed by the House Judiciary Committee, however, seems to go in the wrong direction from further consideration of the Senate bill. The voluminous offered amendments seem to lose sight of the objectives of lowering costs. They appear overly concerned with protecting the "unintended beneficiaries" of the present system - the legal, medical and rehabilitation professionals - rather than taking care of the employees and employers. Mandating specific actions of the insurance company will not make recalcitrant carriers respond, it will more likely drive them out of the market. This only further lessens competition and available coverages. The insurance companies are not without blame for the present system's problems and high cost; but don't use them as a scapegoat either.

There may well be other proposals that we have not had the opportunity to fully review and evaluate. We readily concur that the present cost of insurance and benefits is too high and needs modification. This objective should be kept carefully in mind in the last days of the session in consideration of SB 322. If differences can be worked out and the original objectives accomplished, a truly beneficial bill can be passed. If not, we are better off considering these proposals in another session.

Your consideration of our views and comments on this matter is appreciated.

Very truly yours,

Conrad Bagne

Conrad Bagne
Chief Administrative Officer
& House Counsel

CB:fc

1)Section 45; mandatory rate reduction; accept 5.7% reduction and insert language to prevent increases for 18 months.

2) Assigned risk pool; delete this section.

3) Section 18 - AS23.30.959K0; insert original language to give more weight to the board's IME.

4) Section 20 - AS23.30.110(c); tighten the language for hearings scheduling by adding back in " all, all, & fully".

5) Section 3 - AS21.89.015; delete the workplace safety program.

6) Section 41 - AS23.30.265(17); mental stress - re-insert the phrase "rather than misperceptions by the employee".

DON KOCH

? NOT LOOKING FOR RATE INCREASES IN NEAR FUTURE

5.7% DECREASE / THIS

SEASONAL EMPLOYERS ~~[illegible]~~ RE: SEMI-ANNUAL PAYMENTS
S/ ONLY HAVE 1 PMT OR NOT 2 EQUAL PMTS

PAUL [illegible]

ISSUES

- 2 YR LIMITS ON BENEFITS — WHAT ABOUT CRITICALLY OR CATASTROPHICALLY INJURED
- OPPOSED TO MANDATORY RATE DECREASE
- BILL BREAKS TREND OF EXISTING SYSTEM

SOME — [illegible] REQUIRING DEFENSE ATTORNEYS TO PROVIDE THEIR EXPENSES AS DO PLAINTIFF LAWYERS TO BE DRAFTED

STAN

[illegible] — [illegible] RATE SETTERS
[illegible]% OF REG RATES SUBSIDIZE RISK POOL

GARY [illegible]

AK C&R COMMITTEE SENT LETTER [illegible] TO DIV OF INS SUGGESTING 5.7% DECREASE

1/1/88 FILING

W/BEEN 12/31/86 – 1/1/95 EXPERIENCE
USED TO GET 1/1/88 FILING

86 & 87 = 1/1/89 MINUS 5.7%
87 & 88 = 1/1/90
88 & 89 1/1/91
89 & 90 1/1/92

86 W/SHOULD INCREASE
87 & SHOULD STABLE
} NET – 5.7%

SHOULD NOT BE MORE THAN +2%
W/ 86 PUSHING FOR ~~0%~~ INCREASE

NEW RATES 3/88 DONE & OUT Nov 1

Section 1

By Sund

AMENDMENT

Offered in the House

TO: HCS CSSB 322 (L&C)

Page 2, line 7:

Insert a new subsection to read:

"(e) It is the intent of the legislature in amending AS 23.30.075(b) and AS 23.30.155 that the Division of Workers' Compensation, Division of Insurance and Department of Law strictly enforce the punishment authorized under AS 23.30.075(b) and the reporting requirements in and penalties for noncompliance with AS 23.30.155, based on findings that

1) there has been a failure on the part of the state to impose the punishment authorized under AS 23.30.075(b) against those employers who fail to obtain workers' compensation insurance or to qualify as a self-insurer, and

2) there is a lack of specific data within the Division of Workers' Compensation and Division of Insurance to adequately assess the efficiency and costs of the workers' compensation system.

NO

5-1514Ls
Ford

Section 1
Version A

AMENDMENT

Offered in the HOUSE By Sund

TO: HCS CSSB 322(L&C)

Page 1, lines 14 - 17:

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

5-1514Lt
Ford

Section 1
version B

AMENDMENT

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 the 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."

5-1514Lu
Ford

Section 1

A M E N D M E N T

Offered in the HOUSE By Sund

TO: HCS CSSB 322(L&C)

Page 1, line 27:

Delete "reduce disincentives"

Insert "increase the incentives"

4/18/88

Section 2 By Sund

ASV Doxi Koch

AMENDMENT

Offered in the HOUSE

TO: HCS CSSB 322 (L&C)

Page 2, lines 8 - 22:

Delete all material and write a new Sec. 2 to read:

An insurer who provides workers' compensation insurance must establish and maintain a workplace safety rate reduction program available to all insureds. The program must include:

1) A reduction in future workers' compensation premiums based on the insured's documented, successful implementat of a safety program, and
2) The availability of consulting services to the insured to establish a workplace safety program.

Section 5

AMENDMENT

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 3, line 15:

Delete "knowingly"

Insert "intentionally"

5-1514Lw
Ford

AMENDMENT

Section 4 & 5

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 3, lines 10 - 13:

Delete all material. — Amendment already passed

Insert a new subsection to read:

"(m) The department shall prescribe a written notice to be provided by an employer to a prospective employee, that advises the employee of the risk of loss of workers' compensation benefits under AS 23.30.020(b) if the employee makes a false employment application."

Page 3, line 15:

Delete "An"

Insert "If an employer furnishes a prospective employee with a written job description that indicates the physical and mental demands of the job and provides the employee with a written notice prescribed by the department that describes the risk of loss of workers' compensation benefits if the employee files a false employment application, an"

5-1514Lx
Ford

Section 10

AMENDMENT

Offered in the HOUSE By Sund

TO: HCS CSSB 322(L&C)

Page 6, line 23, after "has":

Delete "unusual and extenuating physical limitations that prevent"

Insert "an unusual and extenuating circumstance that prevents"

5-1514Ldd
Ford

Section 10

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 8, line 1:

Delete "of injury"

4/18/

Section 13

A M E N D M E N T

Offered in the HOUSE By Sund

TO: HCS CSSB 322(L&C)

Page 14, line 21:

Delete "inside the state where the employee resides to render the care"

Insert "to provide all medical and related benefits"

Page 14, line 25, after "[":

Insert "INSIDE THE STATE TO RENDER THE CARE" ??

Mike explain

5-1514Lz
Ford

Section 14

AMENDMENT version A

Offered in the HOUSE By Sund

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, the physician giving the treatment or the employee receiving it furnishes 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 the commencement of the course of treatment and the plan is completed and

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 14
Version B

AMENDMENT

Offered in the HOUSE By Sund

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, the physician giving the treatment or the employee receiving it furnishes 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 the commencement of the course of treatment and the plan is completed and

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

5-1514Lbb
Ford

Section 14
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 "<u>, or treatment requiring continuing and multiple treatments of a similar nature are</u> [IS]"

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

Delete all material.

4/18/88

5-1514Lcc
Ford

Section 18

NO

AMENDMENT

Offered in the HOUSE By Sund

TO: HCS CSSB 322(L&C)

Page 18, lines 8 - 11:

Delete "The opinion of the independent medical examiner shall, in the absence of clear and convincing objective evidence to the contrary, be presumed to be correct."

Sections 32-33-34 TO replace earlier amendment #12

5-1514Lee
Ford

AMENDMENT

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 26, lines 8 - 10:

Delete "Temporary total disability benefits may not be paid for more than two years regardless of continuance of the disability."

Page 26, line 15:

Delete "$240,000"

Insert "$135,000"

Page 26, line 18, following "considerations.":

Delete all material through page 27, line 24.

Page 28, line 19:

Delete "two [FIVE]"

Insert "five"

Page 33, line 23:

Delete "takes"

Insert "take"

April 22, 1988

The Honorable John Sund, Chairman
House Judiciary Committee
House Of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Chairman Sund:

The Joint Management/Labor Task Force has reviewed the committee work draft dated April 20, 1988 and would like to share our concerns and comments with you and your committee.

After your ordeal of the past month, you will probably agree that Workers' Compensation is an extremely complex issue and one in which changes in one section can result in positive or negative changes in other sections of the statute. After more than a year of analysis and negotiation, the Task Force presented a compromise bill to the Senate and House Labor and Commerce Committees' which was designed to result in significant reductions in workers' compensation premiums paid by employers while at the same time increasing the benefits to injured workers.

The draft presented to the House Labor and Commerce Committee had been estimated to result in a 5.7% rate reduction effective July 1, 1988. Due to an error in the calculations of our Task Force, we presented suggested modifications to the draft legislation on April 15 and at that time, Milliman and Robertson indicated that the recommended changes when placed in the Senate version of the bill, would result in a 6% premium reduction. The Task Force believes that the cost savings are potentially greater than that proposed, but because of the difficulty in pricing many of the sections of the bill, we believe that such savings will not be realized until future experience verifies or repudiates our opinions.

With this perspective, the Task Force has reviewed the committee work draft of April 20 to determine if the modifications will likely result in changes to the costs of the legislation or changes in the labor/management balance. For the most part, we believe that the modifications proposed will not effect prices or tip the management/labor balance. We do however, believe that the following provisions will increase the costs of the legislation and reduce the potential savings of the bill.

1. Section 13; page 15, lines 19-23.

This section modifies our proposal to control the frequency of medical visits by establishing suggested limits which could be exceeded when documented by the physician. From 1983 to 1986, medical costs for workers' compensation increased from 25% of $75 million in costs to 37.5% of $153 million. To control this item, we attempted to deal with both the price and the utilization of medical services. The proposed modification would effectively neutralize our attempt to control utilization and reduce the savings resulting therefrom.

We understand the committee's reluctance to legislate limits on medical visits, and accordingly we would propose that this section be modified to allow the Workers' Compensation Board to adopt such guidelines by regulation. In this manner, the abuses could be controlled and the system would maintain the flexibility needed to react to changes in conditions and practices.

2. Section 25 and Section 26.

These sections increase the penalties associated with the failure to promptly pay compensation under the act. We understand the desire to punish employers or carriers that willfully or flagrantly fail to promptly pay their claimants, but we believe that the proposed modifications are extreme and deal with a relatively insignificant problem. We are worried that such an increase in penalties in the absence of a recognized problem sends a message to the insurance industry that we are not willing to provide a mutually supportive environment for them.

We further believe that the size of the proposed penalities will lead to more controversions by employers as they attempt to avoid the penalities. We foresee this section serving to fuel further litigation as it provides an additional economic incentives to dispute and hence will drive up the costs of the system.

We would propose that the current penalties remain as they currently exist except that the Board could increase the penalties to 50% when they deem that the employer or carrier flagrantly and willfully failed to pay claimants promptly. In this manner we would penalize the abusers of the system, while still allowing the current penalties for the relatively infrequent failures to pay in a timely manner.

3. Section 28, lines 23-25.

We would propose that this section be deleted as it relates to issues beyond the scope of workers' compensation.

4. Section 33(c)

This section should have been removed when the permanent partial impairment schedule was reduced from $240,000 to $135,000. It was originally placed in the proposal to minimize the impact of the adjustment factors on the relatively minor injuries, but the elimination of the adjustment factors removed the need for this section.

4. Section 44

We believe that the proposed modifications to the statute will result in reductions in the cost of workers compensation and believe that the insurance industry has made a good faith effort to acknowledge those reductions when they proposed a 5.7% reduction effective July 1, 1988. We do not support a mandated roll back since it will have little impact on the rate structure and might potentially encourage some carriers to withdraw from the Alaska workers' compensation market. We believe that a mandated rate reduction offers little long term economic gain and could cause irreparable harm to the workers' compensation insurance marketplace and consequently lead to higher, not lower costs.

We strongly support the work draft with our modifications and urge you to move the bill to the Finance Committee as quickly as possible. Your concerns and questions have been helpful and the bill is better because of the time your committee has invested in the issue. We are concerned however that the bill could be lost in the closing days of the session and, if so, employers and employees would be the true victims of such a consequence. For employees the legislation represents an improvement in benefits and jobs. For employers it means a reduction in premiums and survival.

Very truly yours,

Robert Anders
Co-Chairman

Mary Pierce
Co-chairman

not now

Section 1
Version A

AMENDMENT

Offered in the HOUSE

By Sur

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 moved

Section 1
version B

AMENDMENT

Offered in the HOUSE By Sun

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 orde achieve that goal, it is the intent of the legislature that the ponderance of the evidence standard be used in determining the com sability of a workers' compensation claim. "Preponderance of evidence" means evidence that when weighed with that opposed to has more convincing force and a greater probability of truth. weighing the evidence, the test is not the relative number of witn es, but the relative convincing force of the evidence."

Sec. 1 Version C Failed

5-1514Lii
Ford

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.

5-1514Xb
Ford

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

AMENDMENT version A

Offered in the HOUSE

By S

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 aga the employer unless

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

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

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

Section #13
Version B

Failed

AMENDMENT

Offered in the HOUSE

By Su

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 ag the employer unless

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

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 (continued) 4/18/1

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

Section #13
Version C

AMENDMENT

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 15, line 7, after "treatment":

Delete "is"

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

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

Delete all material.

4/18/88

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.

Sec 13

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

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

AMENDMENT

Offered in the HOUSE By Sund

TO: HCS CSSB 322 (Judiciary)

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

Delete all material.

Reletter the following subsection accordingly.

5-1514Xc
Ford

Sec. 36

AMENDMENT

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 the percentage of the surcharge does not exceed ~~an amount~~ the percentage 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"

age 32, line 20:

Delete "39, and 41 - 46"

Insert "40, and 42 - 47"