

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
5383 SLAB SB 322 (file 7) - (file 8)

CAF

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 insuranc
under AS 21.39.155."



ANCHORAGE SCHOOL DISTRICT

4800 DeBarr Avenue
P.O. Box 196614
Anchorage, Alaska 99519-6614
AREA CODE (907) 333-9581

SCHOOL BOARD

Jean Buchanan
President

William Fink
Vice President

Carol Stolpe
Clerk

Bonny Davis
Clerk Pro Tem
Immediate Past President

Marilyn Roderick
Treasurer

Darryl Jordan
Assistant Treasurer

Jim Robinson
Parliamentarian
Past President

SUPERINTENDENT

William Coats, Ph.D.

May 2, 1988
Date

To:

John Ritzinger
San Kelly's Office
Jamez, Ak.

TELECOPY COVER SHEET

Telecopy consists of 3 pages including this cover sheet. If there

is any problem with the transmission of this material, please call

Warren Novak at (907) 269-2303.

BENEFITS DEPARTMENT

MANAGEMENT / LABOR JOINT TASK FORCE

5/2/88

Honorable Tim Kelly, Co-Chair
Honorable John Sund, Co-Chair
Joint Conference Committee
P. O. Box V
Juneau, Alaska 99811

Re: HOUSE CS FOR CSSB 322 (JUDICIARY)

Dear Senator Kelly and Representative Sund:

In addition to the Joint Task Force recommendations already submitted to you for making the House Judiciary Committee version acceptable to the Senate in joint conference, the following important corrections to the final House Judiciary Committee substitute of April 26, 1988 need to be made if possible:

1. SEC. 2. AS 21. 39. 155 (c) - AMEND TO READ:

(c) An insurer may not impose a surcharge for assigned risk pool insurance unless the insured has not been in business in the state for 3 full years or the insured has received an experience modification debit. The amount of the surcharge shall be equal to 30% of the premium after consideration of the experience modification debit, if any. 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 risk classification adjusted for the experience modification credit.

NOTE: This amendment will prevent an employer from avoiding a surcharge in the assigned risk pool by changing the name of the business or otherwise bypassing the intent of this section. Furthermore, it gives greater protection within the pool to small employers with good worker's compensation claims experience. As far as the Task Force is concerned, the actual amount of the surcharge could even be 40% or 50% since, with this amended language, only those employers in the pool with bad claims records would be hit with the surcharge.

2. SEC. 3. AS 21. 89. 015 - DELETE ENTIRE SECTION.

NOTE: Insurers already provide safety programs consulting and assistance to their insureds at no charge. Indeed, many insurers will not issue insurance to an employer who does not implement a safety program. This section would increase cost by allowing the insurance companies to charge an unspecified amount for services they now provide at no cost. An employer who does not follow sound safety practices will be penalized through their premium modification factor.

3. SEC. 10. AS 23. 30. 041 (c) - PG. 7 LINE 5:

Delete "circumstances" and restore "physical limitations".

4. SEC. 14. AS 23. 30. 095 (c):

Replace with Sec. 14. AS 23. 30. 095 (c) contained in HCS CSSB 322 (L&C) of 3/17/88, Pg. 15. lines 6 through 27.

NOTE: "Physicians" are, by definition, licensed by the state while the term "health care providers" can contain practitioners who are neither licensed or otherwise regulated or controlled to protect the public. These should not be eligible for payment under the Worker's Compensation Act. The Judiciary Committee language in Sec. 14, refers to "the standard treatment frequency for the nature and degree of the injury and type of treatments" and such standards do not exist. It would be highly inappropriate for the Worker's Compensation Board, whose members are not physicians, to attempt to establish standards for medical treatment.

- 5. SEC. 18. AS 23. 30. 095 - AMEND BY INSERTING A NEW SENTENCE AT THE END OF LINE 9, PG. 18 AS FOLLOWS:
The opinion of the independent medical examiner shall, in the absence of clear and convincing evidence to the contrary, be presumed to have greater weight than either of the other two opinions for the purpose of resolving a medical dispute.

NOTE: We strongly feel that this statement is necessary to give uniform guidelines for board member, who are not medical experts, in evaluating the medical merits of the other two opinions to a medical dispute. We also feel it will reduce the potential for litigation.

- 6. SEC. 26. AS 23. 30. 155 (E) - RETAIN EXISTING LANGUAGE.
- 7. SEC. 27. AS 23. 30. 155 (F) - RETAIN EXISTING LANGUAGE.
- 8. SEC. 28. AS 23. 30. 155 (M) - DELETE LAST SENTENCE ON PG. 24, LINES 1,2, & 3.

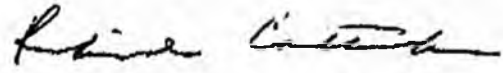
NOTE: As to Sections 26 and 27, we are not aware of any problem which makes these changes necessary and they only drive up costs. In Sec. 28, we think that the \$1,000 fine for incomplete filing makes no distinction between essential information such as claims data, and incidental information, which should not call for a fine. We would like to give the employers, adjusters, and insurers a chance for show their willingness to comply with the new requirements of this bill. If warranted, fines can be imposed at a later date.

- 9. SEC. 41. AS 23. 30. 265 (17) - REPLACE WITH SENATE VERSION, SEC. 36, CSSB 322.

We all greatly appreciate hard work and sincere efforts of the committee members of both legislative bodies have put forth on this most important piece of legislation. We feel these additional changes will result in a bill that will accomplish our goal of worker's compensation cost reduction will fairly providing for the need of both workers and employers. We respectfully request your concurrence with these changes in joint conference.

Sincerely,

Management / Labor Joint Task Force



Richard Cattanach

WLD/am

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 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.

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.

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

<u>Amendment</u>	<u>Page-Line</u> <u>Judiciary CS</u>	<u>Page-Line</u> <u>Hse L&C CS</u>
Rewrote "reduce disincentives" to read "increase the incentives."	1 - 27	1 - 27
Added intent language urging the Administration to enforce reporting requirements and penalties under the Workers' Compensation Act.	2 - 7	2 - 7
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
Clarified that the board retains two provider rosters -- one for rehab. specialists, one for physicians.	3 - 2	2 - 26
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
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
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
Clarified the reference dictionary used in vocational rehab. codes	7 - 26	7 - 24
Increased from 60 to 75 the percentage of a worker's wage at injury that the	8 - 2	7 - 28

employer can offer which would make the worker ineligible for voc. rehab.

Deleted the typo "of injury."	8 - 4	8 - 1
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."		
Rewrote AS 23.30.095(c) regarding notification and length of treatment. 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.	15 - 9	15 - 7
Deleted the reference to the board IME being in the same speciality as the employee's chosen treating physician.	17 - 27	18 - 1
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
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 - 4 19 - 8	19 - 5 19 - 14 19 - 16
Increased penalties for late compensation payments to 50 percent or \$300, whichever is greater.	21 - 27 22 - 8	22 - 5 22 - 8
Added a penalty of \$1,000 for the filing of incomplete reports.	23 - 12	23 - 12
Added that penalties for lack of reporting apply to uninsureds as well as self-insureds.	23 - 16	23 - 14
Deleted the use of certified checks for compensation payments.	23 - 26	23 - 25

Fixed an incorrect cite.	26 - 1	25 - 29
Returned Temporary Total Disability benefits to an unlimited time period.	26 - 7	26 - 8
Lowered the Permanent Partial Disability cap to \$135,000.	26 - 14	26 - 15
Deleted the use of adjustment factors for figuring PPD payments and more clearly defined the whole person impairment theory.	26 - 15	26 - 18
Returned Temporary Partial Disability benefits to a five year period.	27 - 16	28 - 19
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
Deleted the notion of "employee misperceptions" in the stress language.	31 - 8	32 - 12
Added the definition of "suitable gainful employment" to the repealers.	31 - 22	32 - 27
Changed "takes" to "take."	32 - 18	33 - 23

TO: HOUSE JUDICIARY COMMITTEE MEMBERS

FROM: Shari Kochman

DATE: April 19, 1988

RE: Proposed amendments to HCS CSSB 322 (L&C)

Attached is a new amendment packet that includes all newly drafted amendments as of the meeting of April 18, 7:00 p.m., and all previously drafted amendments that have not been addressed. Please replace your former amendment packets with this packet.

Note: The attached amendments are not numbered, but are in order by bill section.

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 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 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 worker compensation system.

ADOPTED
UNAN
4/19 AS # 18

Section 1

A M E N D M E N T

Offered in the HOUSE

By Su

TO: HCS CSSB 322(L&C)

Page 1, line 27:

Delete "reduce disincentives"

Insert "increase the incentives"

Amended → 32
7-0

Sec. 1
Version C

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.

ADDED BY COMMITTEE
Y: G. B. I
N. S. U. S. C
FAILS

ADDED
LAW TO BE CONSIDERED
IN FAVOR OF 1987
NOT TO BE REVISOR
REASONABLY PERSON IDEAS
TAKE AWAY APPEALS

Section 1
Version A
AMENDMENT

Offered in the HOUSE

By

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 the specific intent of the legislature that workers' compensation cases be decided on their merits, except when otherwise provided by statute."

Section 1
Version B

A M E N D M E N T

Offered in the HOUSE

By S

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. In weighing the evidence, the test is not the relative number of witnesses, but the relative convincing force of the evidence."

Section 2

By Sund

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 premium based on the insured's documented, successful implementation of a safety program, and
- 2) The availability of consulting services to the insured to establish a workplace safety program.

ADMITTED # 19
57 2M
LAWYERS
6/10/1980

INSURED

Section 5

A M E N D M E N T

Offered in the HOUSE

By Su

TO: HCS CSSB 322(L&C)

Page 3, line 15:

Delete "knowingly"

Insert "intentionally"

DRIP

A M E N D M E N T

Section
4 & 5

Offered in the HOUSE

By

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 prospective 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"

Done

Sec. 7

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 3, line 29:

Delete "semiannually"

Insert "on an installment basis of not fewer than two payments"

After "insured."

Insert "Premiums paid by installment must be structured to reflect seasonal peaks in the basis of the premium."

AS AMEND
F 20
ADJUSTED WAY

Section 10

A M E N D M E N T

Offered in the HOUSE

By S

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"

ADOPTED UNAN
AS AMEND
21

Section 10

A M E N D M E N T

Offered in the HOUSE

By St

TO: HCS CSSB 322(L&C)

Page 8, line 1:

Delete "of injury"

2.2
ADOPTED UNAN

Section 13

A M E N D M E N T

Offered in the HOUSE

By S

TO: HCS CSSB 322(L&C)

Page 14, line 21:

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

Insert "to provide all medical and related benefits"

Page 14, line 25, after "[":

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

← like explain

23
ADDED
UNAM

Section 14

AMENDMENT version A

MOVED - COURT
SUND

OPPOSED - 5

FAIL

Offered in the HOUSE

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 by a physician giving the treatment or the employee receiving it furnished to the employer and the board notice of the injury and treatment within 14 days after the treatment is received; the board shall determine 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, 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

-1-(Continued)

signed by the attending physician and mailed to the employer one week of the beginning of treatment; the treatment plan must include objectives, modalities, and frequency of treatment; the treatment plan may not include more than 20 outpatient visits the first 60 days; if more than 20 outpatient visits are required the first 60 days, or more than four outpatient visits a month 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

A M E N D M E N T

MOVED - MAY
w/ 1/2 PART OF # C
w/ DRAW

By :

Offered in the HOUSE

TO: HCS CSSB 322(L&C)

Page 15, line 6:

Delete "amended"

Insert "repealed and reenacted"

MOVED B
NAVAIRE
MAX
SUND
APPROVE - 4

Page 15, lines 7 - 27:

Delete all material and insert:

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

(1) if the claim is for medical or surgical treatment
physician giving the treatment or the employee receiving it fur
to the employer and the board notice of the injury and tre
within 14 days after the treatment is received; the board shall
the failure to furnish notice within 14 days when the board fi
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 reas
value of the medical or surgical treatment obtained by the emp
and

(2) if a claim is for a course of treatment req
continuing and multiple treatments of a similar nature, the trea
are carried out under a written treatment plan prescribed befor
commencement of the course of treatment and the plan is complet

-1- (continued)

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

Section 14
Version C

A M E N D M E N T

Offered in the HOUSE

By St

TO: HCS CSSB 322(L&C)

Page 15, line 7, after "treatment":

Delete "is"

Insert ", or treatment requiring continuing and multiple treatment

a similar nature are [IS]"

Revised
moves
1-HALC

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

Delete all material.

Revised
FRAN - DELETE
LTC - 21
Y - 6
N - NAVARE

Revised move
- DELETE L 23-25 -
Y - T, G, B, N
N - S, C, U
ADOPTED # 26

ADOPTED # 25
P 15 L 21
INSERT "A WRITTEN"
ADOPTED UNAN

MTC
HT, MN
RB

Sec 18

A M E N D M E N T

[Handwritten signature]

Offered in the HOUSE

By

TO: HCS CSSB 322(L&C)

SAM MOVED
Y: 6 5 11 G
N: U T B

ADJUSTED
= 27

Page 18, lines 1 - 5:

Delete "A physician selected by the board under this subsection be qualified in the same specialty as the treating physician selected the employee, unless the board or the board's panel agrees unanimously case by case basis to approve a different selection."

Retain move
P 18 L 21
DELETE UNANIMOUSLY
W/O

ST. THOMAS...
SPECIALTY

RT

Sec 18

A M E N D M E N T

[Handwritten signature]

Offered in the HOUSE

By

TO: HCS CSSB 322(L&C)

Page 18, line 4:

Delete "panel"

Insert "designee"

Delete "unanimously on a case by case basis"

Section 18

A M E N D M E N T

Offered in the HOUSE

By S

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."

SUND - MARCH
Y: T
N: 0

ADOPTED AS
29

Sec. 20

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 19, lines 14 - 15:

Delete "a continuance may not be granted"

Insert "the parties may not stipulate to change the hearing date or to cancel, postpone, or continue the hearing, except for good cause as determined by the board"

Page 19, lines 16 - 19:

Delete "Evidence or arguments filed after the conclusion of the hearing may not be considered by the board, unless the board determines that good cause exists for failure to complete the hearing at the scheduled time."

*ADDED
AS
29
WPAW*

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 the employee"~~

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 ar
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 amo
greater. This additional amount shall be paid at the same ti

ADOPTED

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

Renumber remaining bill sections accordingly.

Page 22, line 8, after "it":

Insert "or ~~\$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"

Dr 1160

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"

Sec. 27

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 23, line 12, after "late.":

Insert "If the annual report is incomplete when filed, the insurer or adjuster shall pay a civil penalty of \$1,000."

Sums
MOVED
Y: 5
N: 0
ADOPTED
AS = 3D

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 percentage or all of the penalties assessed under (c) of this section."

Page 23, line 7:

Delete "waived."

NOT MOVED

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"

NO OBJECTION
L-D
ADDED
AS II-31

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"

HOLD

Page 33, lines 8 - 11:

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

Insert "may not increase the premium rate charged within the state fo
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"

A M E N D M E N T

[Handwritten signature]

NOT OFFERED

Offered in the HOUSE

By

TO: HCS CSSB 322(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 or by imprisonment for not more than one year, or by both, if the person

(1) receives a fee, other consideration, or a gratuity for an account of services rendered to an employer, employee, insurer or insurance adjuster regarding [IN RESPECT TO] a claim, unless such 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 licensee 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"

Sec 44

AMENDMENT

~~XXXX~~
V

Offered in the HOUSE

TO: HCS CSSB 322(L&C)

HOLD

{ If the insured has received pool insurance for at least two years and has not received an experience rating

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) ^{1a} An insurer may not impose a surcharge ^{until} for assigned ri-

~~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"

Sec 44

A M E N D M E N T

Offered in the HOUSE

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 1

(c) An insurer may not impose a surcharge for assigned 1
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:

TO: Rep. John Sund
FROM: Shari Kochman
DATE: April 16, 1988
RE: All Proposed Amendments to SB 322 in all testimony

Amendment #1

This is a technical change.

The present cite in the bill for the U.S. Department of Labor Dictionary of Occupational Titles is incorrect.

Amendment #2 src 31

This is a technical change. The present cite in bill is incorrect.

Amendment #3 src 42

This would delete the definition for "suitable gainful employment" which is a term used in the present vocational rehabilitation statute, but would not be used in the proposed statute - AS 23.30.041.

Amendment #4 src 38

This would make the reporting, notification and penalties described in AS 23.30.155(c) and (m) apply to uninsured employers as well as self-insured employers.

Amendment #5 SEC 24 : 26

This amendment refers to penalties against employers for failure to file required reports, notify claimants of changes in compensation and make payments to claimants on time.

The amendment increases the fines for late notification of changes and late annual reports from \$100 to \$1,000 for the first day and from \$10 to \$100 for every day thereafter.

The penalty for late payment of compensation is increased from 20 percent of the compensation to 25 percent but no less than \$100. This is consistent with penalty changes already made in the House Labor and Commerce Committee and, in fact, was intended to be changed in that committee.

Amendment #6 SEC 28

This amendment would delete a section added in the House Labor and Commerce committee that requires compensation checks to be drawn on funds deposited in Alaska or by certified check.

The intent of this is to prevent delayed payment due to check clearing time. But it is doubtful whether this provision would accomplish that. First of all, check clearing is computerized on a national and regional basis. It could take as long to clear an Anchorage check in Ketchikan as it would a Des Moines check. Second of all, certified checks carry no more weight and are cleared no faster than personal or business checks. Third of all, I don't see how the Legislature has the authority to tell an insurance company where to do its banking. This is a commercial matter, not a workers' compensation matter.

Amendment #7 SEC 1

The intent of this intent language is to urge the Administration to enforce penalties in the workers' compensation statute. Currently, the board may report to the Division of Insurance that an employer is without insurance, and the Division may then pass that onto the attorney general's office, but the case dies there. We have one memo that states the case is "just not worth the state's time."

If we believe lack of workers' comp insurance is reprehensible, we need to enforce the penalties.

Amendment #8 sec 4

This would delete section 4 of the bill which mandates the department to adopt new regulations if the Supreme Court finds existing regulations invalid. The intent of the task force was that new regulations be retroactive as well as prospective. There is question for the need and actual effect of this section -- which you understand better than I.

Amendment #9 sec 33

This would delete the provision that an impairment rating for permanent partial disability would be reduced by an impairment from a preexisting condition.

You should note a couple of things here. The provision does not delineate whether the preexisting condition was work related -- that's not the point. The question is whether an employer should be responsible to pay for an earlier condition that is unrelated to the present injury, but may be aggravated by the present injury.

Another thing to note is that if the combination of injuries does result in permanent total disability, the worker would be compensated for PTD.

Amendment #10 sec 36

This amendment refers to the methods for the board to determine spendable weekly wage, which is now one of the most litigated areas in workers' comp.

The problem is with those employees who had no earnings in the two years prior to injury or were working for only 6 months out of the previous two years. In those cases, the board is to determine compensation based on employees work history and may not exceed projected earnings.

The present language tries to exclude people, who because of lifestyle choices, have low earnings in the two years before injury. It attempts to include people who, for good reasons, have low earnings in the two years before injury.

However, it doesn't succeed. For example, an employee who works just long enough to pay for his extensive vacations would, because he was voluntarily out of the work force, be

entitled to an adjustment in his spendable weekly wage under subsection (b).

However, a person who is out of the work force for more than 18 months in the two years before injury because he is battling cancer, surely an involuntary reason for not working, would not be entitled to an adjustment to his spendable weekly wage under subsection (b). Instead, his compensation would be based on his earnings, if any, in the two years before injury divided by 100.

This amendment deletes the word "voluntarily" because of the above cited problems with definition.

Amendment #11 5229

This amendment addresses the minimum offered wage to an injured worker that would make the worker ineligible for vocational rehabilitation. It would increase the percentage of wage at the time of injury from 60 percent to 75 percent.

Note: This was proposed by the Labor-Management Task Force as part of the amendments to the "PPD-TTD package deal."

Amendment #12 5223

This is the new proposal for the PPD-TTD schedule. It would lower the maximum PPD payment from \$240,000 to \$135,000 and delete the adjustment factor schedule. Effects of this change are in a table that has been distributed to the committee.

In conjunction with the PPD change, the amendment would return TTD and TPD to present law which is no limit on TTD (present bill puts a two year limit on it) and a five year limit on TPD (present bill limits it to two years).

Note: The Task Force testified that TTD would go to a five-year limit to make it consistent with TPD. However, I later clarified that if the intent was actually to go to present law (which was confirmed), then TTD should be unlimited.

SEC 18

Amendments #13A and #13B

These are two possibilities for addressing the present requirement for a unanimous board vote to have an IME outside of the claimant's physician's speciality.

Amendment 13A would simply delete any reference to the specialty and direct the board to select an IME from their list of providers.

Amendment 13B would instruct the board to conduct the IME in the same specialty as the treating physician unless the board or its designee (i.e., the pre-hearing officer) approves a different specialty.

Both amendments would prevent the costly necessity of convening the board to select an IME. It should be noted that the present language would have a fiscal impact for board meetings which has not yet been determined.

Both amendments also address the importance of this decision in comparison to other decisions made by the board. No other decision requires a unanimous vote.

The second proposal (13B), by even mentioning the specialty requirement, may open a door for litigation. The first proposal (13A) probably would not. If the overall intent of the bill is to reduce litigation, we should probably consider what new possibilities for litigation we are introducing through this legislation.

One other point. While the chiropractors do have substantial evidence that the medical professional does discriminate against them, the present language infers an expected discrimination on the part of the board. If we believe the board is discriminatory, we are in sorry shape.

530 44

Amendment #14

The proposed amendment deletes the mandated rate reduction and replaces it with a mandated rate freeze.

It also makes the freeze effective from now through 1990 -- so that new rates could not be set until 1991. That is a year later than the mandated rate reduction now in the bill specifies.

The idea of a freeze, as indicated by John Lewis, is to give time to gather experience under the law change. If we want to do that, we should consider what experience is used for determining rates. The following table explains:

<u>Date Rates Set</u>	<u>Experience Base</u>
January 1989	Jan. '86 - Jan. '88 (no experience under this bill)
January 1990	Jan. '87 - Jan. '89 (six months experience under this bill)
January 1991	Jan. '88 - Jan. '90 (18 months experience under this bill)
January 1992	Jan. '89 - Jan. '91 (24 months experience under this bill)

Therefore, if a freeze is effective until only Jan. 1990, rates will be set with very little new experience (only six months) versus 18 months of new experience come Jan. 1991.

One argument against the freeze being effective immediately is that the Jan. 1989 rates will be based on pre-legislation experience and should, therefore, be subject to modification. However, Don Koch of the Division of Insurance testified on April 11 that as of current available data, he sees either no increase or a very small (maybe 2 percent) increase in January.

Regarding the rate reduction -- the C&R Committee, on April 4, determined a 5.7 percent reduction was in line on July 1, 1988 as a result of the bill. Keep in mind two things -- the rates will be subject to an experience adjustment which could overcompensate for the law reduction (although Mr. Koch's testimony indicates otherwise). Furthermore, it is unclear which version of the bill the C&R Committee was using. The letter said "in the existing version of SB 322" which, on

April 4, was the House Labor and Commerce substitute. But some are under the impression that the committee was using the Senate version. Finally, this does not address the results of any House Judiciary and subsequent changes.

Amendment #15

SEC 2

This amendment addresses the assigned risk pool and prohibits the 20 percent surcharge for those pool companies that do not receive an experience modification. That really translates to all new companies in the pool and all companies with a premium under \$2,500 (because lower premiums are not rated.)

This would give immediate and extensive relief to many small employers in the state, but keep in mind the policy call this is making.

Because the pool runs at a deficit (losses were more than \$4 million in 1987), those lost surcharges will be put on the shoulders of the larger companies in the pool. Should the larger companies subsidize the smaller companies?

Also, experience mods are not always a clear reflection of actual claim losses. Let me try to explain -- but beware that I am getting into the clandestine area of actuarial science.

A \$100,000 loss is not considered a \$100,000 for purposes of experience modifications. It is actually considered a \$9,260 loss unless other circumstances (which I will not get into) make it higher. So, as is the nature with insurance, the added loss is spread among other companies.

Note also that this amendment does a curious thing in providing a disincentive for a company to want an experience rating. Let's say the company gets rid of its 20 percent surcharge because of no experience mod, and later is given a .95 mod which is a five percent reduction. Now the employer loses the exemption from the surcharge and the net effect is a 15 percent increase in rates. Of course, the question is whether the insurers will bother rating the lower premiums, but this amendment may incite them to do so -- which of course adds to their costs of doing business.

As Stan Sparks testified, the assigned risk pool is a tricky thing to address and our problem is not exclusive to Alaska. I have been told by a member of the C&R Committee that they are trying to address it and revamp the pool in some way.

Amendment #16

NEW SEC 39

This is the defense attorney fees amendment which you know more about than I do.

Other issues to address:

Section 2 -- safety program -- is it workable.

Section 7 - semi-annual payments for seasonal employers. If we want to change this, we need language from the Division of Insurance. OK

Section 10 - voc rehab - questions on optional versus mandatory and the time frame for requesting an evaluation.

Section 14 - treatment plan limitations and how is a "visit" defined.

Section 18 - Board IME - weight given to the Board's IME and the exemption from liability for the IME physician.

Section 20 - time frames for hearing requests and limits on continuances.

Sections 21 and 40 - stress claims.

Sections 37 and 39 - treatment of pension plans.

A M E N D M E N T #1

OK

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 7, line 24:

Delete "dictionary of occupational titles"

Insert "United States Department of Labor's "Selected Characteristics
of Occupations Defined in the Dictionary of Occupational Titles""

ADAPTED AS
#4

A M E N D M E N T

2

OK

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

SEC 31

Page 25, line 29:

Delete "AS 23.30.041(m)(7)"

Insert "AS 23.30.041(p)" ~~SEC 31~~

ADOPTED

A M E N D M E N T

#3

OK

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 32, line 27:

SIC 42

Delete "is"

Insert "and 23.30.265(28) are"

#4

OK

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

SEC 28

Page 23, line 14, after "self-insured"

#9

Insert "or uninsured"

A M E N D M E N T

#5

Offered in the HOUSE

TO: HCS CSSB 322(L&C)

By Sur

BAR

~~Page 21, line 7, after "penalty"~~
~~Insert "each employee"~~

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. ~~and~~ 23.30.155(e) is amended to read:

(e) If any installment of compensation payable without an award is not paid within seven days after it becomes due, as provided in (1) of this section, there shall be added to the unpaid installment amount equal to 25 [20] percent of it or \$100, whichever amount is greater. This additional amount shall be paid at the same time as

ADDED TO 23.30.155(e)
BY 400 2/28/88

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

Renumber remaining bill sections accordingly.

Page 22, line 8, after "it":

Insert "or ~~\$100~~^{\$100, 30}, whichever amount is greater" *- CHANGE 25% → 30%*

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"

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

6

ND

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 23, lines 22 - 25:

Delete all material.

A M E N D M E N T

7

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 1, line 9, after "LEGISLATIVE":

Insert "FINDINGS AND"

After "INTENT.":

Insert a new subsection to read:

"(a) The legislature finds that, as the costs of workers' compensation insurance increases, the danger that an employer will fail to insure or to qualify for self-insurance also increases. The legislature also finds that there has been a failure on the part of the state to

(1) adequately enforce AS 23.30.075(a), which requires employer to either obtain workers' compensation insurance or to provide proof of the ability to self-insure; and

(2) impose the punishment authorized under AS 23.30.075(against those employees who do fail to obtain workers' compensation insurance or to qualify as a self-insurer."

Reletter following subsections accordingly.

SUND -
HCS CSSB 322 (L&C)
AT 3:45 PM

A M E N D M E N T

#8

OK

Offered in the HOUSE

TO: HCS CSSB 322(L&C)

ADOPTED

By Sund

Page 3, lines 9 - 13:

Delete all material.

Renumber following bill sections accordingly.

Page 32, line 29:

Delete "sec. 8"

Insert "sec. 7"

Page 33, line 1:

Delete "sec. 27"

Insert "sec. 26"

Page 33, line 13:

Delete "sec. 9"

Insert "sec. 8"

Page 33, line 18:

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

Insert "secs. 7, 24, 26, 27, 39, and 43"

Page 33, line 21:

A M E N D M E N T

#9

ND

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 28, lines 6 - 8:

Delete "The impairment rating determined under (a) of this section shall be reduced by a permanent impairment that existed before the compensable injury."

AMENDMENT

#10

Offered in the HOUSE

TO: HCS CSSB 322(L&C)

REDE
✓
L.

By Sund

Page 29, line 13:

Delete "voluntarily"

A M E N D M E N T

~~11~~ 11

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

OK

Page 7, line 28:

Delete "60"

Insert "75"

ADOPTED
AS #3

A M E N D M E N T

#12

Offered in the HOUSE

TO: HCS CSSB 322(L&C)

By Sund

Page 26, lines 2 - 10:

Delete all material.

Renumber the remaining bill sections accordingly.

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, lines 12 - 21:

Delete all material.

Renumber the remaining bill sections accordingly.

Page 33, line 18:

Delete "40, and 44"

Insert "38, and 42"

Page 33, line 21:

Delete "40"

Insert "38"

Page 33, line 22:

Delete "40"

Insert "38"

Page 33, line 23:

Delete "40 and 47"

Insert "38 and 45"

Delete "takes"

Insert "take"

Page 33, line 25:

Delete "39, and 41 - 46"

Insert "37, and 39 - 44"

A M E N D M E N T

#13 A

Offered in the HOUSE

TO: HCS CSSB 322(L&C)

see 10

OK

By Sund

Page 18, lines 1 - 5:

Delete "A physician selected by the board under this subsection shall be qualified in the same specialty as the treating physician selected the employee, unless the board or the board's panel agrees unanimously or case by case basis to approve a different selection."

#13 B

A M E N D M E N T

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 18, line 4:

Delete "panel"

Insert "designee"

Delete "unanimously on a case by case basis"

A M E N D M E N T

14

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(L&C)

Page 33, line 7:

Delete "REDUCTION"

Insert "FREEZE"

SEC 44

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"

#15

A M E N D M E N T

Offered in the HOUSE

By Sur

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 read
(c) An insurer may not impose a surcharge for assigned risk po
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

#16

Offered in the HOUSE

By Sund

TO: HCS CSSB 322(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 AND 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, or by imprisonment for not more than one year, or by both, if the person

(1) receives a fee, other consideration, or a gratuity on account of services rendered to an employer, employee, insurer, or insurance adjuster regarding [IN RESPECT TO] a claim, unless the 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"

TIM KELLY

TO BE ADDED TO
WCO'S CS

- 1) INSURANCE CARRIERS SHALL
IN ADVANCE
NOTIFY ALL INSURED THAT THEY
CAN MAKE BIENNIAL PAYMENT.
- 2) P 9 L14 INSERT "AT LEAST"
- 3) P 15 L15 - INSERT AFTER
TREATMENT - "THE ABILITY TO
ENTER A RE-EMPLOYMENT SERVICES
PLAN"
- 4) P 28 L5 - DELETE " of "

TIM KELLY

GOT GOTTSTEIN'S ANSWERS

- 1) ANY EVIDENCE ✓
- 2) ^{OK} BI ANNUAL Pmts - JUNELY, ALEC _{OK}
- 3) % WHOLE MAN SCHEDULE ✓
- 4) P 9 L 12 - IF EMPLOYER ^{OK} BELIEVES ... ?
- 5) ^{PIPS} PMS (9) MOVED TO (C) - IS THIS OK ??
- 6) P 20 L 17 [STATE] insur LOCALITY? AREA?



Senate Labor and Commerce Committee

Senator Tim Kelly, Chairman

RICK STONE

CLARIFY THIS SECTION

PS L28
PG L1-2

DOES THIS COVER ALL
JOBS IN PAST 10 YRS
OR JUST JOBS ^{SINCE} ~~THE~~ THE
~~THE~~ ~~JOB~~ INJURY

INTENT WAS TO COVER
EVERYTHING ~~F~~ TO BE SURE
THAT A PERSON HAD EMPLOY
TO COMPETE
NOT JUST JOBS SINCE INJURY

SB

322

FILE 8-CONSTITUTIONALITY)

FEB 17 1958 11:25 J.L. G. WISE

P.O.

ANCHORAGE 1913

ESTABLISHED 1913

511 1/2 STREET

J. B. GOTTSTEIN & CO., INC.

Wholesale Grocers
ANCHORAGE, ALASKA 99501

TELECOPY TERMINAL CODE 8117

DATE: 2/17/58

TIME: _____ TIME RECEIVED: _____

MESSAGE DELIVERED TO: John Rivas ad - Sen Kelly's Ofc

THIS MESSAGE IS BEING SENT BY _____

MESSAGE NO. _____

IF YOU DO NOT RECEIVE ALL MESSAGES PLEASE CONTACT _____

900-664-1707 TELEPHONE NUMBER _____

TELETYPE UNIT _____

1/18 11/11/58

To: Senator Tim Kally
Chairman Senate Labor & Commerce Comm.

From: Labor Management Task Force on Worker's Compensation

Subject: Revisions to SS for Senate Bill No. 100 March 22, 1988

Date: 02/17/88

The Task Force has met to review the bill and to discuss with you. We used to express our view on the bill and to discuss it in detail in most part and the bill is now being prepared toward major workers compensation reform. The bill has been taken as everybody's part of the bill and the bill is now being prepared for the Senate.

With that in mind we have a number of recommendations for you in order to improve the bill. We are providing this information to the Legislature and providing for a separate report.

Recommended Changes

1. The intent language on the first page of the bill is the whole agreement. It is important to the bill that the language is as important as the bill itself. The bill is a comprehensive bill and it is important to the bill that the language is as important as the bill itself. The bill is a comprehensive bill and it is important to the bill that the language is as important as the bill itself.
2. As a necessary technical change the bill should be deleted from the bill as it is not necessary for the bill. The bill is a comprehensive bill and it is important to the bill that the language is as important as the bill itself.
3. There is a general feeling of the bill that the bill is a comprehensive bill and it is important to the bill that the language is as important as the bill itself. The bill is a comprehensive bill and it is important to the bill that the language is as important as the bill itself.

L23 to read "court. Such regulations shall apply prospectively and retrospectively."

4. Some have legitimately urged caution in the selection of the reemployment benefits administrators. It would be desirable ending to the end of P4 L7 as it reads "administered with a minimum of five years rehabilitative experience, and an education."

5. One of the things we attempted to accomplish was to make the information available as to who the primary rehabilitation providers are, and in what areas. This is essential to make a stress quality care and to balance the following the primary provider has - eligibility determinations. One copy of the report has been deleted. We would therefore suggest that the following be added to the section for the previous fiscal year: "The report on the general section and sections covered by the report on the primary specialist used under this section, the report on the primary specialist used under this section, the report on the primary specialist used under this section."

6. In order to be able to determine the quality of the rehabilitation services provided, it is necessary to have a system of monitoring the quality of the rehabilitation services provided. This system should be designed to monitor the quality of the rehabilitation services provided, and to provide a means of evaluating the quality of the rehabilitation services provided. The system should be designed to monitor the quality of the rehabilitation services provided, and to provide a means of evaluating the quality of the rehabilitation services provided.

7. In order to be able to determine the quality of the rehabilitation services provided, it is necessary to have a system of monitoring the quality of the rehabilitation services provided. This system should be designed to monitor the quality of the rehabilitation services provided, and to provide a means of evaluating the quality of the rehabilitation services provided. The system should be designed to monitor the quality of the rehabilitation services provided, and to provide a means of evaluating the quality of the rehabilitation services provided.

8. In order to be able to determine the quality of the rehabilitation services provided, it is necessary to have a system of monitoring the quality of the rehabilitation services provided. This system should be designed to monitor the quality of the rehabilitation services provided, and to provide a means of evaluating the quality of the rehabilitation services provided. The system should be designed to monitor the quality of the rehabilitation services provided, and to provide a means of evaluating the quality of the rehabilitation services provided.

9. In order to be able to determine the quality of the rehabilitation services provided, it is necessary to have a system of monitoring the quality of the rehabilitation services provided. This system should be designed to monitor the quality of the rehabilitation services provided, and to provide a means of evaluating the quality of the rehabilitation services provided. The system should be designed to monitor the quality of the rehabilitation services provided, and to provide a means of evaluating the quality of the rehabilitation services provided.

10. In order to be able to determine the quality of the rehabilitation services provided, it is necessary to have a system of monitoring the quality of the rehabilitation services provided. This system should be designed to monitor the quality of the rehabilitation services provided, and to provide a means of evaluating the quality of the rehabilitation services provided. The system should be designed to monitor the quality of the rehabilitation services provided, and to provide a means of evaluating the quality of the rehabilitation services provided.

11. In order to be able to determine the quality of the rehabilitation services provided, it is necessary to have a system of monitoring the quality of the rehabilitation services provided. This system should be designed to monitor the quality of the rehabilitation services provided, and to provide a means of evaluating the quality of the rehabilitation services provided. The system should be designed to monitor the quality of the rehabilitation services provided, and to provide a means of evaluating the quality of the rehabilitation services provided.

12. In order to be able to determine the quality of the rehabilitation services provided, it is necessary to have a system of monitoring the quality of the rehabilitation services provided. This system should be designed to monitor the quality of the rehabilitation services provided, and to provide a means of evaluating the quality of the rehabilitation services provided. The system should be designed to monitor the quality of the rehabilitation services provided, and to provide a means of evaluating the quality of the rehabilitation services provided.

"during the preceding year".

14. The language you have on P30 L17 is still regarded as very open to challenge by the courts. John Lewis has provided us with language most coal will survive challenge. Recalling that no index is available for each locality in the U.S. and that the index is therefore respectfully suggest L17 be worded as follows: "The living of the area in which the receipt of money is made does not living in the state;" and to change P31 to read: "In accordance with the criteria set forth by the Board of the Va Alpac, the board shall provide by appropriate regulation and comparison of varying areas in the state, and the receipt of money recipients reside and for the amount of the money received in the state."
15. It was not our intent that this should be a partial disability award and permanent award. This would in effect be a double award. We have no total disability award and a permanent award which adds to the permanent award. The permanent award is the permanent part of the disability award and the award determined by the court is the permanent award.
16. A valid criticism of the award is that it is a partial disability award and permanent award. The award is a partial disability award and permanent award. The award is a partial disability award and permanent award.

"Degree of Annual Impairment"

Degree of Annual Impairment	Annual Impairment
0.5%	0.000
6%	0.060
7%	0.130
8%	0.180
9%	0.240
10%	0.300
11%	0.330
12%	0.360
13%	0.390
14%	0.420
15%	0.450
16%	0.480
17%	0.510
18%	0.540
19%	0.570
20%	0.600
21%	0.630
22%	0.660
23%	0.690
24%	0.720
25%	0.750
26%	0.780
27%	0.810
28%	0.840
29%	0.870

30%	0.840
31%	0.880
32%	0.910
33%	0.940
34%	0.970
35-100%	1.000*

17. After much discussion we have concluded that... attempts at change, our original... guidelines most accurately... we apply the whole ten concepts... to workers compensation law. We... deleted and replaced with... and degree of permanent... under the whole person... Medical Association... except that... percent. The... for injuries that... Association's guidelines."

18. Finally as a technical change... to sections 5, 12, 13, and 21.

We appreciate the opportunity... any further questions... could look for... continued support of this...

VECO INTERNATIONAL, INC.
5151 Fairbanks Avenue
Anchorage, Alaska 99502

February 16, 1988

Honorable Tim Kelly, Senator
Chairman Senate Labor and Commerce Committee
Alaska State Senate
Pouch Y
Juneau, Alaska 99811

Dear Senator Kelly,

This firm has been watching with great interest the activities of the Legislature, the Governor and the Governor's Oversight Committee and the several employer and employee interest groups that have been actively involved in either drafting or commenting upon the legislation to modify the Workers' Compensation Act, Senate Bill 322 and House Bill 352.

Veco is a large employer and, because of the nature of its work, is one of the largest payors of workers' compensation benefits in the state. We have watched with alarm the cost of our workers' compensation premium and the cost of our claims rise steadily and significantly, despite a continuing decline in the number of injuries sustained by our workforce. Accordingly, although we have remained relatively uninvolved in the process leading to the proposal of the subject legislation, Veco is and will remain vitally interested in the outcome.

Although we have taken a less visible role in the drafting of proposals to your committee, we have been carefully monitoring the legislative hearings, the work of the Oversight Committee and the work of WCCA. We have also been engaged in independent review of the bill in order to determine the impact the proposals are likely to have on our specific claims.

As a result, and because you are now about to begin mark-up of the bill, we wish you to consider our very serious concerns.

First, it is the position of our company that, as a general proposition, the bill provides a framework for meaningful improvement in the way the compensation benefits are delivered. We do like many aspects of the bill. We do find, however, that some of the most important provisions have been drafted in such a way as to create more ambiguity, and thus foster more litigation, than is warranted by the expected savings from a change in concept or definition of benefit.

Secondly, we are alarmed to learn from work done by two actuarial firms, the rating bureau used by the insurance industry and an independent actuarial firm hired by the State, that the bill will not only not save any significant cost, but could end up costing employers more. Such a finding makes the bill totally unacceptable, even if there are concepts that are desirable.

Our inquiries lead us to believe that the current system has been subjected to substantial increase in cost for three principle reasons:

1. Unwarranted utilization of the rehabilitation benefits driving up both rehabilitation costs and extending the times for payment of lost time benefits;
2. ambiguities in the current law which give rise to litigation, particularly in such areas as calculation of average wages;
3. Increases in permanent partial disability awards, particularly for unscheduled injuries (backs and necks).

The bill you have before you makes a good faith attempt to address these issues and in many ways does a good job.

We believe there are three principle areas where the bill is deficient and which have to be changed if the bill is to be adopted.

1. The language in the intent section is drafted as to not cure the problem which the intent language was written to address.

Our view is that the language has to more clearly specify that the courts should strictly construe the interpretations of the law such that the benefits are not increased except by specific act of the legislature. On the other hand, factual questions ought to be decided based on the weight of the evidence, but, if there is reasonable disagreement on the weight of the evidence to favor the employee.