

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672  
5396 SLAB SB 322 (file 15) - (file 16)

SB

322

(FILE 15)

# Alaska Legislative Digest

*An Inside View of Alaska Policy*

PUBLISHERS:  
Mike Bradner / Tirn Bradner

Business Office: 344-2455  
3037 South Circle  
Anchorage, AK. 99503

## Options Being Considered:

No. 3/88  
January 29, 1988

# State Help For Real Estate?

Don't expect any 'bailout' of Anchorage's troubled real estate sector by the legislature, but some lawmakers are seriously studying options in the wake of Anchorage Mayor Tom Fink's recent quest for state assistance for the economically-battered Southcentral city. Fink may not get what he wants (more state assistance and using Permanent Fund money to buy up surplus real estate) but he has put the issue squarely on the table for discussion. This has raised legislative attention and increased the likelihood that some form of limited stabilization measure might be seriously considered. For example, Sen. Tim Kelly, Senate Labor and Commerce Committee chair, plans to introduce a bill this week for discussion purposes, and to test legislative reaction.

Mayor Fink says the worst is yet to come for Anchorage, that heavy real estate losses will lead soon to increasing bankruptcies among local business people with real estate investments, leading to further economic disruptions and the loss of ownership of major assets to out-of-state buyers, including "vulture" funds now on the prowl in

Alaska looking for cheap buys. Most legislators, however, think Fink is overstating the problem, and that the worst is now behind for Anchorage. This is a view also shared by Commerce Commissioner Tony Smith. Governor Steve Cowper reportedly doubts that any form of state intervention is justified. Smith shares this to some extent, but also feels the state should act to encourage Federal Deposit Insurance Corp. and other institutional holders from dumping assets from failed banks or foreclosed mortgages. Smith also thinks FDIC could be encouraged to sell troubled assets cheap to a private real estate trust formed by local groups, which would keep ownership in-state and discourage competitive selling. In fact, several local entities, including Native corporations cash-rich with recent sales of Net Operating Losses, are studying such an option. (*Cont. Pg. 8*)

## "Jobs Bill" On Fast Track

A project list for the fast-track 'jobs bill' is being drawn up in the House this week. Of \$75 million agreed on by legislators (Gov. Steve Cowper had asked \$150 million), the administration had identified \$10.2 million in specific projects, and the other \$65 million will be split up among legislative districts. Projects proposed by legislators must meet certain criteria (labor-intensive, \$5 million maximum, 'street-ready' for 1988-9 seasons) and will be 'pre-approved' by the governor to avoid any vetoes. A list is due to Cowper by Feb. 6. To the maximum extent possible, a 10% Alaska bidder's preference will be provided.

## Inside this week's Digest:

- \*\*\* WORKMAN'S COMP: Opposition from chiropractors ... Pg. 3
- \*\*\* Protecting Commercial Trade Secrets.....Pg. 2
- \*\*\* Limiting Director Liability ...  
.....Pg. 2
- \*\*\* Forest Management, Fish Issues Will Get Priority in House ..... Pg. 6
- \*\*\* ANWR Resolution Out of Committee? ..... Pg. 6
- \*\*\* Education Board Meets With Legislators, Outlines Priorities ... Pg. 7
- \*\*\* Purchasing preference for fisheries, agricultural products... Pg. 7

## ... Business ...

### Trade Secret Protection

House Labor and Commerce took testimony last week on SB-15 (protection of commercial trade secrets, by Sen. Faiks), and the bill will likely move after the full committee has had a chance to meet on the bill. The bill is based on model uniform trade secrets legislation now adopted by 11 states, and codifies procedures for injunctive relief and damages in cases of theft or misappropriation of commercial trade secrets.

Most states rely on general tort law to provide relief in cases of trade secret theft, but Alaska has no Supreme Court decisions to provide case law guidance, which then requires judges to look to other states' case law, creating uncertainties and often running up legal costs. "Trade secrets" are formulas or other non-tangible commercial procedures which are not patented. The bill requires 'misappropriation' (theft, espionage, unauthorized disclosure by an employee), with burden of proof on the plaintiff, for damages to be sought.

### Benefits Claims By Bank Employees

HB-373 - priority of wage and benefit claims in state bank liquidations, by Rep. Phillips - moved out of House Labor and Commerce last week. The bill adds benefits - retirement plans, accrued vacation and sick leave - to wages in cases of forced closure of state chartered banks. A problem developed in the recent closure of First Interstate, with some employee benefit payments being caught in liquidation proceedings, where creditors get higher priorities. The committee added an amendment at request of the Alaska Bankers Association, extending the period in which quarterly bank financial 'call' reports must be submitted to state bank authorities, from the current 10 days after 'call' or notification, to 30 days, conforming with requirements for federally-chartered banks.

### State Recording Procedures: An Overhaul

A long-delayed overhaul of state recording procedures that has been before the legislature over eight years and never enacted may finally be moving. CSHB-266 and SB-304, both in Senate Resources, make technical changes in state document recording systems, including a new subordinate class of documents other than real estate, recorded for safekeeping. More important, the legislation lays groundwork for future high-tech centralized state recording connected electronically around the state. This could allow, for example, documents to be recorded in Ketchikan by an Anchorage resident without the need of travelling there. Alaska Code Revision Commission had the bills introduced.

### Hudson: Fix The Ferry System

Juneau Rep. Bill Hudson has circulated an informal "white paper" on the state ferry system, recommending realignment of Southeast ferry routes, consideration of high-speed watercraft, moving the system's southern terminus from Seattle to Bellingham, and other changes. The paper was up for discussion last Friday in House Transportation Committee. Hudson is a former ferry system director. He says the present system is "becoming increasingly regressive, more costly and is out of sync with original legislative intent and economic development needs of communities it was created to serve."

The system now operates at 67% capacity, costs \$60 million/yr. and serves to discourage stopover traffic in small southeast communities because of route scheduling, which hurts potential tourism-related economic development in those communities. Forty five thousand passengers annually embark in Seattle and Prince Rupert and do not spend much time in Southeast communities, he says. Hudson outlined possible route realignments and system improvements that would increase schedule flexibility and encourage small-scale tourism development.

### Limiting Corporate Director Liability

A bill reviewed in Senate Labor and Commerce Committee last week would eliminate or limit personal liability of directors of corporations to stockholders, or to the corporation for monetary damages in cases in which they are not at fault or responsible. Currently, there is reluctance to serve on boards because of the exposure to liability, testifiers said. The committee amended the bill, SB-343 (prime sponsor Sturgulewski) to include non-profit corporations and passed it out to Senate Judiciary. The legislation should provide some incentive for out-of-state based seafood companies to relocate to Alaska, its advocates say. Under the bill, corporations could choose to ignore or adopt the legislation.

### Architectural, Engineering Services

Senate Community & Regional Affairs approved SB-358, procurement of architectural, engineering and land surveying practices by municipalities. The bill goes on to Labor and Commerce. Sen. Sturgulewski is prime sponsor.

## What They're Saying To Patients (Constituents):

# Chiropractors Critical Of Workers' Comp Bill

One major group in Alaska having problems with the proposed new 'Worker's Comp' legislation is the chiropractic profession, and they are lobbying with their patients concerning what they see as problems. Chiropractors are also concerned because they inherit the patients that suffer from job related injuries that tend to be 'cumulative.' These injuries, unlike the more definitive 'accident' injury, are less easy to define, and sometimes substantiate, as job related.

The following complaints are taken from a circular many chiropractors are providing their patients. (There have been a few deletions.) They say the new proposed law would do the following.

- \*\* An insurance rehabilitation specialist will have total control over your rehabilitation. You (the patient) will have almost no say. Also, you can only be rehabilitated once in your life, regardless of how many injuries you suffer. And it can't cost over \$10,000.
- \* \* You can only receive 20 treatments in 60-days, regardless of how extensively you are injured.
- \*\* After 14-days, the insurance company can make you go to their doctor.
- \*\* The insurance company can use 'lower 48' companies to determine fees, making you responsible for the difference.
- \*\* Permanent disability payments will have a limit, no matter how extensively you are injured.
- \*\* Once you have stopped improving, or your condition is expected to get worse without continued care, you can receive no additional medical care, regardless of how extensively you are injured, unless you prove it to the board . . . .
- \*\* Your doctor has one week to submit his treatment schedule to the insurance company, and they have two weeks to accept or deny it. Therefore, if they do not like you, or your doctor, or his plan of treatment, they can deny the entire claim without penalty.
- \*\* You can change doctors only once without written permission from the insurance company.
- \*\* If there is a dispute between you and your insurance company they can stop all benefits to you, regardless of your condition, until you take it to a board hearing. You are guilty until proven innocent!
- \*\* The IME doctor can say anything he wants about your claim or your doctor, and will not be held liable.

For all of this (and more), the insurance companies are not required to report how much they set aside in reserves, how much is spent on injuries, or how much was collected in premiums. Therefore they can charge whatever they want, regardless of how it may strangle our economy.

The handout to patients then urges patients to contact their representatives to oppose the proposed workers' comp bill. It (the bill) is highly discriminatory, (the handout states) and will seriously jeopardize your ability to seek health care as an injured worker. Employers, (it continues) demand that the insurance companies justify those exorbitant rates which they charge us.

# ... Status of Bills ...

## House Bills Introduced

—HB-385, Permitting legislator's relatives to be employed by legislature (Martin). . . . . To SA, JUD  
—HB-386, Rewards to promote apprehension, conviction of offenders (Hoffman). . . . . To JUD, FIN  
—HB-387, Appropriations to Dept. Public Safety for reward (alcohol control) (Hoffman). . . . . To JUD, FIN  
—HB-388, Irradiated food (Phillips, Goll). . . . .  
. . . . . To HESS, JUD  
—HB-389, Recovery state costs/oil, hazardous substance spills (Rules) . . . . . To RSC, JUD, FIN  
—HB-390, Membership of AK science and engineering advisory commission of AK Science Foundation (Rules). . . . . To HESS, FIN  
—HB-391, Appropriation to AK Permanent Fund Corp. for AK Science and Technology Foundation (Rules). . . . . To HESS, FIN  
--HB-392, Municipal procurement/architecture, engineering, land surveying (by Ellis, etc.) . . . . To CRA, LC  
--HB-393, Penalizing unauthorized release of livestock or farm animals (by Miller). . . . . To RSC, JUD  
--HB-394, Electric and telephone cooperatives (by L/C). . . . . To L/C, JUD  
--HB-395, Collection permits (by Miller). . . . .  
. . . . . To RSC, FIN  
--HR-12, Headquarters of Sixth Infantry Division (by Hanley, etc.). . . . . To SA  
--HCR-38, Pacific Salmon Commission to increase chinook salmon quota (Sund, etc.) . . . . . To RSC  
--HB-397, Licensing of school bus drivers (by Cato). . . . . To TRANS, SA  
--HB-398, Appropriation limit to budget reserve fund (by Adams). . . . . To FIN  
--HB-400, Procurement preference for state agricultural/fisheries products (by Menard, etc.). . . To SA, FIN  
--HB-401, Motor fuel taxes for fuel used in watercraft outside the state (by Cato, etc.). . . . . To TRANS, FIN  
--HB-402, Alaska Industrial Development and Export Authority, (by Rules). . . . . To I/C, FIN  
--HB-403, Insurance Coverage for alcohol/drug abuse, (by Boyer, etc.). . . . . To L/C, HESS, FIN  
--HB-404, Calculating certain municipal entitlements (by Taylor, etc.) . . . . . To SA, CRA, FIN

## House Bills Introduced (Cont.)

--HB-405, Victims rights at postconviction proceedings (by Rules). . . . . To HESS, JUD  
--HB-407, Establishing school account in the Alaska permanent fund (by Rules). . . . . To HESS, FIN  
--HB-408, Fisheries business tax (Davidson, etc.). . . . .  
. . . . . To RSC, FIN  
--HB-409, Forgiveness of student loans/health care providers (Ellis, Koponen). . . . . To HESS  
--HB-410, Catastrophic illness insurance (Koponen, etc.). . . . . To HESS  
--HB-411, State group life and health insurance (Koponen, etc.). . . . . To HESS

## House Committee Action

—HJR-38, Radon (HESS 'do pass') . . . . . To FLOOR  
—HB-170, Collective bargaining rights of school district employees (JUD 'do pass'). . . . . To FIN  
—HB-245, Permanent fund dividends/ convicted felons (JUD 'do pass') . . . . . To FIN  
—HB-261, Ignition interlock devices/class C misdemeanor (HESS 'do pass'). . . . . To JUD  
—HB-299, Revising state gaming laws (L/C 'do pass'). . . . .  
. . . . . To JUD  
—HB-337, Amending appropriations pertaining to perm. fund dividends (FIN 'do pass') . . . . To FLOOR  
—HB-338, Computation of perm. fund dividends (FIN 'do pass'). . . . . To FLOOR  
—HB-340, Immunity from civil liability/volunteer emergency services (L/C 'do pass'). . . . . To JUD  
—HB-341, Appropriations to Pacific Rim language study grant fund (HESS 'do pass') . . . . . To FIN  
—HB-343, Creating the Pacific Rim language study grant fund (HESS 'do pass'). . . . . To FIN  
—HB-349, Increasing membership of Board of Directors of AK R.R. Corp. (TRANS 'do pass'). . . . To FIN  
—CSSB-18(CRA), Anchorage Coastal Wildlife Refuge (RSC 'do pass'). . . . . To FIN  
--CSHB-296 (HESS) Victims of crimes (Hess 'do pass'). . . . .  
. . . . . To JUD  
--HB-353, Repurchase of retirement coverage after certain levies (SA 'do pass'). . . . . To HESS

# . . . Status of Bills . . .

## House Committee Action (Cont'd)

--HB-358, Windfall receipts to principal of permanent fund, budget reserve, public school fund (SA 'do pass').  
..... To HESS

## House Floor Action

--CSHJR-38, Radon ..... Passed 37-0  
--CSHB-116, Extension of board of Electrical Examiners. .... Passed 35-3  
--CSHB-287 (FIN), Students' entitlement of unemployment compensation credit. ....  
.....(hd. for recon.) Passed 33-2  
--SCS HCR-32 (FIN), Establishing Joint Committee on Economic Recovery. .... Passed 36-0

## Senate Bills Introduced

--SB-361, Filling legislative vacancies (Rules). ....  
..... To Rules  
--SB-362, Dude Creek Critical Habitat Area (Eliason).  
..... To RSC, FIN  
--SJR-55, Support of a U.S. Navy Homeport in AK (Rules) ..... To SA, FIN  
--SSSB-73, Repealing outside service credits/Teacher's Retirement Service (Fischer). ....  
..... To HESS, FIN  
--SB-363, Insurance coverage for alcoholism, drug abuse (Binkley, et al). .... To HESS, FIN  
--SB-364, Penalties/driving while license is suspended or revoked (Rules). .... To SA, TRANS  
--SB-365, Termination date/State Board of Registration, Architects, Engineers, Land Surveyors (by Kelly, Szymanski). .... To L/C, FIN  
--SB-366, Rebates for motor fuel taxes (by Zharoff).  
..... To RSC, FIN  
--SB-367, Option exemptions from municipal taxes, (by Duncan). . . . . To CRA, FIN  
--SB-368, Regulatory powers of Alaska Public Utilities Commission (by Coghill, Zharoff). .... To L/C, RSC  
--SB-369, Electric and telephone cooperatives, (by L/C Committee). .... To L/C, RSC

## Senate Bills Introduced (Cont'd)

--SB-370, AK Marine Highway rates for AK agricultural products (by Kerttula, etc.). .... To TRANS, RSC  
--SB-371, Sale of alcoholic beverages, (by Binkley etc.). .... To FIN  
--SB-372, Applicability of Public Employee Relations Act to municipalities, (by Fanning). .... To SA, CRA  
--SB-373, Termination date of Citizens' Advisory Commission (by Fahrenkamp, etc.). .... To RSC, FIN  
--SB-374, School account in AK permanent fund, (by rules). .... To HESS, JUD, FIN

## Senate Committee Action

--SB-333, Wage, salary and benefit claims/bank liquidations (L/C 'do pass'). .... To RULES  
--HB-7, Public advocacy, volunteer guardians ad litem. .... Returned to RULES  
--SJR-51, Support services priority for American carriers/fuel suppliers in EEZ (RSC 'do pass'). To RULES  
--CSSB-309 (L/C), definition of commercial fisherman (L/C 'do pass'). .... To RSC  
--SB-353, Extending agricultural production credit law (RSC 'do pass'). .... To FIN  
--SB-315, Third party reimbursement for advanced nurse practitioner services (HESS 'do pass'). . To L/C  
--CSSB-340 (RSC), Moratoriums on agricultural land payments (RSC 'do pass'). .... To FIN  
--SB-348, Medical assistance for needy persons (HESS 'do pass'). .... To FIN

## Senate Floor Action

--SB-321, Appropriations to Aleutians East Borough. .  
..... Passed 19-0  
--CSHCR-32 (FIN) Establishing a Joint Committee on Economic Recovery. .... Passed 17-0  
--SB-329, Business licensing functions to Dept. of Commerce and Economic Dev. .... Passed 16-0  
--CSSB-317 (FIN), Refunds of fisheries tax proceeds to local govts. .... Passed 16-0

## ... Resources ...

### Forest Management Legislation

Southcentral legislators are taking a keen interest in forest management issues this year following outcry from politically influential Anchorage recreation and Susitna valley homeowner groups over State Department of Natural Resources plans for a large timber sale in the Susitna Valley later this year. Some Anchorage legislators report more constituent mail and telegrams on this issue than any other in recent years. Now before House Resources Committee is SB-112, authorizing forest management agreements, sponsored by Ketchikan's Sen. Jones and passed by the Senate last year. The ruckus may actually encourage passage of some form of this bill.

DNR believes they have general authority now to do what SB-112 would explicitly authorize — contracting with one developer for large-scale forest development — but legislation is required for two key elements of the Susitna timber plan: An "evergreen" clause allowing DNR to extend lease terms, and provision for "purchaser credits" where reforestation expenses by the developer can be credited against stumpage fees paid to the state.

The controversy over the Susitna sale may also lead finance committee members to closely scrutinize DNR's budget, as to whether the agency actually has sufficient funding to carry out the sale. Also: environmental groups concerned with the sale are pushing amendments to the state forest management act.

### Agricultural Land Rights Revision?

Coming before House Resources this week: Agricultural land rights. State farmer groups are pushing hard for liberalization of titles to land sold in state agricultural auctions, perhaps to some form of fee ownership with restrictions rather than the current "agricultural purposes only" designation. Another goal: More flexibility for DNR in amending farm operating plans. The changes would allow consolidated facilities and more efficient operations in the Point MacKenzie dairy development, for example.

**ANWR Issue:** A long-awaited resolution endorsing exploration in the Arctic National Wildlife Refuge was before House Resources last Friday. A House version of SJR-7 urges 'environmentally responsible' development and includes reference to Alaska-hire and subsistence. Unlike the version passed by the Senate last year, it makes no mention of Native land exchanges.

### Priorities: Fish High, Oil Low?

Expect a lot of attention on fisheries legislation in House Resources this year, as members focus on ways to encourage local-hire and local-purchase in the huge developing bottomfish industry.

It appears now that oil legislation may be on the back burner this year, with the possible exception of a tax information bill. A bill opening up confidential well data appears dead in House Finance, little action is expected on oil development 'incentives' as well as major petroleum tax issues that were hot last year, including revision of the Economic Limit Factor in the severance tax.

### Oil Cleanup Reimbursement

A new bill introduced last week would enable the state to be reimbursed for the cost of oil spill or hazardous waste spill clean-ups when the parties responsible have either declared bankruptcy or left the state. Under the legislation, HB-389, the state would protect itself from, potentially, millions of dollars in costs by getting a priority lien on the liable party's assets for the state's costs. The bill, introduced by the Rules committee at the request of the Governor, would change the state statutes accordingly.

### Ferry Rates For Farm Products

Vehicles transporting Alaskan agriculture products on the Alaska Marine Highway System would be charged half what other vehicles of the same type would pay, under a bill introduced in the Senate last week. The preferential rates would apply only on a space-available basis, according to the bill, SB-370 (prime sponsor Sen. Kerttula).

### Offshore Priority to U.S. Suppliers

U.S. companies should be given priority for the supply of foreign processing ships operating in the exclusive economic zone, HJR 45 and SJR 51 argue, reflecting Alaskans' desire to take better advantage of exclusive economic zone commerce. Commerce Commissioner Tony Smith told Senate Resources that \$100 million worth of economic activity results from sale of fuel alone. The issue rests on the federal level over interpretation of language in the Magnuson Act.

### Raw Fish Tax on Floaters?

Kodiak Rep. Cliff Davidson has dropped HB-408 into the hopper, applying the state raw fish tax to fish caught outside state jurisdiction but brought to shore plants for processing, creating local impacts on public services.

## ... Local Gov't ...

### School 'Forward-Funding'

State Board of Education members met with the House HESS committee last week in what was basically an informational and troubleshooting session to coordinate legislative policy and funding to school district needs. At the top of the agenda was the issue of "certainty." The problem centers on school districts' need to know in advance of the fiscal year what their funding will be so that they can "build" their budgets. Unaware of next year's budget, the districts are in a position of sending excessive non-retention slips to teachers, because of a March 15 notification deadline.

Legislators are generally sympathetic to the problem, but one obstacle to setting an early budget has been fluctuating oil prices. In addition, there is no clear consensus on which of the early or forward funding plans currently on the table would best accommodate school district needs while still recognizing the constraints of the budget-making process.

Lawmakers made a point to stress to state education board members the lack of dependable and current information on area-cost-differentials. Updated, accurate figures would help prevent politics from interfering as much in the allocation of education monies, they said. The most current information available is from an outdated study on cost-of-living differentials, figures which do not necessarily parallel education costs, lawmakers said.

### Local Service Roads, Trails

House Transportation Committee took up HB-357 (changing guidelines for local service roads and trail grants, by the governor) last week. The bill will likely move from committee soon; \$5-\$10 million in new funding reportedly will be in the governor's 'jobs' bill. The bill changes the formula for Department of Transportation and Public Facilities grants for rural trails and road work to a ratio of 70% based on rural district or municipal area and 30% based on population, instead of the 50-50 ratio in current law. The change would bias grants to sparsely-populated outlying areas to partly compensate for the bias in federal road funding toward urban or more heavily populated areas. The rural trails program hasn't been funded for three years now, and the governor is now proposing new money.

**Utilities Relocation:** HB-115 - relocation of utilities in a municipality, by Rep. Cato - briefly saw light in House Finance Committee last week and then was tucked back into subcommittee. The bill clarifies who pays when a municipality requires utility relocation.

### LBC: Concerns On HB-1

Members of the Local Boundary Commission (LBC) and Dept. Community and Regional Affairs presented their annual report before the Joint House and Senate Community and Regional Affairs Committees last week. However, at forefront of committee's concerns was the LBC's comments on issues surrounding HB-1, a bill which would create mandatory boroughs statewide and virtually eliminate the unorganized borough. LBC and CRA members said the bill has caused much initiative on a grass-roots level in pipeline corridor areas to organize, under the threat or fear of annexation by neighboring boroughs. The bill is initiating good debate, the LBC commented, but as written, it is generally "too much, too fast," they said. They suggested to the committee the idea of setting up an educational outreach program as a "first step," to insure that the push for boroughs in the unorganized area is from a local, not state-imposed and mandatory, level.

### Municipal Dissolution Bill Set To Move?

Bills introduced last year which would allow dissolution of municipalities are to be up before House Finance later this week. The bills spell out the dissolution process and make clear certain standards for dissolution which municipalities must meet. Intent of the bills is not only to put into law the dissolution option, the bills' sponsors say, but to insure communities are prepared to take on ramifications of dissolution. Existing law apparently does not permit dissolution except in cases where a community suffers drastic reductions in its population or economy. Both dissolution bills, SB-50 (Binkley) and HB-65 (Hoffman), are in House Finance, and the committee will be working on the Senate version.

### Local Fish, Ag Product Preference

Senate Community and Regional Affairs reported out SB-356 (local government purchasing preference for agricultural and fisheries products, by Sen. Josephson) last week. The bill plugs an apparent loophole in similar legislation passed last year, requiring local purchases if prices are no more than seven percent above competitive products from out of state. Apparently, Anchorage School District made an interpretation that last year's bill didn't apply to them in milk purchases. This year's bill, sponsored by 12 out of 20 senate members makes it clear that any municipality receiving state money must abide by the local product preference.

## State Action To Stabilize Real Estate Markets (Cont.)

(Continued from Page 1) Kelly intends to base his legislation on ideas developed by Dave Rose, Alaska Permanent Fund Corp. director. Rose has outlined a plan involving a state-chartered financial entity that could take over management of assets held by FDIC and other institutions, gradually liquidating them over time. FDIC and the others would receive shares of stock in the new holding company, which would operate under state banking regulation, being eventually compensated for through payouts of dividends. Little state money would be involved.

Smith's idea of a real estate trust varies from this in that local groups would actually buy the holdings from FDIC and the institutions at some price. The key difference is that Rose's proposal would see FDIC and the others to remain with the responsibility — the new company would be just a way of managing the properties — while Smith would see the institutions bought out by local buyers. The goal of both is a mechanism to encourage stability and management in gradual liquidation, avoiding competitive aggressive selling between the institutions that would lead to further deterioration. Rose's plan has other elements, including a plan to buy and destroy housing assets of low quality, a proposals for moratoriums on new construction. Anything that doesn't fundamentally affect the supply and demand balance in the market is only a 'band-aid' approach, Rose argues.

Politics of the issue are tricky: After a decade of throwing money at problems, legislators are wary of major, unconventional new commitments in a time of scarce revenues. They're also sensitive to perceptions by the public of a 'bailout' plan for Anchorage business investments. They also recognize that many constituents actually benefit in the current environment - renters, for example, or small businesses whose lower lease rates are helping them stay in business. All these considered, there's also widespread concern over falling values in both residential and commercial properties, of people owing more on mortgages than they can sell properties for.

## Bradley Lake APUC Exemption: Needed This Year

Bradley Lake hydro is back before the legislature, but this time the issue appears headed for quick action: Exempting Bradley Lake wholesale power sales contracts from Alaska Public Utilities Commission regulatory jurisdiction — proposed in the governor's HB-356 — is essential to getting the big main dam and powerhouse construction jobs underway this year, Alaska Power Authority Director Bob LeResche told House Judiciary Committee last week. APA's board won't approve going ahead with full construction until the issue is resolved.

Also, bond counsel told the committee that uncertainties in long-term financing over the regulation issue, and the perception of risk within the financial community over future APUC actions, would likely mean higher interest costs on long-term borrowing. Hydro projects are highly capital-intensive, and increases in capital costs will directly affect costs of power paid by railbelt electric utilities, they said. They urged exemption of the project from APUC. APUC itself agrees with exempting the contracts but not related contracts for transmission, storage or resale of power, or "subsequent amendments" to contracts, which HB-356 would also exempt. If the legislature can enact the bill by March 15, work could start in June, with employment reaching 170 in August and 217 in September. Delaying authorization until end-of-session, May 15, would delay construction buildup. Employment would reach 100 in September and 147 in November. Under both scenarios, employment would be 160-170 in 1989.

### Subscribe Now: Alaska Legislative Digest

Circulation Office                      \$200.00/year  
3037 S. Circle                            ( ) Check Enclosed  
Anchorage, Alaska 99507              ( ) Bill Me  
(907) 349-7711

Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_  
Zip Code \_\_\_\_\_

APA wholesale power contracts - selling power from APA hydro projects to utilities - accidentally came under APUC regulation as a result of 1986 legislation. Legislators that year amended APUC statutes to include wholesale power contracts between utilities. APA wholesale contracts had never been included under APUC. The attorney general ruled later that year that the amended statute included APA wholesale contracts, though this was not the intent of the legislature. Legislators approved SB-22 last year to correct the problem, but the bill was vetoed by the governor because of an unrelated section of the bill that also exempted small rural utilities from APUC review.

## TASK FORCE ISSUES

### LABOR

- 1.) Medical Care
  - UCR
  - IME/Panel Review
  - Other Limits (frequency)
- 2.) Voc. Rehab.
  - Revamp system as a whole?
  - Voluntary rehab.
- 3.) Benefits
  - Pension/Health Insurance
  - "Ragland Rights"
- 4.) Brown
- 5.) Discrimination against claimants
- 6.) Reservation of rights to pay interim benefits
- 7.) State Fund

### MANAGEMENT

- 1.) Medical
  - Develop Schedule
    - UCR
    - Frequency of visits
    - Periodic review
  - Medical Panel
    - Assess degree of disability and medical stability
    - Not appealable
  - Other Cost Containment
- 2.) Rehabilitation
  - Make the system voluntary, not mandatory
  - Remove the system from the claim process
  - Adopt a set of incentives for the goal of return to employability
  - Remove from litigation process
  - Decrease or eliminate TTD when medically stable, or when some other event occurs
  - Employee responsible
- 3.) Benefits
  - Definition of "Compensation" including offsets for
    - Social Security
    - Company Pensions
    - Other disability programs
  - Determination of AWW
  - Schedule for all permanent disabilities Grant
  - Cap on maximum benefit level

003797

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

## TASK FORCE ISSUES

### LABOR

- 1.) Medical Care
  - UCR
  - IME/Panel Review
  - Other Limits (frequency)
- 2.) Voc. Rehab.
  - Revamp system as a whole?
  - Voluntary rehab.
- 3.) Benefits
  - Pension/Health Insurance
  - "Ragland Rights"
- 4.) Brown
- 5.) Discrimination against claimants
- 6.) Reservation of rights to pay interim benefits
- 7.) State Fund

### MANAGEMENT

- 1.) Medical
  - Develop Schedule
    - UCR
    - Frequency of visits
    - Periodic review
  - Medical Panel
    - Assess degree of disability and medical stability
    - Not appealable
  - Other Cost Containment
- 2.) Rehabilitation
  - Make the system voluntary, not mandatory
  - Remove the system from the claim process
  - Adopt a set of incentives for the goal of return to employability
  - Remove from litigation process
  - Decrease or eliminate TTD when medically stable, or when some other event occurs
  - Employee responsible
- 3.) Benefits
  - Definition of "Compensation" including offsets for
    - Social Security
    - Company Pensions
    - Other disability programs
  - Determination of AWW
  - Schedule for all permanent disabilities Grant
  - Cap on maximum benefit level



Workers Comp 1-18-88

Jim Sampson -

John Lewis ① Medical Costs 30-50% most systems.  
 ② Permanent Partial: 90-95% - essentially  
 80% cost no cost.  
 8% cases

High impairment - over 20%

③ Voc Rehab:

Individual needs, and is motivated,  
and will co-operate with the voc  
rehab program.

vocational rehabilitated vs. physical  
rehabilitated

Jackie:

Imbalance

- 1) minimally to maximally injured
- 2) reduce litigation.

See 21  
25

John Lewis -

Mandatory rate decrease  
of 10%.  
mandate a 10% rate  
rollback -

Pricing estimates:

HARD COSTS (SAVINGS)

SOFT COSTS (SAVINGS)

38% Medical cost

zero to  
net benefit package' is anticipated  
to be zero. <sup>to employee's</sup>

15% soft cost savings.

- 1) Nat Council Compensation Insurance
- 2) Milliman + Robertson

Reduce litigation:

Disputes over Voc Rehab

Medical issues - dispute resolved by  
appointments

self-insured.

- overall benefit level -

Information from insurance  
companies.

Concerns are identical.

WORKERS' COMPENSATION LABOR-MANAGEMENT TASK FORCE

Synopsis of proposed legislative changes  
To Chapter 30 of Title 23,  
Alaska Statutes (Workers' Compensation)

9

BACKGROUND: In October 1986, the Department of Workers' Compensation Insurance announced their approval to allow an average increase in workers' compensation premium rates of 14.1%. In November of this year, the Department of Workers' Compensation again announced their intent to approve an average increase in premium rates of 25%. The actual increases requested by insurers was in excess of 33% in 1986 and 50% in 1987. (Within a two year period, the average cost of workers' compensation insurance within the State of Alaska increased over 42.6%.) (At the same time, claims increased from \$75 million to in excess of \$150 million.) The increases in claims and premium costs are even greater if consideration is given to the declining wage base within the State of Alaska. The resulting increases in workers' compensation premiums paid by the employer are a significant factor in the cost of labor in the state and make Alaska's labor force less competitive. Both labor and management have recognized that high workers' compensation costs are detrimental to Alaska business and Alaska labor and needed to be significantly reduced.

TASK FORCE ORGANIZATION: The Workers' Compensation Labor-Management Task Force (Task Force) was first organized in 1981 to address perceived inequities in the Alaska Workers' Compensation Statutes and to propose legislation aimed at correcting those inequities without increasing the cost to the employer. Following passage of their proposed legislative changes to the Statute, the Task Force became inactive. Following the Department of Workers' Compensation Insurance rate increase announcement in October 1986, the Task Force was reactivated with the purpose of reducing rates paid by employers through legislative changes to the Statute. The current Task Force is comprised of five management and five labor negotiators. The five members of the management team are:

Mary Pierce	Co-Chair and management member of the Workers' Compensation Board Executive Director, Medical Indemnity Corporation of Alaska
* Richard Cattanach*	Vice President Finance Unit Company
David Gottstein	Vice President Carr-Gottstein, Inc.
Ralph Lewis	Vice President Ketchikan Pulp & Paper
* Stephen Rehnberg, CMA	Vice President Finance Tanadgusix Corporation

\* Member of 1981 Task Force

\* John Lewis

The five labor members of the Task Force are:

★ Robert Anders	Co-Chair and labor member of the Workers' Compensation Board Business Agent, Operating Engineers
Kevin Dougherty*	AFL-CIO
★ Ralph Mingo	Safety Engineer Teamsters Local 959
Joseph Thomas	Business Agent Laborers Union
★ Kenneth Weist	Business Agent Roofers

PROPOSED LEGISLATIVE CHANGES: The proposed legislative changes submitted by the Task Force can be divided into five categories:

- \* Vocational Rehabilitation Services
- \* Medical
- \* Compensation
- \* Benefits
- \* Other

Vocational Rehabilitation Services. Task Force proposed changes to vocational rehabilitation services are as follows:

1. Change from a mandatory to a voluntary program
2. Limit the program to those injured workers whose injury prevents them from performing the duties of their profession.
3. Limit vocational rehabilitation programs to two years.
4. Cap rehabilitation plan costs to a maximum of \$10,000.
5. Pay TPD/PPD payments at the TTD rate until plan completion or termination. Remainder, if any, paid in lump sum.
6. Change purpose of rehabilitation services to make an injured worker employable versus employed.

---

\* Member of 1981 Task Force

Medical. Task Force proposed changes to the Statute are:

1. Subject medical payments to the usual, customary and reasonable criteria of major medical plans.
2. Allow injured worker to change treating physician only once without the written consent of the employer. (Eliminate doctor shopping).
3. Limit treatment plans of a continuing or similar in nature to no more than 20 visits within 60 days.
4. Allow for a Board appointed Independent Medical Examiner (IME) whose opinion shall, in the absence of clear and convincing objective evidence to the contrary, be presumed to be correct.
5. Bar claims for civil damages against an IME resulting from their opinion except in the event of fraud.

Compensation. The Task Force proposed the following legislative changes with regards to compensation:

1. Change the maximum weekly benefit from 200% of the State average weekly wage, currently \$1,100, to a set maximum of \$700.
2. Change the minimum weekly benefit from \$110 to \$154 if the injured worker submits wage documents. If no wage documents are submitted, the minimum benefit is \$110.
3. Allow an employees vested pension contributions to be considered in determining weekly wage benefit.
4. Allow employers to offset compensation benefits for pension benefits paid to injured workers'.
5. Limit Board determination of an injured worker's gross weekly earnings to only those cases where the employee (1) had no earnings during the two calendar years preceding the injury, (2) was voluntarily absent from the labor market for 18 months preceding the injury or (3) was a minor, an apprentice or a trainee in a formal training program.
6. Adjust weekly compensation benefits for differences in the cost of living for claimants residing outside the State of Alaska.

Benefits. The Task Forces recommendations for changes in benefits paid or available under workers' compensation are:

1. (Schedule all injuries and determine the degree of disability based upon the "whole man" concept as provided in the American Medical Association guidelines.

Benefits (cont.)

2. Increase the permanent partial disability benefit for the more severely injured worker.
3. Broaden the market for employee's services to reduce claims for Permanent Total Disability (PTD) due to lack of employment opportunities.
4. Limit Temporary Total Disability (TTD) payments to two years.
5. Limit Temporary Partial Disability (TPD) payments to such time as the injured worker is deemed to have reached medical stability.

Other. Other legislative changes to the current Workers' Compensation Statute proposed by the Task Force include:

1. Provide intent language within the Statute to the effect:

It is the specific intent of the legislature that workers' compensation cases be decided on their merits and that the common law of liberal construction ...will not apply in such cases. ...the legislature hereby declares that the workers' compensation laws are not remedial in any sense and are not to be given broad liberal construction in favor of the claimant or employee on the one hand, nor are the rights and interests of the employer to be favored over those of the employee on the other hand.

2. Bar an employee from making a workers' compensation claim if the employee knowingly and willfully made false representations as to his physical condition, such representations were material to the hiring, and there is a causal connection between the false representations and the injury.
3. Prevent the employee from seeking redress under a tort claim against the employer if the employee's claim is barred under AS 23.30.020 (b).
4. Require claimants to prove mental injury resulted from work related stress and that such stress was extraordinary and unusual.
5. Require the last employer to pay benefits if a claim is controverted solely on the grounds that another employer may be liable until such time as final liability is determined.
6. Prohibit employer discrimination in the hiring, promotion or retention of an employee who has in good faith filed a claim or received workers' compensation benefits.

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

Benefits (cont.)

2. Increase the permanent partial disability benefit for the more severely injured worker.

3. Broaden the market for employee's services to reduce claims for Permanent Total Disability (PTD) due to lack of employment opportunities.

4. Limit Temporary Total Disability (TTD) payments to two years.

5. Limit Temporary Partial Disability (TPD) payments to such time as the injured worker is deemed to have reached medical stability.

Other. Other legislative changes to the current Workers' Compensation Statute proposed by the Task Force include:

1. Provide intent language within the Statute to the effect:

It is the specific intent of the legislature that workers' compensation cases be decided on their merits and that the common law of liberal construction ...will not apply in such cases. ...the legislature hereby declares that the workers' compensation laws are not remedial in any sense and are not to be given broad liberal construction in favor of the claimant or employee on the one hand, nor are the rights and interests of the employer to be favored over those of the employee on the other hand.

2. Bar an employee from making a workers' compensation claim if the employee knowingly and willfully made false representations as to his physical condition, such representations were material to the hiring, and there is a causal connection between the false representations and the injury.

3. Prevent the employee from seeking redress under a tort claim against the employer if the employee's claim is barred under AS 23.30.020 (b).

4. Require claimants to prove mental injury resulted from work related stress and that such stress was extraordinary and unusual.

5. Require the last employer to pay benefits if a claim is controverted solely on the grounds that another employer may be liable until such time as final liability is determined.

6. Prohibit employer discrimination in the hiring, promotion or retention of an employee who has in good faith filed a claim or received workers' compensation benefits.

**Chancy Croft Law Office**

738 H Street -- Suite 200  
Anchorage, Alaska 99501

*R- call and already confirm have*

Chancy Croft  
Michael J. Jensen

(907) 272-3508

February 5, 1988

Senator Tim Kelly  
Alaska State Legislature  
P. O. Box V (MS 3100)  
Juneau, Alaska 99811

Dear Senator Kelly:

Senate Bill 322 is not going to reduce workers compensation premiums. That is what the NCCI concluded. In fact, it may cause an increase. It's hard to believe. But that is what a national insurance industry funded group just said. Why pass this bill which produces no benefits and reduces no costs? Why not consider the real problems that both injured workers and employers face with the present workers compensation system?

I'm a compensation attorney. Why should you believe me? Because the figures came from the National Council on Compensation Insurance. NCCI is the insurance industry funded group which proposes insurance rates. Its filing of 1987 produced the 25% increase in workers compensation premiums which the State Division of Insurance allowed to go into affect January 1, 1988. The NCCI says the "savings" of the proposed legislation is only 2.3%. This must be a shock to John Lewis, WCCA spokesman, who said in legislative testimony in January that the savings would be 15%-20%. Of course, Lewis conceded he was talking about soft dollars and subjective factors. About Lewis's subjective factors, the NCCI said that this would cause a savings of only four percentage points. Without that, the bill actually provides for an increase.

At the recent statewide hearings on this bill, every injured worker spoke against this legislation. Senate Bill 322 promises the first divisive and bitter fight over workers compensation in more than a decade. Such fights were common years ago. But, for the first time in the memory of legislative observers, a workers compensation bill is being proposed which will offer no benefits to either employers or employees. Stripping away the myth of premium reduction means the only reason for further legislative consideration is the strange notion that it is the legislature's job to ratify, without question or amendment, a "deal" struck by private interest groups.

Very truly yours,

*Chancy*  
CHANCY CROFT

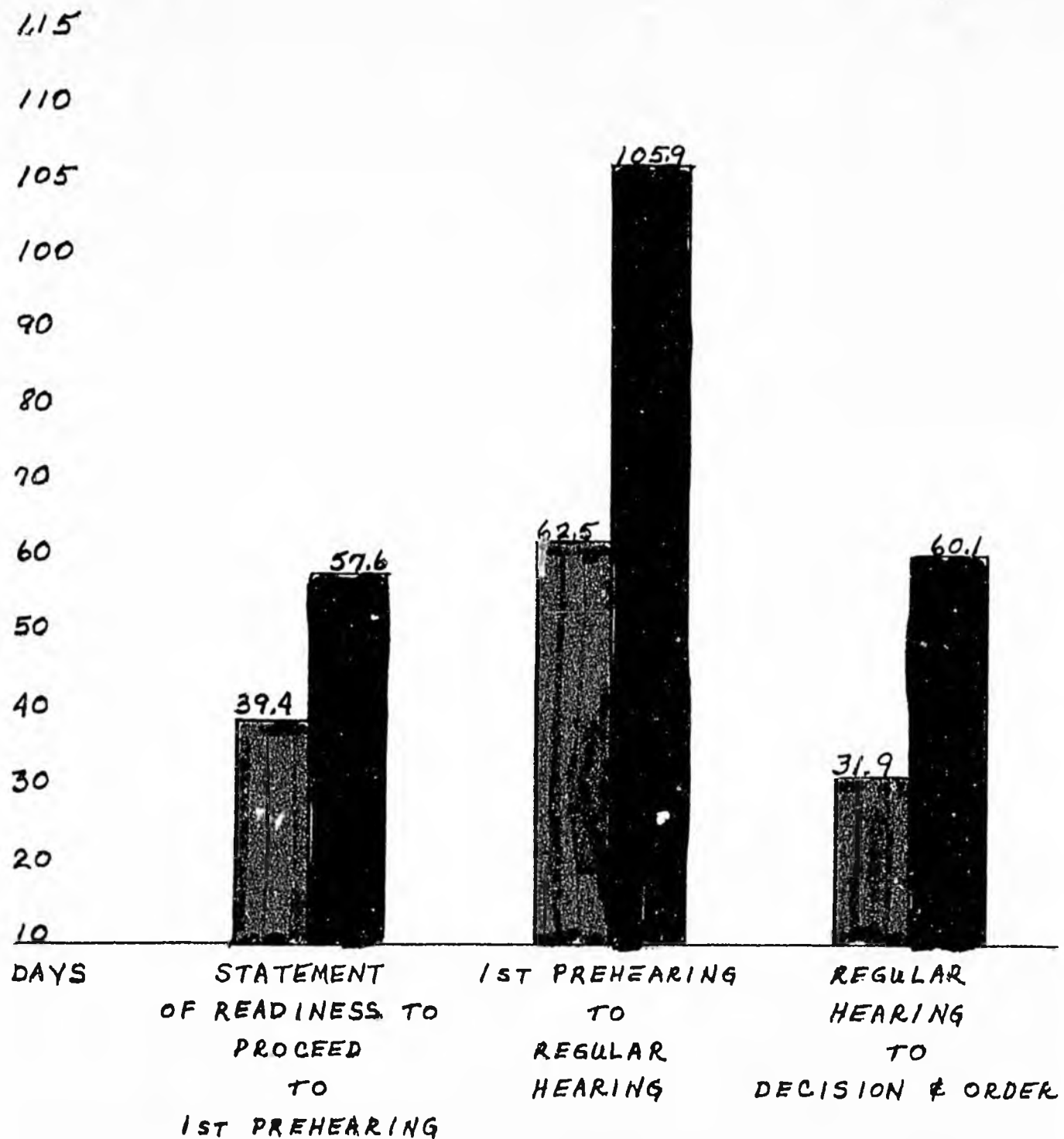
*Is the hearing set for Feb 12 or 19<sup>th</sup> 1988*

# THE INCREASING DELAYS

## WORKERS' COMPENSATION

### TIME PERIODS

1985  
1987



240

210

180

150

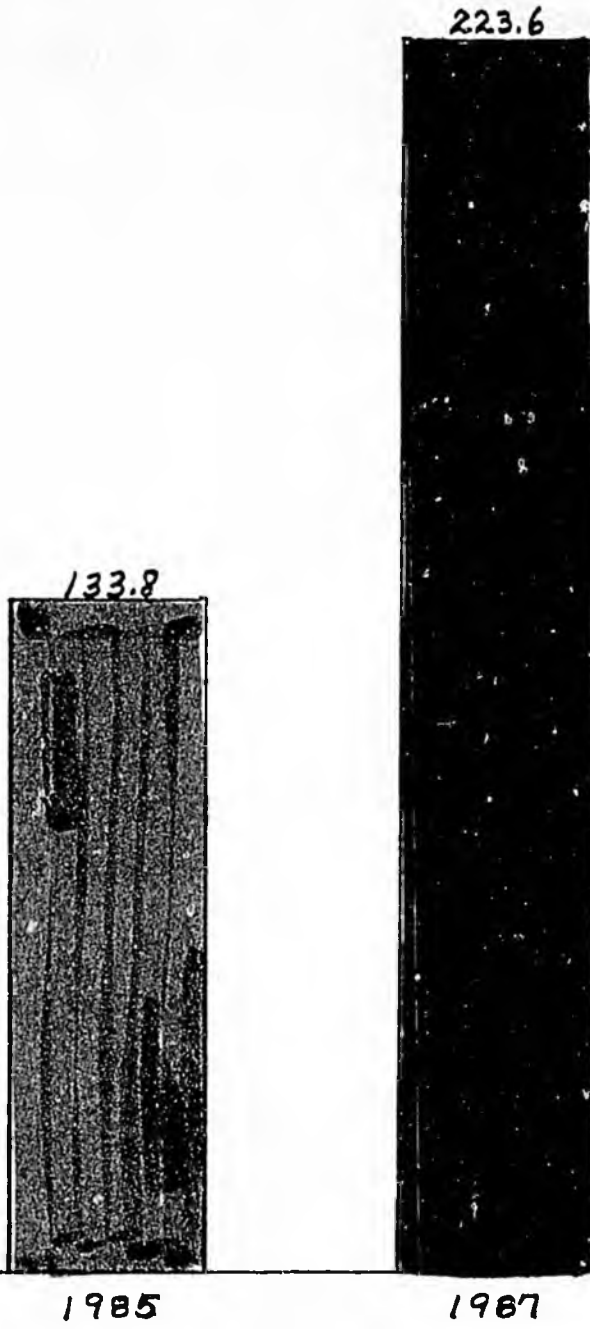
120

90

60

30

DAYS



THE OVERALL EFFECT

JANUARY

~~29~~

FEBRUARY

14 VALENTINE'S  
DAY

MARCH

28 SEWARD'S DAY

APRIL

3 EASTER

MAY

9 LEGISLATURE  
ADJOURNS (120 DAYS)

JUNE

30 MEMORIAL DAY

JULY

4 INDEPENDENCE  
DAY

AUGUST

4 SPACE SHUTTLE LAUNCH

SEPTEMBER

5 LABOR DAY

~~9~~

224 DAYS OF WAITING

25% penalty on any Controversion that was spurious (Invalid)

- Ins. #'s = when can we get info

Controversion of Claims:

- Ins 21 days to pay or controvert  
- mid-Stream

Interest accrued on assessments where payment was due due to Sup Ct. Ruling

CHART #1

Chart #1 shows the increased delays in the three crucial steps of getting a workers' compensation case to hearing:

1. First, the filing of a Statement of Readiness to Proceed which initiates Board action,
2. Second, getting a prehearing at which time the date of a full board hearing is set, and
3. Third, to the time a Decision and Order of the Board is issued. Compensation is usually paid within two weeks of the Board's decision.

- Mark Mulvany - NCCI  
- Mike McMurtry - Mill...

Robertson

CHART #2

Paul Rolan  
Spenser Bolesta

Chart #2 shows the combined effect of the three steps in Chart #1.

CHART #3

Chart #3 puts in a different perspective a wait of 224 days which is the average time between the date of filing of a Statement of Readiness to Proceed and the Board's decision in the 60 cases decided between October 1 and December 31, 1987.

" " 1985

- '50 in '85  
- '60 in '87

(- Darlene Norris  
561-5454)

Basis for 85-87

Jacque McClintock

2790

COVER LETTER OF LEGISLATIVE CHANGES  
AND INTENT DATED 12/13/87

Understanding the employers of the State of Alaska are paying an extremely high rate for Workers Compensation coverage. Labor and management started looking at ways they could lower costs with a minimum amount of impact on injured workers. While at the same time, improve the system. If that sounds like a tough task, let me assure you it was. Labor and management have worked very hard over the last 10 months and have come up with a package of legislative suggestions that we feel comes as close to that as possible.

In proposing these changes we fully understand that there are still issues out there that were not addressed, and that some will criticize our efforts. Both labor and management know this process must continue and that we are not done by any means. However because of the complexity of some issues, the Workers Compensation Act itself, and time constraints, problems not addressed at this time will have to wait until next year.

The process was one of give and take on both sides, and negotiations over these very sensitive issues was, at times strained. ~~I~~ personally feel, labor and management have proven here what the real meaning of labor-management cooperation is all about. Working together to solve problems and improve things for both in the process is truly a WIN-WIN situation.

*Not only across the table, but on each side as well*

---

As to the changes we are suggesting in the Workers Compensation Act, I would like to follow this opening statement with what labor feels was the intent of both sides.

But first I would like to thank all members of the committee for their hard work and support, without which none of this would have been possible.

The following is what labor feels was the committees intent.

SEC. 23. 30. 001 INTENT OF THE LEGISLATURE

This section is one that management felt they needed in order to keep the courts from changing legislative intent or being too liberal in favor of claimants, labor agrees that the courts do at times make intent decisions without enough regard to equal fairness. And in order to try and control the cost of the system, ~~we both agree this language is necessary.~~

*We agreed with the intent. However some language changes in this may still be necessary.*

SEC. 23. 30. 005. ALASKA WORKERS COMPENSATION BOARD

The intent of this section is simply to provide a way for selecting or removing Certified Insurance Rehabilitation Specialists and/or Physicians for/or from the rosters that will be used to provide services under AS.23.30.041 and AS.23.30.095.

SEC.23.30.020

This section is intended to protect the employer from the employee who lies or makes false statements on an employment application or questionnaire. This is connected to AS.23.30.247. *which -J will discuss later.*

SEC.23.30.040 AND 23.30.155 AND 23.30.155 ( M )

These three sections deal with language that is needed in order to get the proper and timely reports so all those concerned can make decisions with adequate information.

SEC.23.30.041 REHABILITATION OF INJURED WORKERS

Labor's intent is the same as management's in regards to this section. The present .041 we feel did not work. It put claimants and providers in an adversarial position from the start.

When you have carriers in control of a mandatory system, that's tied to the claims process, you wind up with abuse on both sides and a lack of trust that keeps the program from working. We must make VOC. REHAB. voluntary, take the selection process out of the hands of the carriers and remove it from the claims process. End result should be more cooperation from both the injured worker and those performing the service. Less litigation and therefore much less cost.

SEC. 23.30.055

Labor feels the employers wanted this as an added amount of protection connected to AS.23.30.247.

SEC.23.30.095 MEDICAL EXAMINATIONS

The intent here is to provide adequate medical service at reasonable rates and remove the adversarial position that results in excessive litigation and abuse. We must get away from the, you get your doctor, i will get mine and our attorneys will be in touch syndrome.

Limit changeing physicians-Limit number of treatments before an independent medical evaluation.

In disputed cases only, the board can select a physician or physicians to do an unbiased evaluation, not chosen by the carrier or claimant.

This should result in a medical provision that is much less costly.

SEC.23.30.105 TIME FOR FILING OF CLAIMS

The intent here is to define the meaning of benefits.

SEC.23.30.120 ( b )

This is connected to AS.23.30.265 ( 17 ) which has defined language addressing stress, and 120 explains the presumption of compensability that both sides agreed to.

SEC.23.30.130

This is the same as AS.23.30.105. It defines the meaning of benefits

SEC.23.30.155 PAYMENT OF COMPENSATION

Labor felt they had to have this because of the hardship put on claimants that go for months or years with no compensation benefits while two or more carriers fight over which is responsible to pay the benefits.

SEC.23.30.175 RATES OF COMPENSATION

( a )

The intent here is to lower the maximum weekly wage and raise the minimum. This is more a labor issue, and will provide more money to those that earn less, which is the majority of claimants.

( b )

By adjusting the rates of compensation to the cost of living ( if lower) for those that move out of Alaska, we feel you remove a major disincentive to return to work.

SEC.23.30.180

An employees ability to work, may be different in other areas of our state or other states. This is intended to address that.

SEC.23.30.185

We have agreed to limit Temporary Total Disability to two years and remove the claim process from VOC. REHAB. by paying Permanent Partial Disability benefits when medical stability is reached.

SEC.23.30.190

The intent here is to provide more money for those that in most cases have impairment ratings that are higher than 20%. This will cost the employers a bit more, but is needed.

Present system loads most of the money on the lower end and keeps those that have significant injuries from receiving adequate compensation for their loss. The A.M.A. guidelines will be used and backs and necks will be rated under our proposed changes. Present cap of 60,000 dollars will change to whole man value of 240,000.

SEC.23.30.200

Once medical stability is reached and is rated claimant goes to Permanent Partial Disability ( tied to 041 ).

SEC.23.30.220 DETERMINATION OF SPENDABLE WEEKLY WAGE

The intent here is to provide more concrete rules for determining spendable weekly wages, and by doing so cut the guess work by the board and reduce the amount of litigation over this section of the act.

SEC.23.30.225 OFFSETS (c)

If employee starts receiving payments from a pension or profit sharing plan, then their compensation benefits will be offset only by amount figured into the comp. rate.

SEC.23.30.247 DISCRIMINATION PROHIBITED

This is intended to simply stop employers from not hiring or promoting because an employee may have filed a Workers Compensation claim in the past.

SEC.23.30.265 ( 17 )

Puts controls on when an employee can claim mental stress and seems to be the fairest way to handle a very sensitive issue. Labor agreed to this.

( 32 ) Provides for vested pension and profit sharing plan contributions to be included in gross earnings. ( Important to labor )

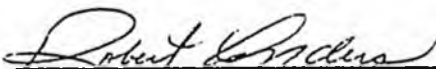
SEC.23.30.265 ( \*\* ) MEDICAL STABILITY

Defines in more detail when medical stability will take place.

---

Labor's intent on all of these proposed legislative changes is that they be applied from JULY 1 1988 forward and not retroactively.

Thank You  
Sincerely,  
Robert Anders



Co-Chair Joint Labor-Management  
Task Force

Gov's Oversight Comm. on Worker's Comp

Darlene Morris - acting chair

561-5454

Paul Roller - Div. of Ins.

562-3626

Chancy Croft

Tony Smith

Jim Sampson

Dick Block

Gordon DuPue

Future mtgs - Jan 12 - 19-26

5:30 @ Denali Towers - 16<sup>th</sup> Floor

**GOVERNOR'S OVERSIGHT COMMITTEE**  
**AGENDA FOR JANUARY 6, 1988**

**GOALS OF THE COMMITTEE:**

1.) Review all information, suggestions, proposed legislation concerning amendments to the Alaska Workers' Compensation Act.

2.) Change in any Alaska Workers' Compensation Law should take into consideration the following:

a.) Reduction in Cost of Workers' Compensation premiums to Employers and Self Insurers to produce a better economy for business as well as incentives for re-employment of injured workers.

b.) Simplification of litigation in all areas of workers' compensation to include incentives to resolve claims and disputes short of formal review by the Department of Labor.

3.) As suggested by the Governor, the written proposal of the Task Force as discussed during the December 30, 1987 conference with the Governor's office, will be used as a nucleus to any proposed legislation supported by this Committee.

10:00 a.m. Discussion regarding Goals of Committee

11:00 a.m. Review of Proposals by Claimant's Counsel

1:00 p.m. Review of Task Force Recommendations

3:00 p.m. Determine areas of agreement on any and all proposals in the Committee's possession as well as determine what if any additional items or areas of law need review and revision.

4:00 p.m. Schedule next meeting of Oversight Committee

DELIM ;  
INBOX

SENT 10/29/87 11:25

SUBJECT: THURSDAY #2  
FROM: LSNCRTH  
FOLDER: RUTH

SECURITY LEVEL: 2      RETENTION PERIOD: 9

.....+.....2.....+.....3.....+.....4.....+.....5.....+.....6.....+.....7.....+.....8..	001/01
BACK TO BUSINESS	001/02
PAUL ROLLER, DIV OF INSURANCE, ANCHORAGE, 562-3626. PAUL JUST	001/03
CALLED TO TELL ABOUT THE GOV'S WORKER'S COMP. GROUP. HE IS	001/04
COORDINATOR. MEMBERS ARE: CHANCY CROFT, TONY SMITH, JIM	001/05
SAMPSON, DARLENE NORRIS (PARALEGEL AND RELATIVE OF BEN GARDINO IN	001/06
SEWART), DICK BLOCK (FORMER DIRECTOR OF INSURANCE) GORDON DUPEU	001/07
(PRES. OF INDEPT. INSUR AGENTS FOR STATE), AND DR. MICHAEL JAMES	001/08
(VALLEY, M.D., WORKS A LOT WITH REHAB).	001/09
PAUL SAID TO FEEL OKEY ABOUT CALLING, ETC. AT ANY TIME. ALSO	001/10
RECOMMENDED ALASKA BUSINESS MONTHLY, MARCH ISSUE, FOR ARTICLE ON	001/11
WORKER'S COMP.	001/12
I AM DISAPPOINTED GUY FROM SACRAMENTO DID NOT GET THE NOMINATION.	001/13
FROM WHAT NBC SAID THIS MORNJNG ON GOOD MORNING AMERICA THAT THE	001/14
OTHER GUY IS MUCH LIKE BORK (EVEN TO BEARD) SO WE WILL SEE.	001/15

# ALASKA STATUTES

## TITLE 23. Labor and Worker's Compensation

### Chapter 30. Alaska Worker's Compensation Act.

**Sec. 23.30.095 Medical examinations.** (a) The employer shall furnish medical, surgical, and other attendance for treatment, nurse and hospital service, medicine, crutches, and apparatus for the period which the nature of the injury or the process of recovery requires, not exceeding two years from and after the date of injury to the employee. However, if the condition requiring the treatment, apparatus, or medicine is a latent one, the two-year period runs from the time the employee has knowledge of the nature of his disability and its relationship to his employment and after-disablement. It shall be additionally provided that, if continued treatment or care or both beyond the two-year period is indicated, the injured employee has the right of review by the board. The board may authorize continued treatment or care or both as the process of recovery may require. When medical care is required, the injured employee may designate a licensed physician inside the state to render the care except in cases where, by mutual consent between the employer and the injured worker. [IN THE JUDGMENT OF THE BOARD,] care or treatment or both can best be administered by the selection of another physician. Upon procuring the services of a physician, the injured employee shall give proper notification of his selection to the employer within a reasonable time after first being treated. [IF FOR ANY REASON DURING THE PERIOD WHEN MEDICAL CARE IS REQUIRED THE EMPLOYEE WISHES TO CHANGE TO ANOTHER PHYSICIAN, HE MAY DO SO IN ACCORDANCE WITH RULES PRESCRIBED BY THE BOARD]. The injured worker shall choose a single attending physician and will be allowed one change in the choice of attending physician. Whenever the injured worker has made his initial free choice of attending physician and one change, he may not thereafter change physicians without the prior written consent of the employer, insurance carrier, self-insurance administrator, or the board. Consent may be given only upon a showing of good cause for change.

(b) If the employee is unable to designate a physician and the emergency nature of the injury requires immediate medical care, or if he does not desire to designate a physician and so advises the employer, the employer shall designate the physician. Designation under this subsection, however, does not prevent the employee from subsequently designating a physician for continuance of required medical care.

(c) A claim for medical or surgical treatment is not valid and enforceable against the employer unless, within 14 days following treatment, the physician 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 may, 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 or surgical treatment so obtained by the employee.

(d) If at any time during the period the employee unreasonably refuses to submit to medical or surgical treatment, the board may by order suspend the payment of further compensation while the refusal continues, and no compensation may be paid at any time during the period of suspension, unless the circumstances justified the refusal.

(e) The employee shall, after an injury, at reasonable times during the continuance of the disability, if requested by the employer or when ordered by the board, submit to an examination by a physician or surgeon authorized to practice medicine under the laws of the state in which the employee may be found, furnished and paid for by the employer. No fact relative to the injury or claim communicated to or otherwise learned by a physician or surgeon who may have attended or examined the employee, or who may have been present at an examination is privileged, either in the hearings provided for in this chapter or an action to recover damages against an employer who is subject to the compensation provisions of this chapter. If an employee refuses to submit to any examination provided for in this section, the employee's rights to compensation shall be suspended until the obstruction or refusal ceases, and the employee's compensation during the period of suspension may, in the discretion of the board or the court determining an action brought for the recovery of damages under this chapter, be forfeited. The board in any case of death may require an autopsy at the expense of the party requesting the autopsy. No autopsy may be held without notice first being given to the widow or widower or next of kin if they reside in the state or their whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable time and opportunity given the widow or widower or next of kin to have a representative present to witness the autopsy. If no adequate notice is given, the findings from the autopsy may be suppressed on motion made to the board or to the superior court, as the case may be.

(f) All fees and other charges for medical treatment or service are limited to the charges that prevail in the same community for similar treatment of injured persons of like standard of living where such treatment is paid for by the injured worker himself or someone acting for him. [AND SHALL BE SUBJECT TO REGULATION BY THE BOARD.] However, in no event shall the charges and/or fees for such services exceed the reasonable and customary charges for medical services rendered based upon the 90th percentile of the prevailing Health Insurance Association of America (H.I.A.A.) schedules for the area in which the services are rendered.

(g) [REPEALED BY § 27 CH 93 SLA 1982.] The employer may require an independent medical evaluation by a licensed physician or physicians of his choice. In the event of medical dispute regarding determinations of medical stability, degree of impairment or functional capacity, the amount and efficacy of the continuance of or necessity of treatment, or compensability between the employee's attending physician and the employer's independent medical evaluation, a second independent medical evaluation shall be conducted by a physician or physicians selected by the employer from a rotating list maintained by the Worker's Compensation Board. The opinions of the second independent medical examiner(s), based on objective medical findings or reasonable medical probability shall be given a presumption of greater weight than the opinion of the attending physician. Under this section it is required that:

1. An independent medical evaluation shall be obtained after the first fifteen (15) treatments unless this requirement is waived, in writing, by the employer.

2. When an independent medical evaluation is obtained, a narrative report must be completed and delivered within 28 days of evaluation with objective findings being given greater weight than subjective complaints.

3. The cost of any independent medical examination shall be born by the party requesting the evaluation at a fee agreed upon by the requesting party and the evaluating physician.

(h) Upon the filing with the board by a party in interest of an application or other pleading, all parties to the proceeding must immediately, or in any event within five days after service of the pleading, send to the board the original signed reports of all physicians relating to the proceedings which they may have in their possession or under their control, and copies of the reports shall be served by the party immediately on the adverse party. There is a continuing duty on the parties to so file and serve all the reports during the pendency of the proceeding.

(i) Interference by a person with the selection by an injured employee of an authorized physician to treat him, or the improper influencing or attempt by a person to influence a medical opinion of a physician who has treated or examined an injured employee is a misdemeanor.

(j) The board shall adopt and use a schedule for determining the existence and degree of permanent impairment consistent with the American Medical Association Guide to the Evaluation of Permanent Impairment. (§ 6(1) (2) ch 193 SLA 1959; am §§ 2,3 ch 42 SLA 1962; § 6(3) (5) ch 193 SLA 1959; § 6(6) ch 193 SLA 1959; added by § 4 ch 42 SLA 1962; am § 1 ch 74 SLA 1963; am § 86 ch 127 SLA 1974; am §§ 7 - 9, 27 ch 93 SLA 1982)

Senate Labor and Commerce Committee Hearings  
on Proposed Changes to Workers Compensation Program

RCA Government Services has been doing business in Alaska for over 20 years. Currently we have operation and maintenance contracts for the U.S. Air Force's Long Range Radar System and the National Oceanic and Atmospheric Administration's (NOAA) Command Data Acquisition Station located at Gilmore Creek, Alaska.

With approximately 200 employees (down from a 1977 high of approx. 700) it is natural that we have an interest in the Alaska Workers Compensation statutes, as they represent a substantial cost of our doing business in this State.

RCA Government Services supports passage of this Bill.

We agree with the language in Section 1, Part C, paragraphs (1)-(3):

That workers compensation benefits paid to claimants residing in other states are unreasonably high, being based on Alaska's higher cost of living;

that the incentive to return to work is reduced by these higher rates;

and that the vocational rehabilitation system needs to be revamped to remove obstacles brought on by these higher levels of compensation.

Compensation paid by our carrier for lost time injuries to recipients residing outside Alaska totaled over \$500,000 in 1987. The average weekly compensation rate paid to these outside residents was \$492.00 (approx. \$12.00 per hour).

For claimant's residing outside Alaska, the incentive to return to work decreases significantly when taking a fulltime job in a comparable occupation earns less than the \$25,500.00 (net\*) annual income paid by workers compensation for not working.

While the current statute contains time limits for entering and completing a rehabilitation program, enforcement seems to be non-existent. Claimants may go for years collecting temporary total disability (TTD) benefits before actually entering into a plan for re-employability.

RCA paid over \$100,000.00 in rehabilitation and medical benefits in 1987 to claimants living outside Alaska; ninety percent of whom had injury dates of 1984 or before.

Because this legislation would not become retroactive upon passage, we will continue paying benefits at higher rates to those already on the rolls without much hope of their returning to the workforce.

\* Workers Compensation benefits are not taxable

It does not address all of the problems written into the current system from an employer's point of view (no cap on maximum weekly rates paid to claimants residing outside the State, etc.); but it is needed to reduce future drains on dollars earned in Alaska and spent elsewhere.

It does propose to address our concerns with regard to the "Brown" decision and its impact on compensation levels, return to work disincentives, the current vocational rehabilitation system and ultimately the high cost of workers compensation insurance for Alaskan employers.

Therefore we support the bill and urge for its early passage.

Thank You.

RCA GOVT. SERVICES  
BLDG. 32-156  
ELMENDORF AFB, AK  
99506

# The WCCA Sounder

*"A publication for people concerned about workers' compensation reform"*

January, 1988

## Legislation

After more than a year's work, reform workers' comp legislation was finalized by a joint labor-management task force in December and has now been introduced in both the Alaska State House and Senate by the Labor and Commerce Committees.

WCCA President Steve Haag calls the bill one of the most important pieces of legislation lawmakers will address this session. "Passage of the bill as it exists will save hundreds of jobs that will otherwise be lost due to skyrocketing insurance rates," Haag says.

The proposed legislation makes substantial changes in statutes regarding vocational rehabilitation services. It also places limits on how often doctors may be consulted by a claimant without an independent medical examination. Limits on charges for medical services would also be imposed.

Among many provisions, the proposed legislation would reduce the maximum weekly compensation benefits while increasing the minimum weekly benefits. Under the new law, benefits could be readjusted if a claimant moved outside the state to an area with a lower cost of living.

House Labor and Commerce Committee Chairman Dave Donley, D-Anchorage, says the legislation needs to be viewed as a jobs bill. "Employers are having to layoff employees, in part, because of the high compensation rates and claims they have to pay. This is one area where the legislature can make a positive impact on the job situation in Alaska without spending more money," Donley notes.

Senate Labor and Commerce Committee Chairman Tim Kelly, R-Anchorage, says legislative action on the issue could be swift. "There's enough momentum so I think there will be a bill passed early in the session," Kelly says.

## Lobbyists

WCCA has retained the services of Jerry Reinwand to serve as a legislative lobbyist during the 1988 session. Jerry, who served as chief of staff to Governor Jay Hammond, has earned the respect of both legislators and the Cowper administration.

WCCA has also retained the services of Dan Coffey to act as a liaison with Governor's office. Dan will focus efforts on keeping the Governor, Commissioners and division directors informed about WCCA activities and goals.

Both Jerry and Dan will play influential roles in assisting passage of legislation in 1988 and we look forward to a close, positive working relationship.

## Write Now!

Legislators need to hear from every employer who will be affected by passage of reform workers' compensation legislation. A one or two-page letter to your legislator will help focus attention on the issue. Let your senator or representative know how workers' comp rates are threatening your business. Write today and ask a friend to write a letter as well.

Address your letters to:           **Your Legislator**  
  **P.O. Box V**  
  **Juneau, Alaska 99811**

## New Office

WCCA has established a permanent office and full-time staff to better serve our growing membership. WCCA welcomes Lynn Phillips as administrative secretary. Any questions about WCCA should be directed to Lynn at the new office phone number, 248-7630.

The new address is:           **2204 Cleveland Ave.**  
  **Anchorage, Alaska 99517**

## On The Road

WCCA continues to take its message to the people. Dick Cattanach was interviewed by the Fairbanks News-Miner earlier this month. WCCA President Steve Haag will travel to Sitka and Ketchikan to meet with the media while on a Southeast swing to testify before the Legislature. On January 21 Steve will address the Kenai Builders Association and plans are in the works for a speaking engagement in Fairbanks.

## Thanks!

WCCA wishes to thank the Best Western Barratt Inn for supplying a room for the weekly Executive Committee meetings. Nikko Gardens also deserves thanks for supplying the meeting room for our monthly membership meetings. The support of these two businesses is greatly appreciated.

WCCA also thanks John Lewis for all his efforts to assist with the drafting and revising the 1988 legislation. John's recent visit to the state was a big boost to WCCA and we look forward to working with him during the session.

## Hearings

Four hearings have been scheduled by the House and Senate Labor and Commerce Committees to obtain input on the proposed legislation.

January 19 & 21	Juneau
January 29	Anchorage
February 12	Anchorage

Watch the newspapers for location of the hearings, contact your local Legislative Information Office, or call the WCCA office for information. The testimony of every affected business is needed at these hearings. Put these important dates on your calendar and plan to attend. We need your support!

## Seminar

Over 100 people turned out for an all day workers' compensation seminar in Fairbanks December 12. The seminar was sponsored by Unified Fairbanks in cooperation with the Associated General Contractors, Fairbanks Downtown Association, Greater Fairbanks Chamber of Commerce, Interior Manufacturers Association, National Electrical Contractors Association, Small Business Development Center of Alaska and the South Fairbanks Business Association.

Working groups have been meeting in Fairbanks since the seminar to plan strategies for accomplishing workers' comp reform during the 1988 Legislature in coordination with WCCA.

## New Members

WCCA thanks these new member companies for their financial support.

Pacific Movers	Alyeska Air
National Bank of Alaska	Unocal
Alaska Pulp	Spenard Builders Supply
K & L Distributors	Arctic Slope Regional Corp.
Universal Motors	Enstar
Steel Fabricators	Doyon Drilling
Saupe Enterprises	Central Plumbing and Heating
Midas Muffler	Newberry Alaska
Alaska Oil Marketers Assoc.	Bailey's Rental
Smythe Movers	

**Meeting Schedule**

**Board of Directors**

*Location to be announced*

February 4, March 3  
April 2

---

**Executive Committee**

WCCA Office  
2204 Cleveland, Anchorage

January 20, February 3  
February 17

---

**Legislative Hearings**

January 19 & 21  
January 29  
February 12

Juneau  
Anchorage  
Anchorage

---

**Workers' Compensation Committee of Alaska**  
2204 Cleveland Ave.  
Anchorage, Alaska 99517

Bulk Rate  
US Postage  
PAID  
Permit No. 405  
Anchorage, AK

**ANCHORAGE SCHOOL DISTRICT  
ANCHORAGE, ALASKA**

Senator Kelly, Representative Donley, and Members of the Senate and House Labor and Commerce Committees:

My name is Warren Dvorak. I am the Benefits Manager for the Anchorage School District with responsibility for Worker's Compensation as well as all employee benefits programs.

The Anchorage School District employs over 5,000 people and we have self insured our Worker's Compensation claims since 1979. Our annual outlay for claims and expenses have steadily increased and in the last three years have jumped from \$880,000 to over \$1,500,000.

As a self insurer, we have detailed knowledge of many problems and inequities in the Alaska Worker's Compensation system brought about by ambiguities in the language of the Act and the absence of clear definitions of Legislative intent, benefit durations, and compensable conditions. The cost of these shortcomings to the Anchorage School District and the tax payers of Anchorage is substantial. For example:

1. This year in two claims based on alleged stress, we have paid out \$210,929 so far and could be required to pay an additional \$200,000+. Had this proposed legislation been in effect, almost all of it would have been saved;
2. An employee injured on the job has excellent employable skills and neither needed nor wanted job rehabilitation. So far we have wasted \$6,000 of District dollars on unnecessary rehabilitation services;
3. In a recent ruling by the Board against the District involving medical differences of opinion between the attending physician and two different independent medical examiners, the District has paid out \$83,128 to date and we estimate future costs of \$108,100 more. Under the proposed legislation we would not have incurred 90% of this expense; and
4. In a claim involving a 12% degree of permanent partial impairment to an employee we paid a settlement of \$60,000. Had this proposed legislation been in effect, our lump sum settlement would have only been \$11,520 !

In total, on just these five claims, the Anchorage School District has had to spend \$348,537 that would have been saved under the provisions of SB322 and HB352. **This is 23% of our total annual workers compensation expense!**

We understand that this proposed legislation is fair compromise carefully worked out over the past year by a joint task force representing both employers and organized labor. This makes it responsive to the needs of the two partners in any Worker's Compensation system, the injured worker's who benefit from it and the employers who pay for it.

On behalf of the Anchorage School District and all its employees, I urge you to support this legislation and assist in its speedy passage. Thank you for your consideration.

SB

322

(FILE 16)

*GRAVO  
CONTRACTORS*

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE SENATE

2

SENATE BILL NO. 322

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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

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

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

14 (b) The legislature declares that the workers' compensation laws must  
15 not be construed by the courts in favor of any party. It is the specific  
16 intent of the legislature that workers' compensation cases be decided on  
17 their merits, except when otherwise provided by statute. It is also the  
18 intent of the legislature that the board possess the greatest possible  
19 authority in the exercise of its fact finding responsibilities and that the  
20 board's decisions be conclusive if supported by any evidence. *CLEAR CONVICTION*

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

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

26 (2) reduce disincentives to return to work; and

27 (3) remove obstacles to the utilization of vocational rehabili-  
28 tation that may be brought about by the payment of workers' compensation  
29 benefits at the high levels provided by the Alaska workers' compensation

1 law to individuals residing in localities with living costs lower than  
2 those in Alaska.

3 \* Sec. 2. AS 23.30.005(h) is amended to read:

4 (h) The department may adopt identical rules for all panels, and  
5 procedures for the periodic selection, retention, and removal of  
6 rehabilitation specialists or physicians under AS 23.30.041 and 23.-  
7 30.095, and may adopt regulations to carry out the provisions of this  
8 chapter. Process and procedure under this chapter shall be as summary  
9 and simple as possible. The department, the board or a member of it  
10 may for the purposes of this chapter subpoena witnesses, administer or  
11 cause to be administered oaths, and may examine or cause to have  
12 examined the parts of the books and records of the parties to a pro-  
13 ceeding that relate [WHICH RELATED] to questions in dispute. The  
14 superior court, on application of the department, the board or any  
15 members of it, shall enforce the attendance and testimony of witnesses  
16 and the production and examination of books, papers, and records.

17 \* Sec. 3. AS 23.30.005 is amended by adding a new subsection to read:

18 (m) If a regulation adopted by the department and approved by a  
19 majority of the full board is determined to be invalid by the state  
20 supreme court, the department shall immediately adopt new regulations  
21 that conform to the department's statutory authority as interpreted by  
22 the court.

23 \* Sec. 4. AS 23.30.020 is amended by adding a new subsection to read:

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

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

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

1 representation and the injury to the employee.

2 \* Sec. 5. AS 23.30.040(b) is amended to read:

3 (b) If an employee suffers a compensable injury that results in  
4 temporary total disability, temporary partial disability, permanent  
5 partial disability, or permanent total disability, the employer or  
6 insurance carrier shall contribute to the second injury fund. The  
7 contribution shall be made annually at the time of the report filing  
8 required by AS 23.30.155(m) [BY ONE YEAR FROM THE DATE OF THE INJURY  
9 OR ON TERMINATION OF THE EMPLOYEE'S CLAIM, WHICHEVER IS SOONER. IF  
10 THE CLAIM IS NOT TERMINATED WITHIN ONE YEAR, SUBSEQUENT CONTRIBUTIONS  
11 SHALL BE MADE YEARLY UNTIL THE TERMINATION OF THE EMPLOYEE'S CLAIM].  
12 The amount of the contribution is the product of the compensation to  
13 which the employee is entitled for temporary total disability, tempo-  
14 rary partial disability, permanent partial disability, or permanent  
15 total disability and the applicable contribution rate set out in  
16 column A of this subsection. Payment need not be made to the second  
17 injury fund if the total contribution under this subsection is less  
18 than \$20. By December 15 of each year the commissioner shall deter-  
19 mine and make available to the public the applicable contribution rate  
20 for the following calendar year according to the reserve rate of the  
21 second injury fund in column B of this subsection:

22	Column A	Column B	
23	Second Injury Fund	Reserve Rate	
24	Contribution Rate	At Least	But Less Than
25	(Percent)	(Percent)	(Percent)
26	6	0	50
27	5	50	75
28	4	75	100
29	3	100	125

1	2	125	150
2	1	150	175
3	0	175	

4 \* Sec. 6. AS 23.30.041 is repealed and reenacted to read:

5       Sec. 23.30.041. REHABILITATION OF INJURED WORKERS.     (a)     The  
6       board shall select and employ a reemployment services administrator.  
7       The board may authorize the reemployment services administrator to  
8       select and employ additional staff. The reemployment services admin-  
9       istrator is in the partially exempt service under AS 39.25.120.

10       (b) The reemployment services administrator shall perform the  
11       following functions:

12               (1) enforce regulations adopted by the board to implement  
13       this section;

14               (2) recommend regulations for adoption by the board that  
15       establish performance and reporting criteria for rehabilitation spe-  
16       cialists;

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

19               (4) review on an annual basis the performance of rehabili-  
20       tation specialists to determine continued eligibility for delivery of  
21       rehabilitation services;

22               (5) submit to the department, on or before January 1 of  
23       each year, a report of reemployment benefits provided under this  
24       section for the previous fiscal year; the report must include a gen-  
25       eral section and sections related to each rehabilitation specialist  
26       used under this section; the report must also include for each section  
27       a statistical summary of all rehabilitation cases, including

28                       (A) the estimated and actual cost of each active  
29       rehabilitation plan;

1 (B) the estimated and actual time of each rehabilita-  
2 tion plan;

3 (C) a status report on all individuals completing or  
4 terminating a reemployment services program including a return to  
5 work date;

6 (D) the cost of reemployment services;

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

9 (7) promote awareness among physicians, adjustors, injured  
10 workers, employers, employees, attorneys, training providers, and  
11 rehabilitation specialists of the reemployment program established in  
12 this subsection.

13 (c) If an employee suffers a compensable injury that may perma-  
14 nently preclude an employee's return to the employee's occupation at  
15 the time of injury, the employee or employer may request an eligibil-  
16 ity evaluation for reemployment benefits. The reemployment services  
17 administrator shall, on a rotating basis, select a rehabilitation  
18 specialist from the list maintained under (b)(6) of this section to  
19 perform the eligibility evaluation.

20 (d) Except as provided in (e) of this section, an employee shall  
21 be eligible for benefits under this section upon the employee's writ-  
22 ten request and by having a physician predict that the employee will  
23 have permanent physical capacities that are less than the physical  
24 demands of the employee's job as described in the United States  
25 Department of Labor's "Selected Characteristics of Occupations Defined  
26 in the Dictionary of Occupational Titles" for

27 (1) the employee's job at the time of injury; and

28 (2) other jobs that exist in the labor market that the  
29 employee has held within 10 years before the injury or that the

1 employee has held following the injury for a period long enough to  
2 obtain the skills to compete in the labor market, according to specif-  
3 ic vocational preparation codes as described in the dictionary of  
4 occupational titles.

5 (e) An employee is not eligible for reemployment benefits if

6 (1) the employer offers employment within the employee's  
7 predicted post-injury physical capacities at a wage equivalent to at  
8 least 60 percent of the worker's gross hourly wages at the time of  
9 injury and the employment prepares the employee to be employable in  
10 other jobs that exist in the labor market; or

11 (2) the employee has been previously rehabilitated in a  
12 former workers' compensation claim and returned to work in the same or  
13 similar occupation in terms of physical demands.

14 (f) When an employee is found eligible for reemployment benefits  
15 and desires to use these benefits, the employee shall select a re-  
16 habilitation specialist who shall provide a complete reemployment  
17 services plan. If the employer disagrees with the employee's choice  
18 of rehabilitation specialist to develop the plan and the disagreement  
19 cannot be resolved, then the reemployment services administrator shall  
20 assign a rehabilitation specialist. The employer and employee each  
21 have one right of refusal of a rehabilitation specialist. The reem-  
22 ployment plan must include the following:

23 (1) an occupational goal in the labor market;

24 (2) a plan to acquire the occupational skills to be employ-  
25 able;

26 (3) the cost estimate of the reemployment plan, including  
27 provider fees; the amount of tuition, books, tools, and supplies;  
28 transportation; temporary lodging; or job modification devices;

29 (4) the estimated length of time that the plan will take;

1                   (5) the date the plan will commence; and  
2                   (6) the time of medical stability as predicted by the  
3 physician.

4                   (g) Reemployment benefits shall be selected from the following  
5 in a manner that ensures remunerative employability in the shortest  
6 possible time:

- 7                   (1) on the job training;
- 8                   (2) vocational training;
- 9                   (3) academic training;
- 10                  (4) self-employment; or
- 11                  (5) a combination of (1) - (4) of this subsection.

12                  (h) The employee, rehabilitation specialist, and the employer  
13 shall sign the reemployment services plan.

14                  (i) After the injured worker has elected to participate in reem-  
15 ployment benefits, noncooperation by the worker shall result in the  
16 termination of reemployment benefits on the date of noncooperation.  
17 Noncooperation means failure to

- 18                  (1) keep appointments;
- 19                  (2) maintain average grades;
- 20                  (3) attend designated programs;
- 21                  (4) maintain contact with the rehabilitation specialist;
- 22                  (5) cooperate with the rehabilitation specialist in devel-  
23 oping a reemployment plan and participating in activities relating to  
24 reemployability on a full-time basis;
- 25                  (6) comply with the employee's responsibilities outlined in  
26 the reemployment plan; or
- 27                  (7) participate in any planned reemployment activity as  
28 determined by the reemployment services administrator.

29                  (j) Reemployment benefits are subject to the following time

1 limits:

2 (1) benefits related to the reemployment plan may not  
3 extend past two years from date of plan acceptance, at which time the  
4 benefits expire, except at the discretion of the employer;

5 (2) election of the eligibility evaluation by the employee  
6 for reemployment benefits must occur within 60 days of the employer's  
7 notice of injury unless the reemployment services administrator deter-  
8 mines that unusual and extenuating physical limitations of the em-  
9 ployee preclude the employee from making a timely request;

10 (3) the determination of the employee's eligibility for  
11 reemployment benefits shall occur no later than 30 days following the  
12 date of evaluation referral, except under circumstances that are  
13 determined to be unusual and extenuating by the reemployment services  
14 administrator, who may grant up to an additional 30 days;

15 (4) within 10 days after the employee has been determined  
16 eligible for reemployment benefits, the employee and employer shall  
17 select a rehabilitation specialist to deliver reemployment services;

18 (5) a reemployment plan must be formulated and approved by  
19 the parties within 90 days of the determination of eligibility;

20 (6) the reemployment plan shall be initiated when the  
21 employee is considered physically able to engage in the plan by the  
22 employee's physician;

23 (7) if the employer and employee fail to agree on a reem-  
24 ployment plan, either party may submit a reemployment plan for ap-  
25 proval to the reemployment services administrator; the reemployment  
26 services administrator shall approve or deny a plan within 14 days  
27 after the plan is submitted; within 10 days of the decision, either  
28 party may seek review of the decision by requesting a hearing under  
29 AS 23.30.110; the board shall uphold the decision of the administrator

1 unless evidence is submitted supporting an allegation of abuse of  
2 discretion on the part of the administrator; the board shall render a  
3 decision within 30 days after completion of the hearing.

4 (k) The cost of the reemployment plan incurred under this sec-  
5 tion shall be the responsibility of the employer, but may not exceed  
6 \$10,000. If an employee reaches medical stability before completion  
7 of the plan, temporary total disability benefits shall cease and  
8 permanent impairment benefits shall then be paid at the employee's  
9 temporary total disability rate. If the employee's permanent impair-  
10 ment benefits are exhausted before the completion or termination of  
11 the reemployment plan, the employer shall provide wages equal to 60  
12 percent of the employee's spendable weekly wages but not to exceed  
13 \$525, until the completion or termination of the plan. A permanent  
14 impairment benefit remaining unpaid upon the completion or termination  
15 of the plan shall be paid to the employee in a single lump sum. The  
16 fees of the rehabilitation specialist or rehabilitation professional  
17 shall be paid by the employer and may not be included in determining  
18 the cost of the reemployment plan.

19 (l) Only a rehabilitation specialist may accept case assignments  
20 as a case manager and sign eligibility determinations and reemployment  
21 plans. A person who is not a rehabilitation specialist may perform  
22 rehabilitation casework if the work is performed under the direct  
23 supervision of a rehabilitation specialist employed in the same firm  
24 and location.

25 (m) In this section

26 (1) "employability" means possessing the ability but not  
27 necessarily the opportunity to engage in employment that is consistent  
28 with the employee's physical status imposed by the compensable injury  
29 or disease;

1           (2) "labor market" means a geographical area that offers  
2 employment opportunities in the following priority:

3           (A) area of residence;

4           (B) area of last employment;

5           (C) the state;

6           (D) other states;

7           (3) "physical capacities" means objective and measurable  
8 physical traits such as ability to lift and carry, walk, stand or sit,  
9 push, pull, climb, balance, stoop, kneel, crouch, crawl, reach,  
10 handle, finger, feel, talk, hear or see;

11           (4) "physical demands" means the physical requirements of  
12 the job such as strength, including positions such as standing, walk-  
13 ing, sitting, and movement of objects such as lifting, carrying,  
14 pushing, pulling, climbing, balancing, stooping, kneeling, crouching,  
15 crawling, reaching, handling, fingering, feeling, talking, hearing, or  
16 seeing;

17           (5) "reemployment benefits" means eligibility determina-  
18 tion, plan development, and plan cost not exceeding \$10,000, exclusive  
19 of provider fees;

20           (6) "rehabilitation specialist" means a person who is a  
21 certified insurance rehabilitation specialist or a person who has  
22 equivalent or better qualifications as determined under regulations  
23 adopted by the department;

24           (7) "remunerative employability" means having the skills  
25 that allow a worker to be compensated with wages or other earnings  
26 equivalent to at least 60 percent of the worker's gross hourly wages  
27 at the time of injury; if the employment is outside the state, the  
28 stated 60 percent shall be adjusted to account for the difference  
29 between the applicable state average weekly wage and the Alaska

1 average weekly wage.

2 \* Sec. 7. AS 23.30.055 is amended to read:

3 Sec. 23.30.055. EXCLUSIVENESS OF LIABILITY. The liability of an  
4 employer prescribed in AS 23.30.045 is exclusive and in place of all  
5 other liability of the employer and any fellow employee to the em-  
6 ployee, the employee's legal representative, husband or wife, parents,  
7 dependents, next of kin, and anyone otherwise entitled to recover  
8 damages from the employer or fellow employee at law or in admiralty on  
9 account of the injury or death. The liability of the employer is  
10 exclusive even if the employee's claim is barred under AS 23.30.-  
11 020(b). However, if an employer fails to secure payment of compen-  
12 sation as required by this chapter, an injured employee or the em-  
13 ployee's legal representative in case death results from the injury  
14 may elect to claim compensation under this chapter, or to maintain an  
15 action against the employer at law or in admiralty for damages on  
16 account of the injury or death. In that action the defendant may not  
17 plead as a defense that the injury was caused by the negligence of a  
18 fellow servant, or that the employee assumed the risk of the employ-  
19 ment, or that the injury was due to the contributory negligence of the  
20 employee.

21 \* Sec. 8. AS 23.30.095(a) is amended to read:

22 (a) The employer shall furnish medical, surgical, and other  
23 attendance or treatment, nurse and hospital service, medicine,  
24 crutches, and apparatus for the period which the nature of the injury  
25 or the process of recovery requires, not exceeding two years from and  
26 after the date of injury to the employee. However, if the condition  
27 requiring the treatment, apparatus, or medicine is a latent one, the  
28 two-year period runs from the time the employee has knowledge of the  
29 nature of the employee's disability and its relationship to the

1 employment and after disablement. It shall be additionally provided  
2 that, if continued treatment or care or both beyond the two-year  
3 period is indicated, the injured employee has the right of review by  
4 the board. The board may authorize continued treatment or care or  
5 both as the process of recovery may require. When medical care is  
6 required, the injured employee may designate a licensed physician  
7 inside the state where the employee resides to render the care. The  
8 employee may not make more than one change in the employee's choice of  
9 attending physician without the written consent of the employer.  
10 Referral to a specialist by the employee's attending physician is not  
11 considered a change in physicians [EXCEPT IN CASES WHERE, IN THE  
12 JUDGMENT OF THE BOARD, CARE OR TREATMENT OR BOTH CAN BEST BE ADMINIS-  
13 TERED BY THE SELECTION OF ANOTHER PHYSICIAN]. Upon procuring the  
14 services of a physician, the injured employee shall give proper noti-  
15 fication of the selection to the employer within a reasonable time  
16 after first being treated. Notice of a change in the attending physi-  
17 cian shall be given before the change [IF FOR ANY REASON DURING THE  
18 PERIOD WHEN MEDICAL CARE IS REQUIRED THE EMPLOYEE WISHES TO CHANGE TO  
19 ANOTHER PHYSICIAN, THE EMPLOYEE MAY DO SO IN ACCORDANCE WITH REGU-  
20 LATIONS ADOPTED BY THE BOARD].

21 \* Sec. 9. AS 23.30.095(c) is amended to read:

22 (c) A claim for medical or surgical treatment is not valid and  
23 enforceable against the employer unless, within 14 days following  
24 treatment, the physician giving the treatment or the employee re-  
25 ceiving it furnishes to the employer and the board notice of the  
26 injury and treatment, preferably on a form prescribed by the board.  
27 The board shall, however, excuse the failure to furnish notice within  
28 14 days when it finds it to be in the interest of justice to do so,  
29 and it may, upon application by a party in interest, make an award for

WHO PAYS FOR ACUTE TREATMENT  
IF PLAN IS TURNED DOWN

1 the reasonable value of the medical or surgical treatment so obtained  
2 by the employee. A claim for a course of treatment requiring con-  
3 tinuing and multiple treatments of a similar nature is not valid  
4 unless the treatments are carried out under a written treatment plan  
5 prescribed before the commencement of treatment, completed and signed  
6 by the attending physician, and mailed to the employer within one week  
7 of the beginning of treatment. The treatment plan must include objec-  
8 tives, modalities, and frequency of treatment. [The initial treatment  
9 plan may not include more than 20 visits in the first 60 days. If  
10 more than 20 visits are required within the first 60 days, or more  
11 than four visits a month after the first 60 days, the physician shall  
12 document the need for services in excess of the guidelines in the  
13 written treatment plan.]

\* Sec. 10. AS 23.30.095(e) is amended to read:

15 (e) The employee shall, after an injury, at reasonable times  
16 during the continuance of the disability, if requested by the employer  
17 or when ordered by the board, submit to an examination by a physician  
18 or surgeon of the employer's choice [AUTHORIZED TO PRACTICE MEDICINE  
19 UNDER THE LAWS OF THE STATE IN WHICH THE EMPLOYEE MAY BE FOUND],  
20 furnished and paid for by the employer. An examination requested by  
21 the employer not less than 14 days after injury, and every 30 days  
22 thereafter, shall be presumed to be reasonable, and the employee shall  
23 submit to the examination without further request or order by the  
24 board. Facts relative to the injury or claim communicated to or  
25 otherwise learned by a physician or surgeon who may have attended or  
26 examined the employee, or who may have been present at an examination  
27 are not privileged, either in the hearings provided for in this chap-  
28 ter or an action to recover damages against an employer who is subject  
29 to the compensation provisions of this chapter. If an employee

WHAT  
DUE TO BE  
DETER - WHO  
DESINE  
VISIT

THAT  
VISITS TO  
THE PLAN  
THESE 2  
SENTENCES  
WHAT  
WARRANT

1 refuses to submit to an [ANY] examination provided for in this sec-  
2 tion, the employee's rights to compensation shall be suspended until  
3 the obstruction or refusal ceases, and the employee's compensation  
4 during the period of suspension may, in the discretion of the board or  
5 the court determining an action brought for the recovery of damages  
6 under this chapter, be forfeited. The board in any case of death may  
7 require an autopsy at the expense of the party requesting the autopsy.  
8 An autopsy may not be held without notice first being given to the  
9 widow or widower or next of kin if they reside in the state or their  
10 whereabouts can be reasonably ascertained, of the time and place of  
11 the autopsy and reasonable time and opportunity given the widow or  
12 widower or next of kin to have a representative present to witness the  
13 autopsy. If adequate notice is not given, the findings from the  
14 autopsy may be suppressed on motion made to the board or to the supe-  
15 rior court, as the case may be.

16 \* Sec. 11. AS 23.30.095(f) is amended to read:

17 (f) All fees and other charges for medical treatment or service  
18 [ARE LIMITED TO THE CHARGES THAT PREVAIL IN THE SAME COMMUNITY FOR  
19 SIMILAR TREATMENT OF INJURED PERSONS OF LIKE STANDARD OF LIVING AND]  
20 shall be subject to regulation by the board but may not exceed usual,  
21 customary, and reasonable fees for the treatment or service in the  
22 community in which it is rendered, as determined by the board.

23 \* Sec. 12. AS 23.30.095(j) is repealed and reenacted to read:

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

29 \* Sec. 13. AS 23.30.095 is amended by adding a new subsection to read:

CURRENTLY THE BOARD  
DOESN'T NEED TO BE 2 TIMES

EACH DISCIPLINE  
WILL BE REVIEWED  
BY THE SAME DISCIPLINE

IF IN GREAT MIND  
IS LIKELY

5/20/03  
LAWSON TOWN  
RELATIONSHIP  
TO THE TIME

1 (k) In the event of a medical dispute regarding determinations  
2 of causation, medical stability, degree of impairment, functional  
3 capacity, the amount and efficacy of the continuance of or necessity  
4 of treatment, or compensability between the employee's attending  
5 physician and the employer's independent medical evaluation, a second  
6 independent medical evaluation shall be conducted by a physician or  
7 physicians selected by the board from a list established and main-  
8 tained by the board. The cost of the examination and medical report  
9 shall be paid by the employer. The report of the independent medical  
10 examiner shall be furnished to the board and to the parties within 14  
11 days after the examination is concluded. The opinion of the indepen-  
12 dent medical examiner shall, in the absence of clear and convincing  
13 objective evidence to the contrary, be presumed to be correct. A  
14 person may not seek damages from an independent medical examiner  
15 caused by the rendering of an opinion or providing testimony under  
16 this subsection, except in the event of fraud.

\* Sec. 14. AS 23.30.105(a) is amended to read:

18 (a) The right to compensation for disability under this chapter  
19 is barred unless a claim for it is filed within two years after the  
20 employee has knowledge of the nature of the employee's disability and  
21 its relation to the employment and after disablement. However, the  
22 maximum time for filing the claim in any event other than arising out  
23 of an occupational disease shall be four years from the date of in-  
24 jury, and the right to compensation for death is barred unless a claim  
25 therefor is filed within one year after the death, except that if  
26 payment of compensation has been made without an award on account of  
27 the injury or death, a claim may be filed within two years after the  
28 date of the last payment of benefits under AS 23.30.180, 23.30.185,  
29 23.30.190, 23.30.200, or 23.30.215. It is additionally provided that,

1 in the case of latent defects pertinent to and causing compensable  
2 disability, the injured employee has full right to claim as shall be  
3 determined by the board, time limitations notwithstanding.

4 \* Sec. 15. AS 23.30.120 is amended by adding a new subsection to read:

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

8 \* Sec. 16. AS 23.30.125 is amended by adding a new subsection to read:

9 (f) Subject to an employer's or employee's burden of proof, a  
10 finding of fact made by the board as a part of a compensation order is  
11 conclusive if supported by any evidence.

12 \* Sec. 17. AS 23.30.130(a) is amended to read:

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

25 \* Sec. 18. AS 23.30.155(c) is amended to read:

26 (c) The employer shall notify the board and the employee on a  
27 form prescribed by the board that the payment of compensation has  
28 begun or has been increased, decreased, suspended, terminated, re-  
29 sumed, or changed in type. An initial report shall be filed with the

1 board and sent to the employee within 28 days after the date of issu-  
2 ing the first payment of compensation. If at any time 21 days or more  
3 pass and no compensation payment is issued, a report notifying the  
4 board and the employee of the termination or suspension of compen-  
5 sation shall be filed with the board and sent to the employee within  
6 28 days after the date the last compensation payment was issued. A  
7 report shall also be filed with the board and sent to the employee  
8 within 28 days after the date of issuing a payment increasing, de-  
9 creasing, resuming, or changing the type of compensation paid. If the  
10 employer fails to notify the board and the employee within the 28 days  
11 prescribed by this subsection for reporting, the employer shall pay a  
12 civil penalty of \$100 for the first day plus \$10 for each day there-  
13 after that the employer failed to give notice. Total penalties under  
14 this subsection [SECTION] may not exceed \$1,000 for a failure to file  
15 a required report. Penalties assessed under this subsection are  
16 eligible for reduction under (m) of this section.

17 \* Sec. 19. AS 23.30.155(d) is amended to read:

18 (d) If the employer controverts the right to compensation the  
19 employer shall file with the board and send to the employee a notice  
20 of controversion on or before the 21st day after the employer has  
21 knowledge of the alleged injury or death. If the employer controverts  
22 the right to compensation after payments have begun, the employer  
23 shall file with the board and send to the employee a notice of con-  
24 troversion within seven days after an installment of compensation  
25 payable without an award is due. When payment of temporary disability  
26 benefits is controverted solely on the grounds that another employer  
27 or another insurer of the same employer may be responsible for all or  
28 a portion of the benefits, the most recent employer or insurer who is  
29 party to the claim and who may be liable shall make the payments

1 during the pendency of the dispute. When a final determination of  
2 liability is made, any reimbursement required, including interest at  
3 the statutory rate, and all costs and attorneys' fees incurred by the  
4 prevailing employer, shall be made within 14 days of the determina-  
5 tion.

6 \* Sec. 20. AS 23.30.155(m) is repealed and reenacted to read:

7 (m) By March 1 of each year the employer shall file a verified  
8 annual report on a form prescribed by the board stating the total  
9 amount of all compensation by type, medical, and related benefits,  
10 vocational rehabilitation expenses, legal fees, and penalties paid on  
11 all claims during the preceding calendar year. If the annual report  
12 is timely and complete when received by the board and provides accu-  
13 rate information about each category of payments, the commissioner  
14 shall review the timeliness of the employer's reports filed under (c)  
15 of this section. If the employer filed at least 99 percent of the  
16 reports on time, the penalties assessed under (c) of this section  
17 shall be waived. If the employer filed at least 97 percent of the  
18 reports on time, 75 percent of the penalties assessed under (c) of  
19 this section shall be waived. If the employer filed 95 percent of the  
20 reports on time, 50 percent of the penalties assessed under (c) of  
21 this section shall be waived. If the employer's reports have not been  
22 filed on time at least 95 percent of the time, none of the penalties  
23 assessed under (c) of this section shall be waived. The penalties  
24 that are not waived are due and payable when the employer receives  
25 notification from the commissioner regarding the timeliness of the  
26 reports.

27 \* Sec. 21. AS 23.30.175 is repealed and reenacted to read:

28 Sec. 23.30.175. RATES OF COMPENSATIO\*. (a) The weekly rate of  
29 compensation for disability or death for a recipient residing in the

1 state may not exceed \$700 and initially may not be less than \$110.  
2 However, if the board determines that the employee's spendable weekly  
3 wages are less than \$110 a week as computed under AS 23.30.220, or  
4 less than \$154 a week in the case of an employee who has furnished  
5 documentary proof of the employee's wages, it shall issue an order  
6 adjusting the weekly rate of compensation to a rate equal to the  
7 employee's spendable weekly wages. If the employee's spendable weekly  
8 wages are greater than \$154, but 80 percent of the employee's spend-  
9 able weekly wages is less than \$154, the employee's weekly rate of  
10 compensation shall be \$154. Prior payments made in excess of the  
11 adjusted rate shall be deducted from the unpaid compensation in the  
12 manner the board determines. In any case, the employer shall pay  
13 timely compensation.

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

17 (1) the weekly rate of compensation shall be calculated by  
18 multiplying the recipient's weekly compensation rate calculated under  
19 AS 23.30.180, 23.30.185, 23.30.190, 23.30.200, or 23.30.215, by the  
20 ratio of the cost of living of the locality in which the recipient  
21 resides to the cost of living of the state;

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

25 (3) if the average weekly wage of the recipient and the  
26 resulting compensation rate is determined under AS 23.30.220(a)(2),  
27 the calculation required by this subsection applies only to the por-  
28 tion of the recipient's weekly compensation rate attributable to wages  
29 earned in the state;

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

4           (c) The board shall provide by regulation for the determination  
5 of living costs for the state and other localities in which recipients  
6 reside and for the annual redetermination of these costs.

7 \* Sec. 22. AS 23.30.180 is amended to read:

8           Sec. 23.30.180. PERMANENT TOTAL DISABILITY. In case of total  
9 disability adjudged to be permanent 80 percent of the injured em-  
10 ployee's spendable weekly wages shall be paid to the employee during  
11 the continuance of the total disability. Loss of both hands, or both  
12 arms, or both feet, or both legs, or both eyes, or of any two of them,  
13 in the absence of conclusive proof to the contrary, constitutes perma-  
14 nent total disability. In all other cases permanent total disability  
15 is determined in accordance with the facts. In making this determina-  
16 tion the market for the employee's services shall be

17           (1) area of residence;

18           (2) area of last employment; and

19           (3) the state.

20 \* Sec. 23. AS 23.30.180 is amended by adding a new subsection to read:

21           (b) Failure to achieve remunerative employability as defined in  
22 AS 23.30.041(m)(7) does not, by itself, constitute permanent total  
23 disability.

24 \* Sec. 24. AS 23.30.185 is amended to read:

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

1 occurring after the date of medical stability. Temporary total dis-  
2 ability benefits may not be paid for more than two years regardless of  
3 continuance of the disability.

4 \* Sec. 25. AS 23.30.190 is repealed and reenacted to read:

5 Sec. 23.30.190. COMPENSATION FOR PERMANENT PARTIAL IMPAIRMENT.

6 (a) In case of impairment partial in character but permanent in  
7 quality, and not resulting in permanent total disability, the compen-  
8 sation is \$240,000 multiplied by the employee's percentage of net  
9 permanent impairment of the whole person, and payable in a single lump  
10 sum, except as otherwise provided in AS 23.30.041, but the compensa-  
11 tion may not be discounted for any present value considerations. Net  
12 permanent impairment is to be determined by multiplying the employee's  
13 actual degree of permanent impairment by the appropriate adjustment  
14 factor, as follows:

15	Degree of Actual Impairment	Adjustment Factor
16	0 - 5 percent	0
17	6 - 10 percent	0.2
18	11 - 15 percent	0.4
19	16 - 20 percent	0.6
20	21 - 25 percent	0.7
21	26 - 30 percent	0.8
22	31 percent and greater	1.0

23 (b) All determinations of the existence and degree of permanent  
24 impairment shall be made strictly and solely under the whole person  
25 determination as set out in the American Medical Association Guides to  
26 the Evaluation of Permanent Impairment, except that an impairment  
27 rating may not be rounded to the next five percent. The board may  
28 adopt and use a supplemental schedule only for injuries that cannot be  
29 rated by the use of American Medical Association guidelines.

1 (c) An employee with an actual permanent impairment as deter-  
2 mined under (b) of this section may not receive less than \$250 for the  
3 impairment.

4 (d) The impairment rating determined under (a) of this section  
5 shall be reduced by a permanent impairment that existed before the  
6 compensable injury. If the combination of a prior impairment rating  
7 and a rating under (a) of this section would result in the employee  
8 being considered permanently totally disabled, the prior rating does  
9 not negate a finding of permanent total disability.

10 \* Sec. 26. AS 23.30.200 is amended to read:

11 Sec. 23.30.200. TEMPORARY PARTIAL DISABILITY. In case of tempo-  
12 rary partial disability resulting in decrease of earning capacity the  
13 compensation shall be 80 percent of the difference between the injured  
14 employee's spendable weekly wages before the injury and the wage-  
15 earning capacity of the employee after the injury in the same or  
16 another employment, to be paid during the continuance of the disabili-  
17 ty, but not to be paid for more than two [FIVE] years. Temporary  
18 partial disability benefits may not be paid for a period of disability  
19 occurring after the date of medical stability, unless otherwise pro-  
20 vided under AS 23.30.041.

21 \* Sec. 27. AS 23.30.200 is amended by adding a new subsection to read:

22 (b) The wage-earning capacity of an injured employee is deter-  
23 mined by the actual spendable weekly wage of the employee if the  
24 actual spendable weekly wage fairly and reasonably represents the  
25 wage-earning capacity of the employee. The board may, in the interest  
26 of justice, fix the wage-earning capacity that is reasonable, having  
27 due regard to the nature of the injury, the degree of physical impair-  
28 ment, the usual employment, and other factors or circumstances in the  
29 case that may affect the capacity of the employee to earn wages in a

1 disabled condition, including the effect of disability as it may  
2 naturally extend into the future.

3 \* Sec. 28. AS 23.30.220(a) is amended to read:

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

8 (1) The gross weekly earnings are computed by dividing by  
9 100 the gross earnings of the employee in the two calendar years  
10 immediately preceding the injury.

11 (2) If the employee had no earnings during the two calendar  
12 years preceding the injury or was voluntarily absent from the labor  
13 market for 18 months or more of the two calendar years preceding the  
14 injury [THE BOARD DETERMINES THAT THE GROSS WEEKLY EARNINGS AT THE  
15 TIME OF THE INJURY CANNOT BE FAIRLY CALCULATED UNDER (1) OF THIS  
16 SUBSECTION], the board shall [MAY] determine the employee's gross  
17 weekly earnings for calculating compensation by considering the nature  
18 of the employee's work and work history, but compensation may not  
19 exceed the employee's earnings at the time of injury.

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

25 (4) If the employee is injured while performing duties as a  
26 volunteer ambulance attendant, policeman, or fireman, the gross weekly  
27 earnings for calculating compensation shall be the minimum gross  
28 weekly earnings paid a full-time ambulance attendant, policeman, or  
29 fireman employed in the political subdivision where the injury

1 occurred, or, if the political subdivision has no full-time ambulance  
2 attendants, policemen, or firemen, at a reasonable figure previously  
3 set by the political subdivision to make this determination but in no  
4 case may the gross weekly earnings for calculating compensation be  
5 less than the minimum wage computed on the basis of 40 hours work per  
6 week.

7 \* Sec. 29. AS 23.30.225 is amended by adding a new subsection to read:

8 (c) If employer contributions to a qualified pension or profit  
9 sharing plan have been included in the determination of gross earnings  
10 and the employee is receiving pension or profit sharing payments,  
11 weekly compensation benefits payable under this chapter shall be  
12 reduced by the amount paid or payable to the injured worker under the  
13 plan for any week or weeks during which compensation benefits are also  
14 payable. The amount of the reduction may not in any week exceed the  
15 increase in weekly compensation benefits brought about by the inclu-  
16 sion of employer contributions to a qualified pension or profit shar-  
17 ing plan in the determination of gross earnings.

18 \* Sec. 30. AS 23.30 is amended by adding a new section to read:

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

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

1 (c) This section may not be construed to prohibit an employer  
2 from requiring a prospective employee to fill out a preemployment  
3 questionnaire or application regarding the person's prior health or  
4 disability history as long as it is meant to either document written  
5 notice for second injury fund reimbursement under AS 23.30.295(c) or  
6 to determine whether the employee has the physical or mental capacity  
7 to meet the documented physical or mental demands of the work.

8 \* Sec. 31. AS 23.30.265(15) is amended to read:

9 (15) "gross earnings" means periodic payments, by an em-  
10 ployer to an employee for employment before any authorized or lawfully  
11 required deduction or withholding of money by the employer, including  
12 compensation that is deferred at the option of the employee, and  
13 excluding irregular bonuses, reimbursement of expenses, expense allow-  
14 ances, and any benefit or payment to the employee that is not fully  
15 taxable to the employee during the pay period, except that the total  
16 amount of contributions made by an employer to a qualified pension or  
17 profit sharing plan during the two plan years preceding the injury,  
18 multiplied by the percentage of the employee's vested interest in the  
19 plan at the time of injury, shall be included in the determination of  
20 gross earnings; the value of room and board if taxable to the employee  
21 may be considered in determining gross earnings; however, the value of  
22 room and board that would raise an employee's gross weekly earning  
23 above the state [ALASKA] average weekly wage at the time of injury may  
24 not be considered;

25 \* Sec. 32. AS 23.30.265(17) is amended to read:

26 (17) "injury" means accidental injury or death arising out  
27 of and in the course of employment, and an occupational disease or  
28 infection which arises naturally out of the employment or which natu-  
29 rally or unavoidably results from an accidental injury; "injury" [,

1 AND] includes breakage or damage to eyeglasses, hearing aids, den-  
2 tures, or any prosthetic devices which function as part of the body  
3 and further includes an injury caused by the wilful act of a third  
4 person directed against an employee because of the employment: "in-  
5 jury" does not include mental injury caused by mental stress unless it  
6 is established that (A) the work stress was extraordinary and unusual  
7 in comparison to pressures and tensions experienced by individuals in  
8 a comparable work environment, and (B) the work stress was the predom-  
9 inant cause of the mental injury; the amount of work stress shall be  
10 measured by actual events rather than misperceptions by the employee;  
11 a mental injury is not considered to arise out of and in the course of  
12 employment if it results from a disciplinary action, work evaluation,  
13 job transfer, layoff, demotion, termination or similar action, taken  
14 in good faith by the employer;

15 \* Sec. 33. AS 23.30.265 is amended by adding a new paragraph to read:

16 (34) "medical stability" means the date after which further  
17 objectively measurable improvement from the effects of the compensable  
18 injury is not reasonably expected to result from additional medical  
19 care or treatment, notwithstanding the possible need for additional  
20 medical care or the possibility of improvement or deterioration re-  
21 sulting from the passage of time; medical stability shall be presumed  
22 in the absence of objectively measurable improvement for a period of  
23 45 days; this presumption may be rebutted by clear and convincing  
24 evidence.

25 \* Sec. 34. AS 23.30.210 is repealed.

26 \* Sec. 35. TRANSITIONAL PROVISIONS. Notwithstanding AS 23.30.040(b),  
27 as amended by sec. 5 of this Act, and AS 23.30.155(m), as amended by sec.  
28 20 of this Act, on or before March 1, 1989, each employer that is subject  
29 to those sections shall file a report and make the appropriate contribution

CHRONIC  
PAIN  
V/ NO  
APPARENT  
REASON

1 for all claims existing as of December 31, 1988. The period covered in the  
2 report shall be from the date of the termination report or the last an-  
3 niversary report filed, if one has been filed, through December 31, 1988.

4 \* Sec. 36. APPLICABILITY. This Act applies only to injuries sustained  
5 on or after July 1, 1988.

6 \* Sec. 37. This Act takes effect July 1, 1988.

\* Sec. 3. AS 23.30.005 is amended by adding a new subsection to read:

(m) If a regulation adopted by the department and approved by a majority of the full board is determined to be invalid by the state supreme court, the department may adopt new regulations that conform to the department's statutory authority as interpreted by the court. These new regulations shall apply both retrospectively and prospectively.

\* Sec. 5. AS 23.30.041 is repealed and reenacted to read:

Sec. 23.30.041. REHABILITATION OF INJURED WORKERS. (a) The board shall select and employ a reemployment services administrator. The board may authorize the reemployment services administrator to select and employ additional staff. The reemployment services administrator is in the partially exempt service under AS 39.25.120.

(b) The reemployment services administrator shall perform the following functions:

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

(2) recommend regulations for adoption by the board that establish performance and reporting criteria for rehabilitation specialists;

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

(4) review on an annual basis the performance of rehabilitation specialists to determine continued eligibility for delivery of rehabilitation services;

(5) submit to the Department of Labor on or before January 1 of each year, a report of reemployment benefits provided under this

*REV. 2/8/88*

section for the previous fiscal year; the report must include a statistical summary of all rehabilitation cases, including

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

(B) the estimated and actual time of each rehabilitation plan;

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

(D) the cost of reemployment preparation services;

(6) maintain a list of rehabilitation specialists meeting the qualifications established in this section;

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

(c) If an employee suffers a compensable injury that may permanently preclude an employee's return to the employee's occupation at the time of injury, the employee or employer may request an eligibility evaluation for reemployment benefits. The employee must request an eligibility evaluation within 90 days after the employee gives the employer a notice of injury unless the reemployment services administrator determines the employee has unusual and extenuating physical limitations that prevent the employee from making a timely request. The reemployment services administrator shall, on a rotating and geographic basis, select a rehabilitation specialist from the list maintained under (b)(6) of this section to perform the eligibility evaluation.

(d) Within thirty days after the referral by the administrator, the rehabilitation specialist shall perform the eligibility evaluation and issue a report of findings. The reemployment services administrator may grant up to an additional 30 days for performance of the eligibility evaluation upon notification of unusual and extenuating circumstances and the rehabilitation specialist's request. Within 14 days after receipt of the report from the rehabilitation specialist, the reemployment services administrator will notify the parties of the employee's eligibility for reemployment preparation services. Within 10 days after the decision, either party may seek review of the decision by requesting a hearing under AS 23.30.110. The hearing shall be held within 30 days after it is requested. The board shall uphold the decision of the administrator except for abuse of discretion on the administrator's part.

(e) An employee shall be eligible for benefits under this section upon the employee's written request and by having a physician predict that the employee has permanent physical capacities that are less than the physical demands of the employee's job as described in the United States Department of Labor's "Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles" for

- (1) the employee's job at the time of injury; and
- (2) other jobs that exist in the labor market that the employee has held or received training for within 10 years before the injury or that the employee has held following the injury for a period long enough to obtain the skills to compete in the labor market, according to specific vocational preparation codes as described in the dictionary of occupational titles.

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

(1) the employer offers employment within the employee's predicted post-injury physical capacities at a wage equivalent to at least 60% of the employee's gross hourly wages at the time of injury and the employment prepares the employee to be employable in other jobs that exist in the labor market;

(2) the employee has been previously rehabilitated in a former workers' compensation claim and returned to work in the same or similar occupation, in terms of physical demands, as the employee held at the time of the prior injury; or

(3) at the time of medical stability no permanent impairment is identified or expected.

(g) Within 10 days after the employee receives the reemployment services administrator's notification of eligibility for services, the employee shall notify the employer in writing of his selection of a rehabilitation specialist who shall provide a complete reemployment services plan. If the employer disagrees with the employee's choice of rehabilitation specialist to develop the plan and the disagreement cannot be resolved, then the reemployment services administrator shall assign a rehabilitation specialist. The employer and employee each have one right of refusal of a rehabilitation specialist.

(h) Within 90 days after the rehabilitation specialist's selection in (g) of this section, a reemployment plan must be formulated and approved. The reemployment plan must contain at least the following:

- (1) an occupational goal in the labor market;
- (2) a plan to acquire the occupational skills to be employable;

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

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

(5) the date the plan will commence; and

(6) the estimated time of medical stability as predicted by the physician.

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

(1) on the job training;

(2) vocational training;

(3) academic training;

(4) self-employment; or

(5) a combination of (1) - (4) of this subsection.

(j) The employee, rehabilitation specialist, and the employer shall sign the reemployment services plan. If the employer and employee fail to agree on a reemployment plan, either party may submit a reemployment plan for approval to the reemployment services administrator; the reemployment services administrator shall approve or deny a plan within 14 days after the plan is submitted. Within 10 days after the administrator files the decision, either party may seek review of the decision by requesting a hearing under AS 23.30.110. The standards and time periods allowed for review are the same as those in (d) of this section.

(k) Benefits related to the reemployment plan may not extend beyond two years from the date of plan acceptance or approval, at which time benefits expire. If an employee reaches medical stability before completion of the plan, temporary total disability benefits

shall cease and permanent impairment benefits shall then be paid at the employee's temporary total disability rate. If the employee's permanent impairment benefits are exhausted before the completion or termination of the reemployment plan, the employer shall provide wages equal to 60% of the employee's spendable weekly wages but not to exceed \$525, until the completion or termination of the plan. A permanent impairment benefit remaining unpaid upon the completion or termination of the plan shall be paid to the employee in a single lump sum. The fees of the rehabilitation specialist or rehabilitation professional shall be paid by the employer and may not be included in determining the cost of the reemployment plan.

(l) The cost of the reemployment plan, not including the fees of the rehabilitation specialist or the benefits provided in (l) of this section, shall be the responsibility of the employer, but may not exceed \$10,000.

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

(n) After the employee has elected to participate in reemployment benefits, noncooperation by the employee shall result in the termination of reemployment benefits on the date of noncooperation. Noncooperation means but shall not be limited to, failure to

- (1) keep appointments;
- (2) maintain at least average grades;
- (3) attend designated programs;
- (4) maintain contact with the rehabilitation specialist;

(5) cooperate with the rehabilitation specialist in developing a reemployment plan and participating in activities relating to reemployment of a full-time basis;

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

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

If the employer believes the employee has not cooperated, it may terminate reemployment services and wages under (1) of this section. However, upon the request of either party, the reemployment services administrator shall decide whether the employee cooperated. A hearing before the administrator shall be held within 30 days after it is requested. The administrator shall issue a decision within 14 days after the hearing. Within 10 days after the administrator files the decision, either party may seek review of the decision by requesting a hearing under AS 23.30.110. The standards and time periods allowed for review are the same as those in (d) of this section.

(o) In this section

(1) "employability" means possessing the ability but not necessarily the opportunity to engage in employment that is consistent with the employee's physical limitations resulting from the compensable injury.

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

- (A) area of residence;
- (B) area of last employment;
- (C) the state;
- (D) other states.

(3) "physical capacities" means objective and measurable physical traits such as ability to lift and carry, walk, stand or sit, push, pull, climb, balance, stoop, kneel, crouch, crawl, reach, handle, finger, feel, talk, hear, or see.

(4) "physical demands" means the physical requirements of the job such as strength, including positions such as standing, walking, sitting, and movement of objects such as lifting, carrying, pushing, pulling, climbing, balancing, stooping, kneeling, crouching, crawling, reaching, handling, fingering, feeling, talking, hearing, or seeing.

(5) "rehabilitation specialist" means a person who is a certified insurance rehabilitation specialist, a certified rehabilitation counselor or a person who has equivalent or better qualifications as determined under regulations adopted by the department.

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

\*Section 18. AS 23.30.155(c) is amended to read:

(c) The carrier or independent adjuster [EMPLOYER] shall notify the board and the employee on a form prescribed by the board that the payment of compensation has begun or has been increased, decreased, suspended, terminated, resumed, or changed in type. An initial report shall be filed with the board and sent to the employee within 28 days

after the date of issuing the first payment of compensation. If at any time 21 days or more pass and no compensation payment is issued, a report notifying the board and the employee of the termination or suspension of compensation shall be filed with the board and sent to the employee within 28 days after the date the last compensation payment was issued. A report shall also be filed with the board and sent to the employee within 28 days after the date of issuing a payment increasing, decreasing, resuming, or changing the type of compensation paid. If the [EMPLOYER FAILS TO NOTIFY THE] board and the employee are not notified with the 28 days prescribed by this subsection for reporting, the carrier or independent adjuster [EMPLOYER] shall pay a civil penalty of \$100 for the first day plus \$10 for each day thereafter that [THE EMPLOYER FAILED TO GIVE] notice was not given. Total penalties under this subsection [SECTION] may not exceed \$1,000 for a failure to file a required report. Penalties assessed under this subsection are due and payable and eligible for reduction under (m) of this section.

\*Section 20. AS 23.30.155(m) is repealed and reenacted to read:

(1) On or before March 1 of each year the carrier or independent adjuster shall file a verified annual report on a form prescribed by the board stating the total amount of all compensation by type, medical and related benefits, vocational rehabilitation expenses, legal fees and penalties paid on all claims during the preceding calendar year.

(2) If the annual report is timely and complete when received by the board and provides accurate information about each category of payments, the commissioner or his designee shall review the timeliness of the carrier or independent adjuster's reports filed during the

preceding year as required by (c) of this section. If the carrier or independent adjuster timely filed at least 99% of the reports for the preceding year, the penalties assessed under (c) of this section shall be waived. If the carrier or independent adjuster timely filed at least 97% of the reports for the preceding year, 75% of the penalties assessed under (c) of this section shall be waived. If the carrier or independent adjuster timely filed 95% of the reports for the preceding year, 50% of the penalties assessed under (c) of this section shall be waived. If the carrier or independent adjuster's reports for the preceding year were not timely filed at least 95% of the time, none of the penalties assessed under (c) of this section shall be waived. The penalties that are not waived shall be due and payable within 28 days after the Commissioner of Labor mails the notice of the penalties due.

(3) If the annual report is not filed by March 1 of each year, the carrier or independent adjuster shall pay a civil penalty of \$100 for the first day plus \$10 for each day thereafter.

(4) If the payment under (2) of this subsection is not paid timely, the carrier or independent adjuster shall pay a civil penalty of 20% of the penalties due plus interest at the rate prescribed by AS 45.45.010.

\*Section 21. AS 23.30.155 is amended by adding a new subsection to read:

(n) If the employer does not have a carrier or independent adjuster, (c) and (m) of this section apply to the employer.

NOTE: ALL SUBSEQUENT SECTIONS SHOULD BE RENUMBERED.

John D. Herring  
6939 Gemini  
Anchorage, Ak.  
99504

January 16, 1988

Senator Tim Kelly  
P.O. Box V  
Juneau, Ak. 99811

Attention : Senator Kelly

Subject : Response to Workers Compensation Letter

Dear Senator Kelly,

This letter responds to your information letter on the subject.

In my opinion and experience :

General :

1. People respond to imposed systems to maximize benefits to themselves ;

2. Governments efforts and programs are always subverted by a majority of its recipients consistent with maximization of benefits to themselves ;

3. Bureaucracies operated by the State of Alaska lack the ability to objectively serve the clientele requiring their services. Dealing with State Welfare agencies is degrading, humiliating, frustrating and dehumanizing experience. A minimum amount of exposure should be necessary for any program you are currently considering.

4. Rehabilitation Services are needed in many cases but most of the time people are merely going through steps to achieve maximum benefits from the system ; Avoid creating a system that requires those seeking "Workmans' Comp." to needlessly waste the State's resourses.

5. Benefits paid by any welfare system should be "life sustaining" only; once a person is on the system they should continue without bureaucratic checking, discontinuities and meddling, thus preserving the individuals self respect. Set time limits and schedules of payments consistent with minimum survival in the least expensive location in America.

6. Build in mandatory delays for all benefits when legal remedies are sought. Assure that legal cost are subtracted from money due any Workmans' Comp. recipient.

### Vocational Rehabilitation Services :

1. Most injuries do not require nor benefit from Vocational Rehab. services. It should be strictly optional and requested.
2. It should never be part of the system to get Workmans' Comp. benefits.
3. Rehabilitation services should be continued as long as an individual is benefiting from the service. Investing in Human beings is the best use of State's funds.
4. The goals of the administrators should be to build and maintain an individuals self respect, as well as to build meaningful skills.

### Medical :

1. The state should have a medical doctor ( IME )
2. Set maximum dollar values allowed to correct any injury or loss of limb. Give the Workmans' Comp. recipient that amount and let he or she do what they want with the money. Never try to set standards of medical service, number of visits, number of doctors or anything that degrades the "human spirit".

### Compensation :

1. The sum of \$2,500 per month should never be exceeded. Also avoid setting class distinction for skill classes. The payment of \$1,100.00 per week is ludicrous and represents an unnecessary incentive to join the Workmans' Comp. system.
2. Lower the minimum to \$100.00 per month for some classes of injuries.
3. Create a board to investigate accidents. When unnecessary risks were required by any employer then set up an additional process to go after the employer for compensation.

### Other :

1. Disallow all claims for mental injury. Such claims should be settled in a civil court between the employer and employee. The state should request Federal support to allow OSHA to investigate working conditions which lead to mental breakdown and determine if federal guidelines can assist in the evaluation of risk in the work place.
2. Employers should never be prevented from evaluating the possibility that a prospective employee may wish to place himself in a position to again receive an injury and again bilk the system.

In Conclusion :

- Tim, I believe that you have a tough job ahead and hope you refuse to pass restrictive legislation which will act to increase the power of bureaucrats over needy people. I hope you respond to this crisis of escalating Workmans' Comp. insurance cost in such a manner that will make it less lucrative. I hope you leave needy individuals in a position to maintain their self respect and in a position to respect the State of Alaska and its Policies.

I look forward to seeing you again soon.

Respectfully yours,

*John D. Herring*  
John D. Herring



**Cominco Alaska**

*A Subsidiary of Cominco American Incorporated*

Senator Tim Kelly  
Chairman  
Senate Labor & Commerce Committee  
Alaska State Legislature  
P. O. Box V  
Juneau, Alaska 99811

February 18, 1988

Dear Senator Kelly:

We wish to notify you of our support of the efforts both you and your committee are putting into the Workers' Compensation legislation this session. Workers' Compensation rates are now a major crisis.

It will clearly be difficult to withstand pressures to alter the original bill as different interest groups seek to protect their particular niche in the system.

We understand the chiropractic profession is now making just such an organized attempt to pressure the Committee to make changes in the bill changes which we understand not to be at all of concern to a legitimate chiropractic doctor. The current visitation language, for example, seems to adequately handle unusual chiropractic requirements with the provision that excess visitations simply require written justification by the physician.

We urge you not to waiver under pressure from groups such as this. Our only hope of any rate decrease this year is to adhere as closely as possible to the work accomplished by the joint task force.

Thank you for your efforts.

Sincerely,

A handwritten signature in cursive script that reads "W. R. Hargrave".

W. R. Hargrave  
President

WRH:fr