

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9364 HOUSE LABOR & COMMERCE

**S B**

**3 3 4**

FISCAL NOTE

No. 11

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

B Bill Version: CSSB 334(FIN)  
(S) Publish Date: 4-2-98

Revision Date: \_\_\_\_\_  
Title: "An Act relating to guidelines and standards for state training programs; and relating to AHRIC"  
Sponsor: Senate Finance Committee  
Requester: Senate Finance Committee

Dept. Affected: Health & Social Services  
BRU: Public Assistance Admin  
Component: Alaska Work Programs  
Component Serial No. 238

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	0.0					
Travel	0.0					
Contractual	0.0					
Supplies	0.0					
Equipment	0.0					
Land & Structures	0.0					
Grants & Claims	0.0					
Miscellaneous	0.0					
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0					
1003 GF Match	0.0					
1004 GF	0.0					
1005 GF/Program Receipts	0.0					
1037 GF/Mental Health	0.0					
1091 Designated Program Receipts	0.0					
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost: 0.0


POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of CSSB 334(FIN) does not require an additional appropriation. AS 44.19.626(j) authorizes a payment of a management assessment fee, not to exceed 0.75 percent of the annual operating budget for this component, to the Alaska Human Resources Investment Council.

Prepared By: SENATE FINANCE COMMITTEE

  
SENATOR DRUE PEARCE, CO-CHAIR

Date: 04/01/98  
Phone: 465-4993

  
SENATOR BERT SHARP, CO-CHAIR

Date: 04/01/98  
Phone: 465-3004

FISCAL NOTE

No. 10

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

B Bill Version: CSSB 334 (FIN)

(S) Publish Date: 4-2-98

Revisior. Date: \_\_\_\_\_

Title: "An Act relating to guidelines and standards for state training programs; and relating to AHRIC"

Sponsor: Senate Finance Committee

Requester: Senate Finance Committee

Dept. Affected Education

BRU Teaching & Learning Support

Component Education Special Projects

Component Serial No. 173

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	0.0					
Travel	0.0					
Contractual	0.0					
Supplies	0.0					
Equipment	0.0					
Land & Structures	0.0					
Grants & Claims	0.0					
Miscellaneous	0.0					
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES [ ]						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts	0.0					
1003 GF Match	0.0					
1004 GF	0.0					
1005 GF/Program Receipts	0.0					
1037 GF/Mental Health	0.0					
1091 Designated Program Receipts	0.0					
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost: 0.0

POSITIONS

Full-time	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of CSSB 334(FIN) does not require an additional appropriation. AS 44.19.626(j) authorizes a payment of a management assessment fee, not to exceed 0.75 percent of the annual operating budget for this component, to the Alaska Human Resources Investment Council.

Prepared By: SENATE FINANCE COMMITTEE

  
SENATOR DRUE PEARCE, CO-CHAIR

Date: 04/01/98  
Phone: 465-4993

  
SENATOR BERT SHARP, CO-CHAIR

Date: 04/01/98  
Phone: 465-3004

FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

No. 9

B Bill Version: CSSB 334 (FIN)

(S) Publish Date: 4-2-98

Revision Date: \_\_\_\_\_

Title: "An Act relating to guidelines and standards for state training programs; and relating to AHRIC"

Sponsor: Senate Finance Committee

Requester: Senate Finance Committee

Dept. Affected Education

BRU Teaching & Learning Support

Component Special & Supplemental Services

Component Serial No. 166

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	0.0					
Travel	0.0					
Contractual	0.0					
Supplies	0.0					
Equipment	0.0					
Land & Structures	0.0					
Grants & Claims	0.0					
Miscellaneous	0.0					
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES [ ]						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0					
1003 GF Match	0.0					
1004 GF	0.0					
1005 GF/Program Receipts	0.0					
1037 GF/Mental Health	0.0					
1091 Designated Program Receipts	0.0					
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS:


(Attach a separate page if necessary)

Passage of CSSB 334(FIN) does not require an additional appropriation. AS 44.19.626(j) authorizes a payment of a management assessment fee, not to exceed 0.75 percent of the annual operating budget for this component, to the Alaska Human Resources Investment Council.

Prepared By: SENATE FINANCE COMMITTEE

  
SENATOR IRENE PEARCE, CO-CHAIR

Date: 04/01/98  
Phone: 465-4993

  
SENATOR BERT SHARP, CO-CHAIR

Date: 04/01/98  
Phone: 465-3004

FISCAL NOTE

No. 8

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

B Bill Version: CSSB 334 (FIN)

(S) Publish Date: 4-2-98

Revision Date: \_\_\_\_\_  
Title: "An Act relating to guidelines and standards for state training programs; and relating to AHRIC"  
Sponsor: Senate Finance Committee  
Requester: Senate Finance Committee

Dept. Affected Education  
BRU Teaching & Learning Support  
Component Quality Schools

Component Serial No. 2147

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	0.0					
Travel	0.0					
Contractual	0.0					
Supplies	0.0					
Equipment	0.0					
Land & Structures	0.0					
Grants & Claims	0.0					
Miscellaneous	0.0					
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES [ ]</b>						
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**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts	0.0					
1003 GF Match	0.0					
1004 GF	0.0					
1005 GF/Program Receipts	0.0					
1037 GF/Mental Health	0.0					
1091 Designated Program Receipts	0.0					
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost: 0.0


**POSITIONS**

Full-time	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Part-time						
Temporary						


ANALYSIS: *(Attach a separate page if necessary)*

Passage of CSSB 334(FIN) does not require an additional appropriation. AS 44.19.626(j) authorizes a payment of a management assessment fee, not to exceed 0.75 percent of the annual operating budget for this component, to the Alaska Human Resources Investment Council.

Prepared By: SENATE FINANCE COMMITTEE

  
SENATOR DRUE PEARCE, CO-CHAIR

Date: 04/01/98  
Phone: 465-4993

  
SENATOR BERT SHARP, CO-CHAIR

Date: 04/01/98  
Phone: 465-3004

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

No. 7  
Bill Version: CS SB334(FIN)  
(S) Publish Date: 4/1/98

Revision Date: \_\_\_\_\_  
Title: State Training Programs/  
Human Resource Council  
Sponsor: Senate Finance  
Requestor: Senate Finance

Department Affected: Labor  
BRU: Administrative Services  
Component: \_\_\_\_\_  
Labor Market Information  
COMPONENT SERIAL NO. 336

**EXPENDITURES/REVENUES:**

(Thousands of Dollars)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	336.0	336.0	336.0	336.0	336.0	336.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	98.0	98.0	98.0	98.0	98.0	98.0
SUPPLIES	4.0	4.0	4.0	4.0	4.0	4.0
EQUIPMENT	9.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>447.0</b>	<b>438.0</b>	<b>438.0</b>	<b>438.0</b>	<b>438.0</b>	<b>438.0</b>

<b>CAPITAL</b>						
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<b>CHANGE IN REVENUE FUND SOURCE #</b>						
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**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
1007 Interagency Receipts	447.0	438.0	438.0	438.0	438.0	438.0
<b>TOTAL</b>	<b>447.0</b>	<b>438.0</b>	<b>438.0</b>	<b>438.0</b>	<b>438.0</b>	<b>438.0</b>

**POSITIONS:**

FULL-TIME	3.0	3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

Estimate of current year (FY98) impact: \$ none

**ANALYSIS:** (Attach a separate page if necessary)

(See attached)

Prepared by: Arbe Williams, Director

Division: Administrative Services Division

Phone: 465-2720

Date: 3/30/98

Approved by Commissioner: Tom Cashan, Commissioner

Agency: Department of Labor

Date: 3/30/98

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SB334  
#7

## FISCAL NOTE ANALYSIS CSSB 334(FIN)

The \$447.0 includes \$202.0 which currently appears in the component's FY99 operating budget request as Inter-Agency receipts from the STEP component to maintain the Occupational Database (ODB) and to produce the annual STEP program evaluation report. The ODB file is the source for matching programs' participants to employment and earnings after training. There would be no additional cost to maintain this database by the passage of SB334. In fact, the cost to each program would decline as more programs were evaluated using this file.

The additional \$245.0 is necessary for the preparation of the statistical information necessary for the council to evaluate all included programs by the standards set out in section 10(e). As Research and Analysis has been involved in wage record matching for many years, the processes and procedures needed to address section 10(e) paragraphs 1, 2, and 3 are in place. An additional position, at a cost of \$82.5, would be added in order to meet the provisions of paragraphs 1, 2 and 3.

Section 10(e) paragraphs 4 and 5 will require direct contact with employers and program participants. It is anticipated that either a telephone or mail survey will be necessary. This type of data collection is labor intensive. It is anticipated that \$162.5 will be needed for this survey and analysis work.

Additional staff will include one labor economist and two statistical clerks. The labor economist will be responsible for data file matching, survey sample design, and statistical analysis. Two statistical clerks will be needed for survey data collection and data file maintenance.

The source of these funds will be an Interagency transfer from the Alaska Human Resource Investment Council.

**FISCAL NOTE**

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

No. 6  
Bill Version: CS SB 334 (FIN)  
(S) Publish Date: 4/1/98

Revision Date: (Note if correction)  
Title: "An Act relating to guidelines and standards for state training programs, AHRIC."  
Sponsor: (S) FIN  
Requestor: (S) FIN

Department Affected: Administration  
BRU: Centralized Administrative Services  
Component: Alaska Professional Development Inst.

COMPONENT SERIAL NO. 2266

**EXPENDITURES/REVENUES:**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 98) cost: \$ none

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.) Passage of CSSB 334 (FIN) would not require an additional appropriation for the Alaska Professional Development Institute (APDI). Proposed AS 44.19.626(h) [amendment #1-H.1] would require the Department of Administration to pay a management assessment fee of .75% of the APDI annual operating budget to the Alaska Human Resources Investment Council (AHRIC). The fee would be deposited in the human resources investment account in the general fund.

We assume the APDI would pay the management assessment fee for the Department.

While the APDI is authorized an operating budget of \$674.5, in the current FY, it expects revenues of only \$530.0, plus its General Fund appropriation of \$.9. Thus the APDI has and presumably will continue to have sufficient authority to collect additional income to meet the additional expense of the management assessment fee.

We believe the bill would be improved by limiting the management assessment fee to a program's actual revenues rather than its budget. If CSSB 334(FIN) were current law, the assessment based on budget rather than anticipated revenue for FY 98 would be \$5.1 compared to \$4.0. The \$5.1 represents .96% of revenue rather than .75%.

Prepared by: Beverly Reaume, Director  
Division: Personnel

Phone: 465-4429  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Date: 3/1/98

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# FISCAL NOTE

No. 5  
 Bill Version: CS5B334(FINA)  
 (S) Publish Date: 4/1/98

STATE OF ALASKA  
 1998 LEGISLATIVE SESSION

Revision Date _____	Dept. Affected <u>Office of the Governor</u>
Title <u>"An Act relating to guidelines...relating to the</u>	BRU <u>Commissions/Special Offices</u>
<u>Alaska Human Resource Investment Council;..."</u>	Component <u>Human Resource Investment Council</u>
Sponsor <u>Senate Finance</u>	
Requester <u>Senate Finance</u>	Component Serial No. <u>2055</u>

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	52.0	54.2	55.8	57.9	59.2	61.9
Travel	23.0	13.0	13.0	13.0	13.0	13.0
Contractual	534.5	485.5	485.5	485.5	485.5	485.5
Supplies	1.5	0.5	0.5	0.5	0.5	0.5
Equipment	8.5	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>619.5</b>	<b>553.2</b>	<b>554.8</b>	<b>556.9</b>	<b>558.2</b>	<b>560.9</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)	619.5	553.2	554.8	556.9	558.2	560.9
<b>TOTAL</b>	<b>619.5</b>	<b>553.2</b>	<b>554.8</b>	<b>556.9</b>	<b>558.2</b>	<b>560.9</b>

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Fiscal note reflects the resources necessary, in addition to the existing FY99 AHRIC operating budget, to carry-out the expanded duties required by SB334. Personal services reflects the upgrade of an existing position to a Rg. 21 policy analyst, and the addition of a part-time Rg. 19 project coordinator. First year costs include start-up equipment costs for the additional support position, and the estimated costs associated with the Council's adoption of the required regulations.

AHRIC will rely on the Department of Labor for the development and preparation of the necessary statistical information. The contractual line includes 447.0 for an RSA each year with their Labor Market Information component, to offset their additional Research and Analysis costs, in addition to the fund source change for the 202.0 currently budgeted in that component as I/A from the STEP funds.

Prepared by <u>Mike Andrews</u> <i>Mike Andrews</i>	Phone <u>269-7485</u>
Division <u>Human Resource Investment Council</u>	Date <u>3/30/98</u>
Approved by <u>Jim Ayers, Chief of Staff</u> <i>J. Ayers</i>	Date <u>3/30/98</u>
Agency <u>Office of the Governor</u>	

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# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: April 6, 1998

FURTHER REFERRALS:

Finance

Date of Committee Action: 4/22/98

The LABOR AND COMMERCE Committee considered:

CSSB 334(FIN)

CS FOR SENATE BILL NO. 334(FIN)

STATE TRAINING PROGRAMS/HUMAN RES.COUNCIL

"An Act relating to guidelines and standards for state training programs; relating to the Alaska Human Resource Investment Council; extending the termination date of the state training and employment program; and providing for an effective date."

recommends it be replaced with the following committee substitute HCS CSSB 334 (LHC)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

fiscal note(s) LABOR, GOV

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) HESS, DOE, DOR

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>John C. Anderson</i>			✓	
<i>John Brine</i>				✓
<i>Steve Kabeon</i>			✓	
<i>Joe Kwan</i>			✓	
<i>Bill Hudson</i>			✓	
<i>Nan Roteby</i>	✓			

CHAIR'S SIGNATURE

*Nan Roteby*

4.22.98



# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

April 23, 1998

**SUBJECT:** Preparation of HCS CSSB 334(L&C) (State training programs)

**TO:** Representative Norman Rokeberg  
Attn: Shirley Armstrong

**FROM:** Teresa B. Cramer *TBC*  
Legislative Counsel

Enclosed is the House Labor and Commerce Committee Substitute you requested. In preparing it I have made conforming changes that the committee did not specifically adopt but that were necessary to implement the committee's changes, as follows:

1. **CSSB 334(FIN) sec. 1:** AS 44.19.620(a) is removed from the bill, since it is no longer being amended.
2. **CSSB 334(FIN) sec. 2:** I have removed subsection (c), making the commissioners advisory members, and removed the reference in subsection (d) (which becomes subsection (c) in the HCS) to "or (c)" of this section.
3. **CSSB 334(FIN) sec. 3:** I have removed the reference to AS 44.19.620(c) and restored the reference to paragraph (2), because of the changes made in bill sections 1 and 2.
4. **CSSB(FIN) 334 sec. 4, amending 44.19.621(b).** I have removed this section from the bill, since its only purpose was to conform the reference to commissioners to the changes made by bill sections 1 and 2.
5. **CSSB 334(FIN) sec. 5:** I have changed the reference to AS 44.19.620(c) to a reference to AS 44.19.620(a)(2) because of the changes made in bill sections 1 and 2.
6. **CSSB 334(FIN) sec. 6:** I have corrected the reference to AS 44.19.620(a)(4) to a reference to AS 44.19.620(a)(5).
7. **CSSB 334(FIN) sec. 12:** I have conformed the bill section references to sec. 6 to refer to sec. 4 because of the removal of two sections from the bill. I have also conformed the reference to members appointed from the private sector to refer to them as appointed under AS 44.19.620(a)(5).

Representative Norman Rokeberg  
April 23, 1998  
Page 2

There is one change that I have not made that the committee may have intended to be made. The first sentence of this section the transition section states that even though the bill imposes a requirement that the chair and vice chair be from the private sector members of the council, a member serving as chair or vice chair when the bill takes effect can serve out his or her term of office. However, the last sentence states that if the vice chair is the commissioner of a department, the commissioner must step down immediately. This sentence was necessary because, under the version passed by the Senate, commissioners would cease to be voting members of the council. Since commissioners remain voting members of the council in this draft, there is no necessity to end a commissioner's term of office as vice chair when the bill takes effect. On the other hand, there is no legal problem in leaving the sentence in place. Would you like this last sentence to be removed from the bill?

TC:glc  
98-237.glc

Enclosure

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE MEMBERS:

REPRESENTATIVE NORMAN ROKEBERG, CHAIRMAN  
REPRESENTATIVE JOHN COWDERY, VICE CHAIRMAN  
REPRESENTATIVE BILL HUDSON  
REPRESENTATIVE JOE RYAN  
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REPRESENTATIVE TOM BRICE  
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COMMITTEE SECRETARY, CATHY WOOD  
COMMITTEE HEARING ROOM 17 STATE CAPITOL



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STATE CAPITOL, ROOM 24  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4954  
FAX: (907) 465-2040

### Labor and Commerce Committee

*Amendment No. 4 - Rokeberg*

*Page 8*

*Delete lines 11-13*

*Page 10 after line 27*

*Insert new subsection (9)  
with the language deleted  
on Page 8, lines 11-13*

# ALASKA STATE LEGISLATURE

## House of Representatives

COMMITTEE MEMBERS:

REPRESENTATIVE NORMAN ROKEBERG, CHAIRMAN  
REPRESENTATIVE JOHN COWDERY, VICE CHAIRMAN  
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REPRESENTATIVE JOE RYAN  
REPRESENTATIVE JERRY SANDERS  
REPRESENTATIVE TOM BRICE  
REPRESENTATIVE GENE KUBINA  
COMMITTEE AIDE, SHIRLEY ARMSTRONG  
COMMITTEE SECRETARY, CATHY WOOD  
COMMITTEE HEARING ROOM: 17 STATE CAPITOL



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SESSION:  
STATE CAPITOL, ROOM 24  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4954  
FAX: (907) 465-2040

### Labor and Commerce Committee

#### MEMORANDUM

TO: Representative John Cowdery  
Representative Bill Hudson  
Representative Joe Ryan  
Representative Jerry Sanders  
Representative Tom Brice  
Representative Gene Kubina

FROM: Shirley Armstrong, Staff *Shirley*  
House Labor & Commerce Committee

DATE: April 21, 1998

SUBJECT: Additional Backup For Committee Bill Packet - SB 334

---

Attached is information that has come to the House Labor and Commerce Committee since our committee hearing.

Please insert in your HL&C, SB 334 committee packet.

Attachment

~~the~~  
Best no  
official  
to proceed  
mand by  
Crosby  
no objection

AMENDMENT /

OFFERED IN THE HOUSE  
TO: CSSB 334(FIN), Draft Version "P"

BY

Page 1, Line 9  
Section 1 (a) (2)  
Delete [21]  
Insert 26

Page 1, Line 11  
Section 1 (a) (2)  
Delete [ ]

Page 2 line 22  
Section 2 (c)  
Delete line 22-24

*Consider  
insert  
no objection*

AMENDMENT *2*

OFFERED IN THE HOUSE

BY

TO: CSSB 334(FIN), Draft Version "P"

Page 3, Line 29

Section 7

Delete [two]

Insert "three"

*Cowdery  
march  
no objection*

**AMENDMENT 3**

OFFERED IN THE HOUSE

BY

TO: CSSB 334(FIN), Draft Version "P"

Page 9, Line 2

Delete [Alaskans on Temporary Assistance Plan employment education and job training programs]

Insert "Alaska Temporary Assistance Program (ATAP)"

## BACKGROUND INFORMATION

Human Resource Investment Councils (HRICs) are fundamentally different from most federally authorized governing councils. As indicated by the variety of commissions and councils discussed in the Organization and Function section, many federal human resource programs require states to establish citizen groups to advise the governor on relevant state policy and the use of federal funds. The programs often fund similar or complementary employment-related services that serve sometimes overlapping populations. Federally-funded programs, for the most part, go about their job in a totally independent fashion, resulting in a fragmented response to the people who need their help.

Unlike these program-specific councils, an HRIC is responsible for the development of policy that cuts across all clients and programs in the workforce investment system. The main objective of an HRIC is to create a system that fundamentally changes the focus of education, training, and employment services to meet the needs of business and labor. If established, issues which an HRIC must address include:

1. reviewing the provision of services and use of funds for applicable programs and advising the governor on methods to coordinate the services and funds,
2. advising the governor on the development and implementation of program measures and outcomes that would be applied on both the state and local level, and
3. carrying out the duties and functions of the previous program-specific councils.

In addition to mandated responsibilities, an HRIC may perform the following additional functions:

1. identifying the human investment needs in the state and recommending to the governor goals for meeting those needs,
2. preparing and recommending to the governor a strategic plan to meet goals, and
3. monitoring the implementation of and evaluating the effectiveness of the strategic plan.

### 1992 federal legislation formally recognized the HRIC concept as part of the JTPA program

The 1992 amendments to the Job Training Partnership Act (JTPA) allows states to create HRICs which can incorporate several federally-mandated councils. Prior to the 1992 amendments, eleven states had already recognized a need to better coordinate their employment training programs and had formed "super councils." The super councils were often composed of representatives of the various state agencies involved in workforce development and of representatives from business and labor. States implemented the super councils to meet the immediate and unique needs of its businesses and citizens by investing workforce development resources according to state and local priorities. According to a report prepared by the National Alliance of Business, "*states acknowledge it is becoming politically difficult to justify long term investments in system infrastructure when the public need and demand is job creation.*"

The enactment of the 1992 amendments enabled states to receive federal funding for HRICs that fall within the federal framework. Existing councils had to restructure to satisfy the amendment in order to capitalize on funding available from multiple federal programs. Other states chose to forgo the funding from multiple programs and instead maintained their existing structure. States without councils continued to explore the HRIC concept and created their own councils. HRICs have been formed by executive order, state statute, or in some cases first by executive order then by statute. Appendix A summarizes the characteristics of 19 HRICs and super councils formed as of May 1994.

An HRIC may obtain the services of professional, technical, and clerical staff as may be needed to carry out its functions. An HRIC may use the federal funding available under the applicable federal laws and regulations governing each program

over which it exercises control. Funding and resources may also be available from state and local agencies. State agencies are encouraged to provide funds for its support in a manner consistent with its representation on the council. Membership on an HRIC is prescribed in the federal amendments to the JTPA (see inset above).

States establishing HRICs or super councils seem to have a vision of creating a customer-driven system.<sup>5</sup> These states felt the service delivery for their array of programs was unfriendly to both types of customers. Before developing councils, many states examined their workforce development programs. The states wanted to gain an understanding of how many employment and training programs were available, the profile of customers served, and how programs were offered. Once an understanding was obtained of problems inherent in the existing delivery system, states felt they could design an HRIC whose primary mission was to fix the identified problems and continuously fine tune their system to meet the everchanging needs of their customers.

Alaska has at least 15 different state programs related to employment, training, and education. Appendix B provides a profile of clients served by various state agencies in fiscal year 1993. In addition, employment and training programs are offered by the federal

#### Council Membership

The 1992 JTPA Amendments specify that the membership of a human resource investment council include:

- the head of each state agency responsible for the administration of an applicable federal human resource program

- one or more representatives from each of the following (totaling at least 15% of the council):

- ✓ local public education institutions
- ✓ post-secondary institution
- ✓ secondary or post-secondary vocational educational institution
- ✓ community based organization

- representatives from business and industry (totaling at least 15 percent of the membership of the council), including representatives from Private Industry Councils

<sup>5</sup>Customers are typically defined as both workers and employers.

4/17/98 - Senator Forgeson SB No 334  
revisits Page 1 subsection (2)  
the commissioner

(f)+(g) Total budget is \$93.8 million <sup>fed+state</sup>  
University is a small player only  
gets a small part of this \$2 million for so -

Bill is about tracking

Christal Murphy } Sen Forgeson  
Craig Johnson } Sen Pearce

1 of most controversial parts - the overhead  
15% cap on administration - with the added  
requirements might raise the costs to 20%  
"not to exceed"

10% - 3/4% - Council only has money that  
Leg gives them -  
it will cost - do not want to  
short fund - will add  
fiscal notes if necessary -

Is this bill as a result of performance  
based budgeting - in the past intent  
language has been vetoed - not a pull in Stokute  
and it does hard with performance based budgeting -

(2)

asked council to define but make  
standard across 40 programs -

will get money

Ryo maximum of 2 meetings a year  
why not a minimum of 2 meetings  
meeting every 6 months -

Mr. Mitchell - have ability to have 26  
members have about 21 members -  
because of cross appointment

now 17 programs - \$64 million  
odd 22 new program

80% fed  
20% state

Consensus Opinion of group -  
some good things said not so good -

Council is meeting 4 or 5 times a year  
now - How much does  
\$3000 a meeting in Chicago  
5000 a meeting in Geneva

Private Industry Councils should be able  
to spend money on these programs the  
feds allow

(3)

Hudson

What is the highest level of administrative cost is out there - feel programs 2070 - ~~should allow~~

Andrews - should allow up to 20%

Reheby - How much are the posthum funds?

Andrews - Don't know maybe DOE can answer

Mike McMillan - DDA -

APDI - why delete - fundamentally different than the other program it has to do with training state employees - not for job readiness - not for retooling for other jobs - there are a number of unique

corrective secondary - training state employees to upgrading skills - move from section (f) to (g)

Section 1 - If AREHFC going to super - then Dept of adm should be added to the list of commissions

(4)

Barbara Thompson - Dept Ed - 3 major programs  
pass thru  
100% of the amounts would  
operating budget -

(g)  
should not be assessed if they can never  
be (f) and keep their funding

Ryan - King Career Center -  
Thompson - unique - cd does have some  
thing that leads to a job but  
alot of K-12 thing does  
not lead itself

Cryptal  
Murphy } check on the meeting, similar

Craig Johnson - 15% across the board -  
down from 20% -

Andrews - only one that exceeds 15% is  
the JTPA -

Ryan - if do the benchmark what are  
you going to use - how will  
leg evaluate -

Oversight

(5)

Andrews - 50% of Council is from the private sector -

non-profit - that are quasi-govt -

of those private sector people on the council - 50% of private sector members sit from the non-profit area -

Chair + Vice Chair -

Dvice - potential amendment that non-governed



URGENT

**NORTHWEST TECHNICAL SERVICES**

3330 Arctic Boulevard, Suite 201 ♦ Anchorage, AK 99503

Ph (907) 562-1633 Fax (907) 562-5875

DATE: 04/17/98

TO: Norm Rokberg

FROM: Mary Shields

COMMENTS: \_\_\_\_\_

Thank you for considering  
this filed testimony  
at your hearing today

Mary J. Shields

Total Number of Pages (including cover): 4



3330 Arctic Blvd., Suite 201 • P.O. Box 241921 • Anchorage, Alaska 99503-5943 • (907) 562-1633 • FAX (907) 562-5875

April 17, 1998

VIA FAX ONLY:  
(907) 465-2040

Representative Norman Rokeberg  
Chairman, Labor and Commerce Committee  
State of Alaska, House of Representatives  
Alaska State Capitol, Room 24  
Juneau, Alaska 99801-1182

Re: SB 334 - A bill Relating to the AHRIC and Program Performance  
Measures and Administrative Limitations on Education and Training  
Programs.

Dear Representative Rokeberg:

As former Vice-Chair of the Job Training Council I worked with members of said council in the formation of AHRIC, and as a current member of the Anchorage/Mat-Su Private Industry Council, I have been closely following both AHRIC and STEP legislation which has been proposed this session. With SB 334 being referred to the House Labor and Commerce and House Finance Committees, I felt it appropriate to express some concerns to you at this time as I believe that SB 334 as currently written could very well defeat your purpose.

As General Manager of a private business in Anchorage with employees working in positions from the North Slope to Juneau, I have made education and training one of my principle concerns as I believe that they go hand in hand in building a strong Alaskan economy. It does not help to have jobs if our people are not qualified to fill them.

As you are aware, the Private Industry Council (PIC) exists pursuant to federal legislation - the Job Training Partnership Act. This Act mandates that the private sector be given the largest number of seats and chair the PIC. It also gives the PIC the responsibility for oversight of job training monies in its area. Federal limitations



Mr. Norman Rokeberg  
Chair, House Labor and Commerce Committee  
April 17, 1998  
Page Two

on the amount of monies which can be spent on administrative costs for JTPA programs, performance standards and assessment requirements are also set by federal regulation. By adding additional criteria to programs which already have sound evaluation criteria, the administrative burden increases. Perhaps words could be included to the effect that if same or similar standards are required by federal law or regulation is currently in place, new criteria would not be required.

Another area of concern is the new limitation on administration costs to "15% or the federal rate, whichever is lesser" contained in Section 9. With the imposition of additional requirements in 1992 when Congress substantially amended JTPA, they recognized that there would be additional administrative costs associated with the required monitoring. For that reason, they raised the administration cost limit from 15% to 20%. With the amount of follow-up required by these programs, the 20% limit is more realistic. The elimination of the words, "whichever is lesser" would make it clear that the state is not trying to change the ceiling established by the federal regulation leaving PICs caught between state and federal regulations as to the amount of administrative funds they have available for their programs.

Section 10 of the proposed legislation would impose a management fee of .75% of annual operating budget on the programs overseen by AHRIC. Currently, JTPA and STEP contributions already finance most of AHRIC's budget, and there does not appear to be a reason to assess an additional management fee. Such a fee will serve to increase the administrative costs of running the programs. However, I do feel that all programs subject to AHRIC oversight or which are represented by guaranteed membership on the AHRIC should contribute to the support of AHRIC. This would alleviate some of the financial pressure currently placed on JTPA and STEP programs.

Finally, I am concerned that the STEP reauthorization has become entangled with the AHRIC legislation. As the reauthorization of STEP is the subject of HB 330 and SB 245, I would strongly support the passage of these two bills as originally submitted or with the modification made in the Senate Labor and Commerce committee. It would be a shame the reauthorization of a program which works so

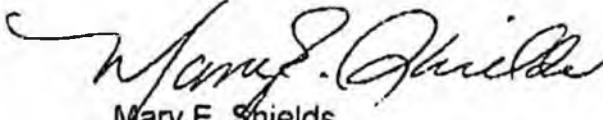


Mr. Norman Rokeberg  
Chair, House Labor and Commerce Committee  
April 17, 1998  
Page Three

well for its participants (whose UI taxes pay for it) gets bogged down while the details of the AHRIC bill are being worked out.

I thank you for your time. If I can be of assistance to you in any way on these two matters, please let me know.

Kind regards,

  
Mary E. Shields  
General Manager

cc: John Cowdery, Vice Chair  
Bill Hudson  
Joe Ryan  
Jerry Sanders  
Tom Brice  
Gene Kubina



717 K Street  
Anchorage, AK 99501  
April 10, 1998

VIA FACSIMILE: 465-2040

Representative Norman Rokeberg  
Chair, Labor & Commerce Committee  
State Capitol, Room 24  
Juneau, AK 99801-1182

RE: SB 334 - A Bill Relating to the AHRIC and  
Program Performance Measures and  
Administrative Limitations on Education  
and Training Programs

Dear Representative Rokeberg:

It is my understanding that SB 334 has been referred to the House Labor & Commerce Committee and the House Finance Committee. The bill appears to be intended to give the Alaska Human Resources Investment Committee ("AHRIC") responsibility for oversight of a wide variety of education and training related matters. The bill also would impose various administrative requirements and performance standards on programs and agencies, assess each of them a "management fee" to support AHRIC, and assess them a fee to finance an annual performance evaluation to be conducted by the Alaska Department of Labor. Although the bill is intended to promote program efficiency and reduce administrative costs, I believe it is going to have the opposite effect on the training and employment programs I am involved with, and thus urge you to vote against this bill.

I am an owner and manager of a private business in Anchorage. I have been a member of the Anchorage/Mat-Su Private Industry Council for nine years, serving as its chair for six of those years. The Private Industry Council (PIC) exists pursuant to federal legislation -- the Job Training Partnership Act. The Act requires the PIC to be chaired by a member of private industry. By law, private industry is given the largest number of seats on the PIC. The PIC has responsibility for oversight of the expenditure of federal job training monies in its area. There are federal limitations on the amount of monies which may be spent on administrative costs for JTPA programs. These costs are all well defined by federal regulation. Performance standards and assessment requirements are also set by federal regulation.

You may also recall that the Anchorage/Mat-Su PIC, and the other two PICs in this state (Fairbanks and the Statewide PIC), have also been given oversight responsibility for the State Training and Employment Program ("STEP").

Representative Norman Rokeberg  
April 10, 1998  
Page 2

Each year the PICs report to their local mayors, AHRIC, state agencies, the federal Department of Labor (DOL), and members of the legislature on the expenditures under the programs we oversee, and the results of these programs. With a hard copy of this letter, I am forwarding to you a copy of our last annual report. The federal DOL and state Department of Community and Regional Affairs also routinely perform audits and other reviews of our programs. In addition, since the Anchorage/Mat-Su PIC has designated the Municipality of Anchorage as our grant recipient for federal JTPA funds, we follow contracting requirements of the Municipality in contracting out services, which contracting requirements are designed to assure fairness and competition among vendors.

The Anchorage/Mat-Su PIC typically exceeds most of the federal goals set for our programs, and receives incentive awards which we use to fund special employment or training programs in the community. I would welcome any member of the legislature to contact the federal DOL about our performance. I do not recall in my experience ever hearing of any concerns expressed by any member of the legislature about the success of our programs.

If SB 334 passes, it will add performance standards which are largely duplicative of existing federal requirements. These new standards may, however, be different enough that they require a separate tracking system of JTPA and STEP clients, thus creating an additional but unnecessary administrative expense for the programs. For example, Section 10 of SB 334 sets performance standards based on a client's employment status and income 12 months after termination from the program. Under JTPA, we already collect extensive data on client employment and earning status 13 weeks after termination -- a time period that federal DOL has determined to be appropriate.

Section 10 would impose a management fee of .75% of annual operating budget on the programs overseen by AHRIC. As I mention above, JTPA and STEP contributions already compose most of AHRIC's budget, and there does not appear to be a reason to assess an additional management fee. The result of the fee will again be to just increase the administrative costs of running the programs.

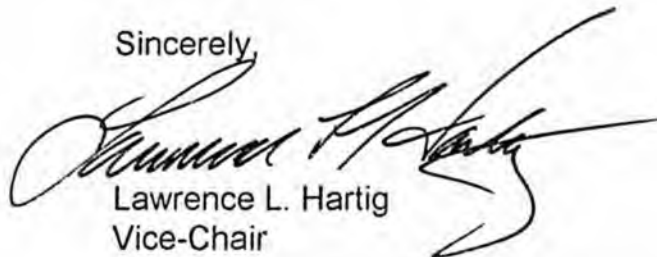
Section 9 would limit program administrative expenditures to 15%. The JTPA funds currently received by PICs is money passed through the state from the federal government, and contains strict cost categories and limitations. In 1992, Congress substantially amended JTPA, requiring additional monitoring and performance standards. In recognition of the additional administrative costs associated with this monitoring, they raised the administration cost limit from 15% to 20%. My experience with the programs is that 20% is much more realistic than 15%. I am also concerned that, unlike the federal

Representative Norman Rokeberg  
April 10, 1998  
Page 3

legislation and regulations, SB 334 does not provide a clear definition of administrative expenses. If it is different than the federal definition, there will be conflicts. I am also concerned that the state may not have the authority to change the 20% administrative ceiling in the federal regulation, and this will leave the PICs uncertain as to the amount of administrative funds they have available for their programs.

In closing, I would add that I do strongly support the reauthorization of the State Training and Employment Program. This reauthorization is included in SB 334, but is also the subject of HB 330 and SB 245. I urge you to oppose SB 334 for the above reasons, but support the other bills that would reauthorize STEP. There is also a Committee Substitute Bill for SB 245 which I understand has been proposed by the Senate Finance Committee. That Bill incorporates portions of SB 334 relating to AHRIC oversight responsibilities, but appears to leave out specific numeric limitations on administration costs, specifics on how program performance is to be assessed and the State DOL review which I have objected to above. I believe that the Substitute Bill for SB 245 goes a long way towards addressing the problems in SB 334, and is much preferable. In addition, the Substitute Bill would extend the STEP program until 2002.

Sincerely,



Lawrence L. Hartig  
Vice-Chair

Anchorage/Mat-Su Private Industry Council

Enclosure: annual report

cc: Sean Parnell

F:\DOCS\05790\LLH\PIC\ROKEBERG.LTR

**HARTIG, RHODES, NORMAN, MAHONEY & EDWARDS**

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

717 K STREET  
ANCHORAGE, ALASKA 99501-3397  
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DATE: April 10, 1998

A TOTAL OF (4) (including cover page) ARE BEING SENT TO:

NAME: Representative Norman Rokeberg  
LOCATION: State Capitol, Room 24  
FAX NO: 907/465-2040  
OPERATOR: Meg Tuttle  
SENDER: Lawrence L. Hartig, Esq.  
PHONE NO.: 907/276-1592  
FILE NO: 05790-70461

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL THE OPERATOR LISTED ABOVE AS SOON AS POSSIBLE, TELEPHONE (907) 276-1592.

# STATE OF ALASKA

## OFFICE OF THE GOVERNOR

ALASKA HUMAN RESOURCE INVESTMENT COUNCIL

TONY KNOWLES, GOVERNOR

3601 C STREET, SUITE 380  
ANCHORAGE, ALASKA 99503  
PHONE: (907) 269-7485  
FAX: (907) 269-7489

April 13, 1998

RECEIVED  
APR 16 1998

The Honorable Senator John Torgerson, Chair  
Senate Finance Subcommittee on Human Resources  
State Capitol, Room 514  
Juneau, AK 99801-1182

Dear Senator Torgerson:

The US Department of Labor has issued an opinion on whether department commissioners who serve on AHRIC are required to be voting members. The US DOL response is that all members are voting members. If legislation is passed that does not allow commissioners to sit as voting members, the HRIC is no longer valid. This means that federal Job Training Partnership Act funds would be in jeopardy until the Legislature or Governor formed a new State Job Training Coordinating Council (SJTCC), or until the HRIC was back at full status.

Senate Finance agreed that if such a letter were produced, the language that stipulates commissioners are not voting members would be removed.

As you know, the former SJTCC was absorbed into the Alaska HRIC along with two other state councils. It would be a step backwards to dissolve the Alaska HRIC in favor of bringing back three councils with thirty-nine representatives like we had in the past.

I urge you to amend SB No. 334 by striking out references to commissioners as non-voting members.

Should you require more information on this subject, please get in touch with me.

Sincerely,



Mike Andrews

cc: Senator Pearce ✓  
Representative Rokeberg  
Pat Pourchot

U.S. Department of Labor

Employment and Training Administration  
1111 Third Avenue, Suite 900  
Seattle, Washington 98101-3212  
<http://www.reg10.doleta.gov>



April 3, 1993

Reply to the Attention of:

10TG JTP-9-1

Mr. Mike Andrews, Executive Director  
Alaska Human Resource Investment Council  
3601 C Street, Suite 380  
Anchorage, AK 99503

Dear Mr. Andrews:

Thank you for the opportunity to comment on Alaska Senate Bill No. 334. This bill proposes changes to the Alaska Human Resource Investment Council (AHRIC), previously passed by the State Legislature in fulfillment of Title VII of the Job Training Partnership Act (JTPA), as amended.

In our review of the recent pending legislation, you have asked us for our interpretation of Section 2 of the pending State Senate Bill, which draws a distinction between voting and non-voting members. It is our opinion that this provision would not meet the requirements of membership composition under JTPA Section 702.

There is no language in the federal legislation which draws a distinction between members. In the federal legislation, the listing of members implies an equality among members. It is our opinion that the functions of the Council are carried out by the decisions taken through the voting process. All members need an equal voice in carrying out the work of the Council and the implementation of the statewide workforce development strategy. Such distinctions were not the intent of the federal legislation. If Senate Bill No. 334 is enacted as proposed, Alaska would be able to call its Council a Human Resource Investment Council, but it would not meet the federal requirements as such.

While we also have concerns on other provisions of this legislation, we shall address them separately in a subsequent letter.

Again thank you for the opportunity to comment on this pending legislation.

Sincerely,

A handwritten signature in cursive script that reads "Michael Brauser".

MICHAEL BRAUSER  
Regional Administrator

P 1 line 9  
change back to 26.

change to 27 if Comm. of Admin.

line 11-14

restore

add Comm. of Admin.

~~remember~~ remember subparagraphs

through page 2, line 18

Page 2 line 25

drop "or C"

~~line~~

Page 2 line 30

restore : AS 44.19.420(a)(1) and (2)

Page 3 lines 4-10

delete (no change needed)

Page 3 line 16

don't change (refer to AS 414.19.62d**b**)

lines 18-20 delete new material  
(covered on lines 13-14)



# Alaska State Legislature

Please enter into the record my testimony to the House Labor and Commerce  
committee name  
committee on SB 334, dated 4-16-98  
bill/subject

- A. JTPA funds are Federal dollars. These federal pass through dollars to the SDA's have cost categories and limitations placed on them by federal law.
- B. JTPA already provides a separate source of funds to support both the state's administrative function and the state job training council (duties for which the AHRIC is responsible). JTPA and STEP contributions currently compose most of the AHRIC's budget. SB334 does not take this into consideration. It appears that programs are subject to over sight and thus a management fee, based on budgets rather than function, purpose, or current contributions to the AHRIC. Consideration for the federal mandates regarding expenditure of funds is lacking.
- C. JTPA already collects extensive data on client employment and earnings status 13 weeks after termination. If additional performance data is necessary programs should be able to collect and evaluate it, rather than being forced to pay another agency with little knowledge or expertise in specific programs to perform evaluation. Yet the University system has been allowed to successfully argue to do just that. In addition providing data to Alaska DOL is a duplication of the evaluation JTPA is required to conduct by federal law.
- C. Looking at SB334 more carefully one should question if this is a method to ferret out federal dollars to beef up existing state agencies? Is that how we trim the state budget? Is it legal to supplant federal monies?

Signed: \_\_\_\_\_

Jennifer Johnson  
Testifier

Private Industry Council Member from private business

Representing (Optional)

P.O. Box 1621 Palmer AK. 99645

Address

907-745-4488

Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the House Labor & Commerce  
 committee name  
 committee on SB 334 , dated 4-16-98  
 bill/subject

1. This bill restricts administrative cost to 15% yet requires administrative tasks to be increased: new data collection, tracking reporting requirements.
2. In addition to new administrative tasks, programs will be assessed a management fee to be paid to the AHRIC. This fee will include payment to the Alaska Department of Labor to conduct an annual program evaluation, which in the case of JTPA duplicates the evaluations that are conducted as a part of the federal requirements. **A DOL evaluation would be a duplication.**
3. Under SB334 the reduced administration dollars make it difficult if not impossible to maintain compliance with federal and state administrative and performance requirements. There would be insufficient administration resources to staff programs, fiscal and data management functions or to provide any administrative funds to contractors.
4. JTPA and STEP have always been subject to stringent performance and administrative standards-performance evaluations are conducted and the results published in the Private Industry Councils Annual Report.
5. JTPA and STEP have always been subject to oversight by the Private Industry Councils, the State Job Training Office, the US Department of Labor and the AHRIC.
6. JTPA operates on pass through money that has cost categories and limitations. When Congress imposed additional administrative and performance standards on JTPA in 1992, administration was raised from 15% to 20% in recognition of the additional burden. It is not clear that the legislature can change this. Please do not support this bill.

Signed: Linda Lowe  
 Testifier

Representing (Optional)  
980 Delwood Dr Wasilla

Address  
(907) 376-7096  
 Phone No.



# Alaska State Legislature

03-23-98P03:55 RT

Please enter into the record my testimony to the Labor and Commerce  
committee name

committee on SB 334, dated 4-16-98

1. SB334 arbitrarily sets fixed performance standards with little regard for the already existing performance standards and mandates as set by federal law.
2. The standards do not apply to all programs for example One Stop Centers.
3. Programs such as Vocational Rehabilitation and Employment Service will not have standards imposed, while JTPA and STEP will be subjected to additional data collection and reporting. JTPA is a Federal funded program. STEP is funded by 1% of the UI Trust Fund. No state dollars go to either program.
4. JTPA and STEP have always been subject to stringent performance and administrative standards. Performance evaluations are always published in the Private Industry Council Annual Report.
5. JTPA and STEP have always been subjected to oversight by the Private Industry Councils, the State Job Training Partnership Office, the US Department of Labor and the AHRIC.
6. JTPA and STEP are the only employment and training programs to have local governance in the State of Alaska. This local council is heavily weighted with citizens from the private sector business community.
7. JTPA and STEP as currently operated are cost effective, do provide an excellent Service to Alaskan residents and businesses. These programs support Alaska hire. The programs provide a well-trained workforce for Alaska businesses.
8. Please do not support HB 334. Do not allow this bill to be used as the vehicle to reauthorize STEP. Please support SB245 and HB 330 to re authorize STEP.

Signed: Noel Matteson  
Testifier

Representing (Optional)  
PO Box 670414

Address  
Chugiak AK 99567 (907) 688-3025

SB 334: STATE TRAINING PROGRAMS/HUMAN RES.COUNCIL - PROGRAM LIST

**PROGRAMS  
UNDER AHRIC**

- Alaska Works Program(DHSS)
- Adult Basic Education
- Vocational Education
- Adult & Vocational Education Administration
- School-to-Work
- Vocational Rehabilitation
- Alaska Career Information System (AKCIS)
- JTPA Title IIA
- JTPA Title IIB
- JTPA Title IIC
- JTPA Title III
- State Training & Employment Program (STEP)
- Employment Services
- Veterans Programs
- Labor Market Information Research & Analysis
- Alaska Occupational Information Coordinating Council (AOICC)
- Alaska Works Program (DOL)

**SB 334. SECTION F**

- One Stop Career Center
- JTPA programs (Titles IIA, IIB, IIC, III)
- STEP in DCRA
- Employment-related adult basic education
- School-to-Work
- Vocational education and tech prep
- Alaska Career Information System (AKCIS)
- High school completion project
- Kotzebue Technical Center
- Alaska Vocational Technical Center
- Alaska Temporary Assistance Program (ATAP) employment education & job training programs
- Unemployment insurance grants under the federal training relocation assistance program
- Alaska Works Program
- STEP in DOL

**SB 334. SECTION G\***

**DCRA:**

- Local government assistance training & development, including the rural utility business advisory program
- Energy operations, providing training in management & administration...

**DOC:**

- Correctional Academy
- Inmate programs providing vocational technical training and education courses
- Correctional Industries program

**DEC:**

- Remote maintenance worker program
- Water and wastewater operator training & assistance
- Federal drinking water operator training & certification

**DMVA:**

- Educational benefits for members of the Alaska National Guard and the Alaska Naval Militia

**DPS:**

- Fire service training
- Public Safety Training Academy

**DOT:**

- Engineer-in-training program
- Statewide transportation improvement program
- Local technical assistance program
- Native technical assistance program
- Border technology exchange program

**DOE:**

- Vocational rehabilitation client services and special work projects

**DOL:**

- Employment Services

\* University of Alaska shall evaluate its training programs and provide results to council to include in assessment.

## Amendments for Senate Bill 334

### Commissioners as non-voting members

Section 1. (a) (2) do not delete. Refers to Commissioners as members

Section 2. (c) delete. Refers to Commissioners as not voting members

Section 5. Line 16. Delete reference to non-voting members

### Council Issues:

#### Election of Officers

Section 6. Delete whole section. Refers to council officers elected from business & industry representative only. The AHRIC recommends that the language state: The Chair or Vice-Chair must be elected from Business & Industry representatives under AS44.19.620 (a)(4).

#### Meetings

Section 7. Delete section (a). The council recommends not limiting council to only 2 meetings annually.

#### Executive & Standing Committees

Section 7 (b) The council shall establish and executive committee and four permanent standing committees. The council may establish additional standing committees and special committees or subcommittees, not necessarily consisting of council members, to advise and assist the council in carrying out its functions. Delete all other language. (This reflects current law)

Section 8. Delete line 22 (d) "The assessment and evaluation"... New language:

Committees shall

Delete (d) (4), (e),

(e) (3) Delete "work with all other committees on"... Add "Develop a....."

(e) (4) Delete

(f) Delete, (f) (3), (g)

This allows 4 standing committees with no name, but assures they perform the duties lined out. This holds the council responsible for assuring compliance, but allow flexibility in committee design to be more effective.

#### Administrative Costs

Section 9. (b)(8). Line 23. Delete [lesser]. Federal programs will not allow the state to restrict approved federal administration costs. The state funded programs and state contribution to funds would be capped at 15%. Some federal programs only allow 5%. This language would not allow programs to go above that cap.

#### Additional Programs for Evaluation

Section 9. (f) (1). Delete whole clause. Refers to Alaska Professional Development Institute

Section 9. (f)(3) Add - in the Department of Education or operated by the department, the non public school portions of the following programs:

**Programs added for assessment**

Section 10 (g) add in line 14: of this section, to the extent it does not jeopardized federal funding:

Section 10 (g)(7) - Delete "in the Department of Education: Vocational Rehabilitation client services and special work projects"

Section 10 (h) Line 28. Add -The University of Alaska, Alaska Vocational Technical Center, and Kotzebue Technical Center...

**Management Assessment Fee**

Section 10 (m) Add - For purposes of this section, annual operating budget

(1) means a program's annual budget less any funds which are specified by the state or federal governments as pass through funds to local education agencies.

*Note:* Section 10 (j). We would like to keep open the possibility of developing a fiscal note among affected programs using budgeted RSA's under inter-agency agreements in lieu of the .75 of 1% management assessment fee.

**Program Definitions**

Section 10 (should this be section 11?) Add (3) For purposes of this section, "oversight" refers to directly planning with programs, monitoring, evaluating and assessing programs for performance, and reporting to the Governor, Legislature and the public.

# Alaska State Legislature



## Committee Membership

Senate Finance  
Senate Resources  
Senate Rules  
Legislative Budget & Audit

**District Address:**  
145 Main St. Loop; Ste. 226  
Kenai, AK 99611  
(907) 283-2690  
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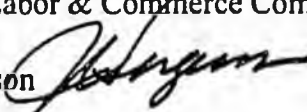
**Session Address:**  
State Capitol: Room 514  
Juneau, AK 99801-1182  
(907) 465-2828  
fax 465-4779

*Senator John Torgerson*

## MEMORANDUM

**DATE:** April 17, 1998

**TO:** Representative Rokeberg, Chair  
Members of House Labor & Commerce Committee

**FROM:** Senator John Torgerson 

**RE:** SB 334: Response to DOE amendments

---

Senate Bill 334 was written in conjunction with the Senate Finance Committee and the Senate Finance Human Resources Subcommittee. The intent of this legislation is to have all training programs throughout the State of Alaska comply with set standards that are administered by the Alaska Human Resources Investment Council (AHRIC).

The amendments being offered today by the Department of Education are not needed and are not supported by the chair of the Senate Finance Human Resources Subcommittee chairman. I have outlined below the specifics as to why these are not supported.

- 1) Amendment one (Section 10 (f)(3))  
Currently there are not any K-12 programs that are being evaluated by AHRIC. Under Senate Bill 334 no new programs are being added that are K-12 related, and therefore, it is an unnecessary amendment. Programs such as School to Work and Vocational Education that are associated with educating youth are already under the purview of AHRIC and it would not be good policy to remove them.
- 2) Amendment two (Section 10 (g)(7))  
Deleting DVR from this legislation is not necessary. This same request was made to the Senate Finance Committee and was denied. Based on a letter provided by the Federal Government, addressing the first draft of this bill, DVR was removed from the section that required extensive oversight and moved it to the section that simply requires assessment. If the Department can supply documentation that this program is in jeopardy of losing federal funding due to the State of Alaska assessing the program and reporting to the Governor of State of Alaska, then I will be in favor of amending this section.

- 3) Amendment three (Section 10 new subsection (m))  
Defining the term "annual operating budget" is an amendment offered by DOE that would hold them harmless from paying their share of expenditures the AHRIC for its oversight. This is the only Department that feels they should pay less than their share. This amendment has been reviewed by Legislative Finance and they concur that this amendment would be detrimental to the funding level of AHRIC.

Thank you for your consideration regarding this bill. It is my hope that this bill will move out of committee as drafted by the Senate.



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### *Sponsor Statement* *SB 334*

*Sponsored by Senate Finance Committee*

In 1995 legislation created the Alaska Human Resource Investment Council (AHRIC). The legislature directed the council to analyze Alaska's human resource development programs and make recommendations for improvement to the Governor. The continuing mission of the AHRIC is to facilitate the process necessary to create and maintain an efficient, effective, and integrated human resource investment system.

Senator John Torgerson, Chairman of the Senate Finance Human Resource subcommittee has worked closely with private industry, state agency personnel, and the AHRIC in an effort to refine the mission of the AHRIC and provide them with further tools necessary to create an effective comprehensive human resource investment system.

The 1995 legislation was guided by federal JTPA requirements and only placed the minimum federal programs under the guidance of the AHRIC. It has been found that many other state and federally funded programs should also be guided and evaluated under the AHRIC and this legislation expands the council's purview to include these programs.

It has been made clear to the subcommittee that the AHRIC needs more accurate information and data to do true assessment and evaluation of our state programs. It has been the intent of the AHRIC to place system wide, cross program performance measures/benchmarks on the training programs under the AHRIC. This Legislation provides the AHRIC these tools by mandating that information and funding from the programs is given to the Department of Labor for true data collection and presentation, and implements system wide performance measures.

SB 334 makes it the duty of the AHRIC to use this data to assess and evaluate the programs under the performance measures dictated in SB 334. A report will be presented to the Legislature so that decisions of resource allocation within the human resource investment system will be made with accurate, comparable, results-based information.

The legislation also creates a council that achieves its mandate of providing private industry employers the necessary forum to facilitate training programs that will result in employment for Alaskans. The balance of the AHRIC, through an empowered executive committee, is appropriately changed to provide a leading role to the private industry representatives on the council. This will help ensure that private industry is leading input on training program direction, so that trained Alaskans will gain employment.

SB 334 will provide the legislature a yearly snapshot of the performance of our human resource investment system a give the legislature more comprehensive information when making resource allocation decisions.

## SB 334 "State Training Programs"

### *A brief explanantion:*

Alaska spends over \$90 million a year on human resource/training programs. In 1995 the legislature created the Alaska Human Resource Investment Council to develop and implement an efficient, effective and integrated state human resource investment system. The Senate Finance Subcommittee on Human Resources has reviewed Alaska's training programs statewide and has found that in order to get to the goal of an integrated, effective, and efficient system the following changes to the AHRIC's oversight are needed:

- Expand the purview of the AHRIC to include **all** state and federal training programs.
- Collect real data from programs. (ie # of students with jobs, avg. wage of graduates etc.)
- Assess all programs under the same performance measures.
- Create a report for the Legislature under these guidelines -- to better guide resource allocation decisions in this area.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

March 25, 1998

**SUBJECT:** Sectional Summary of Draft CSSB 334(FIN) "H" version dated 3/24/98 (State training programs)

**TO:** Senator John Torgerson  
Attn: Krystal Murphy

**FROM:** Teresa B. Cramer   
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

**Section 1** changes the membership of the Alaska Human Resource Investment Council by removing the commissioners named in paragraph (2) from full membership.

**Sec. 2** makes those commissioners who were removed from membership on the council under bill sec. 1, "advisory, nonvoting members." Subsection (d) permits any member of the council to appoint a designee. The appointment must be made in writing.

**Sec. 3** permits the governor to appoint one member of the council to fill two or more of the places on the council if the person appointed is qualified for all of them.

**Sec. 4** is a conforming amendment, made necessary by the change brought about by bill secs. 1 and 2 to the status of the commissioner members of the council.

**Sec. 5** clarifies that designees and the nonvoting commissioners may receive per diem and travel.

**Sec. 6** limits the selection of a vice chair to the four members who are appointed as representatives of business and industry.

**Sec. 7** limits meetings of the full council to two times in a calendar year and directs the council to establish an executive committee and four permanent standing committees. The committee chairs must be from the private sector.

**Sec. 8** describes the members and duties of the executive committee and the duties of the four permanent standing committees.

Senator John Torgerson

March 25, 1998

Page 2

**Sec. 9** directs the council to adopt regulations that set standards for the percentage of a grant that may be used for administrative costs. There is a maximum of 15 percent or the amount permitted under federal requirements, whichever is less. Paragraph (9) directs the council to report annually to the legislature.

**Sec. 10** directs the council to oversee training programs in the state, to require training programs listed in subsection (f) to meet the standards stated in subsections (d) and (e), and to consider whether to recommend to the legislature that the programs listed in (g) should be made to comply with (d) and (e).

**Subsection (e)** directs the council to develop standards to evaluate the success of individuals who have received training under the programs listed in (f) in securing and retaining gainful employment.

**Subsection (f)** lists programs in the Departments of Administration, Community and Regional Affairs, Education, Health and Social Services, and Labor that are subject to oversight by the council.

**Subsection (g)** lists programs in the Departments of Community and Regional Affairs, Corrections, Environmental Conservation, Military and Veterans' Affairs, and Public Safety that the council may recommend be included in its oversight responsibilities.

**Sec. 11** is a transitional provision for the officers of the council.

**Sec. 12** is an immediate effective date.

TC:jdr

98-194.jdr

## SB 334 Q&A's

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**What we heard:** Real data to assess programs is nonexistent or lacking for most of Alaska's training programs. Cross department performance measures to compare programs need to be developed.

**What SB 334 does:** Creates new requirements through Dept of Labor Research and Analysis for data collection. Develops performance standards that the AHRIC will use to assess and compare all state training programs and report back to the legislature.

***How does this new data collection, performance assessment and reporting work?***

We have expanded the scope of the AHRIC to include many new programs that they will assess or provide a report on how to assess.

Department of Labor will collect data on specific programs through the use of Research and Analysis and the Unemployment Insurance "supercomputer".

This information will then be provided to the AHRIC for assessment under the performance measures spelled out in the bill.

The AHRIC will produce a report for the legislature with a "snapshot" of our human resource development system.

***How do we fund these new requirements?***

Currently the AHRIC is funded through interagency receipts from the programs that it oversees.

All of the new and old programs will be assessed the cost of the data collection (appx. \$447.0).

This money will go to the AHRIC which will contract with the Dept of Labor, Research and Analysis for data collection.

The AHRIC has a new position and a half time position to analyze data and prepare a report -- also paid for by program assessments.

This assessment on programs will not exceed .75% of the operating budget of a program.

**fiscal notes:**

The Senate Finance Committee fiscal notes for the programs are at zero because the "small" assessment will come from the programs budget -- they should already be doing this tracking and data collection -- now this requires them to provide information to the DOL and DOL will create the data needed for AHRIC. In some cases this will save programs money that are already doing tracking.

*The following language was added to all department program fiscal notes:*  
Passage of CSSB 334 (FIN) does not require an additional appropriation. AS 44.19.626(j) authorizes a payment of a management assessment fee, not to exceed .75 percent of the annual operating budget for this component, to the Alaska Human Resource Investment Council.

The Dept of Labor fiscal note is \$447.0 for the data collection. (RSA from AHRIC)

The AHRIC fiscal note is for \$619.5 for pass through of program assessments to DOL. An increase of \$52.0 in personal services to the analysis and reports. An increase of \$23.0 in travel for new requirements is included. All of this will be funded through program assessments -- no new money!

**What we heard:** Private Industry is still not steering our training programs enough-- so that Alaskan jobs go to trained Alaskans.

**What SB 334 does:** Creates an empowered executive committee that is comprised of Industry representatives as chair, co chair, and chairs of standing committees. The executive committee will have the power to take committee action and the AHRIC will only meet twice a year to set policy. The executive committee will guide the day to day training system in Alaska in an effort to get trained Alaskans jobs upon graduation.



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

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### M E M O R A N D U M

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**DATE:** April 6, 1998  
**TO:** Representative Norm Rokeberg, Chair  
House Labor and Commerce Committee  
**FROM:** Senator Drue Pearce, Chair *Drue Pearce*  
Senate Finance Committee  
**RE:** SB 334 Hearing Request  
**CC:** Senator John Togerson, Chair  
Senate Finance Subcommittee on Human Resources

I respectfully request a hearing for SB 334 "Act relating to State Training Programs" in the House Labor and Commerce committee at your earliest convenience.

In 1995 the Legislature created the Alaska Human Resource Investment Council. Recently, the Senate Finance subcommittee on Human Resources reviewed Alaska's training programs and has found that in order to achieve the goal of an integrated, effective, efficient system necessary changes to the AHRIC's oversight need to be made.

This legislation will assist future Legislative Finance Committees in making the most effective resource allocation decisions.

Thank you for your consideration.

CS FOR SENATE BILL NO. 334(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/1/98

Referred: Rules

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to guidelines and standards for state training programs;  
2 relating to the Alaska Human Resource Investment Council; extending the  
3 termination date of the state training and employment program; and providing for  
4 an effective date."

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

6 \* Section 1. AS 44.19.620(a) is amended to read:

7 (a) The Alaska Human Resource Investment Council is established in the  
8 Office of the Governor. The council consists of the following voting members, not to  
9 exceed 21 [26]:

- 10 (1) the lieutenant governor or the lieutenant governor's designee;
- 11 (2) [THE COMMISSIONERS OF COMMERCE AND ECONOMIC
- 12 DEVELOPMENT, COMMUNITY AND REGIONAL AFFAIRS, EDUCATION,
- 13 HEALTH AND SOCIAL SERVICES, AND LABOR, OR EACH RESPECTIVE
- 14 COMMISSIONER'S DESIGNEE;

1 (3)] one representative from the University of Alaska;

2 (3) [(4)] four additional representatives of education, with one from  
3 local public education, one from secondary vocational education, one from a  
4 postsecondary vocational education institution, and one from adult basic education;

5 (4) [(5)] four representatives of business and industry, with at least one  
6 representative from the private industry councils appointed under 29 U.S.C. 1512 and  
7 subject to reconstitution under 29 U.S.C. 1515;

8 (5) [(6)] four representatives of organized labor whom [THAT] the  
9 governor shall appoint from lists of nominees submitted by recognized state labor  
10 organizations; the governor may reject a list submitted under this paragraph and  
11 request that another list be submitted;

12 (6) [(7)] at least one representative from an organization representing  
13 employment and training needs of Alaska Natives;

14 (7) [(8)] at least one representative of a community-based service  
15 organization;

16 (8) [(9)] at least one representative who has personal or professional  
17 experience with developmental disabilities; and

18 (9) [(10)] at least one and up to four additional members of the private  
19 sector to ensure a private sector majority and regional and local representation on the  
20 council.

21 \* Sec. 2. AS 44.19.620 is amended by adding new subsections to read:

22 (c) The commissioners of commerce and economic development, community  
23 and regional affairs, education, health and social services, and labor serve as advisory,  
24 nonvoting members of the council.

25 (d) A member of the council under (a) or (c) of this section may appoint a  
26 designee to serve in place of the member named in (a) of this section. The member  
27 shall appoint the designee in writing.

28 \* Sec. 3. AS 44.19.621(a) is amended to read:

29 (a) Members of the Alaska Human Resource Investment Council other than  
30 those listed in AS 44.19.620(a)(1) and (c) [(2)] are appointed by the governor and  
31 serve at the pleasure of the governor. The governor may appoint one person to fill

1 two or more of the places listed in AS 44.19.620(a) if the person is qualified in all  
 2 of the areas the person represents. A member appointed to fill more than one  
 3 place under this subsection is entitled to only one vote and may appoint only one  
 4 designee to replace the member in the event the member is unable to attend a  
 5 meeting.

6 \* Sec. 4. AS 44.19.621(b) is amended to read:

7 (b) The voting members of the council other than those listed in  
 8 AS 44.19.620(a)(1) and (c) [(2)] serve for staggered four-year terms and may serve  
 9 until a successor is appointed. An appointment to fill a vacancy shall be made in the  
 10 same manner as the original appointment and for the balance of the unexpired term.

11 \* Sec. 5. AS 44.19.622 is amended to read:

12 Sec. 44.19.622. Compensation. Members of the Alaska Human Resource  
 13 Investment Council listed in or appointed under AS 44.19.620(a), including a designee  
 14 of a member attending in place of the member, serve without compensation but are  
 15 entitled to per diem and travel expenses authorized by law for boards and commissions  
 16 under AS 39.20.180. Nonvoting members of the council appointed under  
 17 AS 44.19.620(b) serve without compensation and are not entitled to per diem and  
 18 travel expenses. A commissioner appointed under AS 44.19.620(c) or the  
 19 commissioner's designee is entitled to per diem and travel expenses as a state  
 20 employee.

21 \* Sec. 6. AS 44.19.623 is amended to read:

22 Sec. 44.19.623. Officers. The Alaska Human Resource Investment Council  
 23 shall elect a chair and a vice-chair from among the members listed in or appointed  
 24 under AS 44.19.620(a)(4) [AS 44.19.620(a) WHO ARE FROM THE PRIVATE  
 25 SECTOR. THEY SHALL ALSO ELECT A VICE-CHAIR]. The chair and vice-chair  
 26 serve in their positions at the pleasure of the council.

27 \* Sec. 7. AS 44.19.624 is amended to read:

28 Sec. 44.19.624. Meetings, quorum, and committees. (a) The Alaska Human  
 29 Resource Investment Council shall meet not more than two times in a calendar year  
 30 at the call of the chair to conduct its business. A majority of the members listed in or  
 31 appointed to the council under AS 44.19.620(a) constitutes a quorum.

1 (b) The council shall establish an executive committee and four permanent  
 2 standing committees as described in (c) - (g) of this section. The chair of a  
 3 permanent standing committee must be from the private sector. The council may  
 4 establish additional standing committees and special committees or subcommittees,  
 5 not necessarily consisting of council members, to advise and assist the council in  
 6 carrying out its functions assigned by federal or state statute. The permanent  
 7 standing committees are

8 (1) the assessment and evaluation committee;

9 (2) the policy and planning committee;

10 (3) the employment and placement committee; and

11 (4) the workforce readiness committee.

12 \* Sec. 8. AS 44.19.624 is amended by adding new subsections to read:

13 (c) The executive committee consists of the chair and vice-chair of the council,  
 14 the immediate past chair of the council, and the chairs of the four standing committees  
 15 described in (d) - (g) of this section. The executive committee has the duties and may  
 16 exercise the powers of the council between meetings of the council. The executive  
 17 committee shall

18 (1) report to the council in a timely fashion on actions taken on behalf  
 19 of the council; and

20 (2) supervise the affairs of the council between regular meetings of the  
 21 council.

22 (d) The assessment and evaluation committee shall

23 (1) assess and evaluate programs, initiatives, and the delivery of  
 24 services to help to ensure equitable distribution of quality education, training, and  
 25 employment services statewide, especially to rural areas and to programs serving  
 26 economically disadvantaged citizens;

27 (2) call for and monitor the workforce development system for  
 28 increased accountability in performance and continuous quality improvement along the  
 29 goals and strategies of the council's overall statewide strategic plan for workforce  
 30 development;

31 (3) use evaluation and performance measures to gauge customer

1 satisfaction within the workforce development system; and

2 (4) perform other duties assigned by the council.

3 (e) The policy and planning committee shall

4 (1) build policies regarding day-to-day operations and long-term  
5 responsibilities of the council;

6 (2) work to increase awareness of the council and its mission  
7 throughout the state;

8 (3) work with all other committees on a statewide strategic plan for  
9 workforce development; and

10 (4) perform other duties assigned by the council.

11 (f) The employment and placement committee shall

12 (1) ensure the statewide strategic plan for workforce development  
13 addresses

14 (A) customer needs at the local level;

15 (B) moving welfare recipients into the workforce;

16 (C) promoting the hiring of state residents in jobs that have  
17 traditionally been filled by out-of-state workers;

18 (D) tailoring employment and training programs to suit state  
19 business, industry, and economic development needs;

20 (2) monitor the coordination of service delivery to promote efficiency  
21 and to prevent overlap of services among programs; and

22 (3) perform other duties assigned by the council.

23 (g) The workforce readiness committee shall

24 (1) provide oversight for training, education, and employment programs  
25 to ensure the programs are delivering education and training that is relevant to local  
26 market needs and the career goals of state residents;

27 (2) build partnerships between employers and quality workforce training  
28 programs;

29 (3) work to connect the state public and private education systems with  
30 business, government, and labor to ensure that state residents are receiving workforce  
31 readiness skills throughout the education process; and

1 (4) perform other duties assigned by the council.

2 \* Sec. 9. AS 44.19.626(b) is amended to read:

3 (b) The council shall

4 (1) facilitate the development of statewide policy for a coordinated and  
5 effective employment training and education system in this state;

6 (2) identify the human resource investment needs in the state and  
7 develop a plan to meet those needs;

8 (3) review the provision of services and the use of money and resources  
9 by the human resource programs listed in AS 44.19.625;

10 (4) assume the duties and functions of the state councils described  
11 under the laws relating to the federal human resource programs listed in AS 44.19.625;

12 (5) advise the governor, [AND] state and local agencies, and the  
13 University of Alaska on the development of state and local standards and measures  
14 relating to applicable human resource programs;

15 (6) submit, to the governor and the legislature, a biennial strategic plan  
16 to accomplish the goals developed to meet human resource investment needs;

17 (7) monitor for the implementation and evaluate the effectiveness of the  
18 strategic plan developed by the council;

19 (8) adopt regulations that set standards for the percentage of a  
20 grant that may be used for administrative costs; the regulations must clearly  
21 identify and distinguish between expenses that may be included in administrative  
22 costs and those that may not be included in administrative costs; the percentage  
23 allowed for administrative costs may not exceed the lesser of 15 percent or the  
24 amount permitted under the requirements of a federal program, if applicable;

25 (9) report annually to the legislature, by the 30th day of the regular  
26 legislative session, on the performance and evaluation of training programs in the  
27 state subject to review under (f) of this section; and

28 (10) identify ways for agencies operating programs subject to  
29 oversight by the council to share resources, instructors, and curricula through  
30 collaboration with other public and private entities to increase training  
31 opportunities and reduce costs;

1                    (11) [(8)] adopt regulations under AS 44.62 (Administrative Procedure  
2 Act) to carry out the purposes of AS 44.19.620 - 44.19.627.

3 \* **Sec. 10.** AS 44.19.626 is amended by adding new subsections to read:

4            (d) The council shall provide oversight for employment-related education  
5 training programs operated by the state or operated under contract with the state that  
6 are described in (f) of this section. The council shall require a training program listed  
7 in (f) of this section to meet the requirements of this subsection. The council shall,  
8 by regulation, establish appropriate penalties for programs and individuals who fail to  
9 meet the requirements of this subsection. The council may recommend to the  
10 legislature changes to enhance the effectiveness of the training programs it oversees  
11 under this section. A training program described in (f) of this section funded with  
12 money appropriated by the legislature must

13                    (1) meet the standards adopted by the council concerning the  
14 percentage of a grant that may be spent on administrative costs;

15                    (2) be operated by an institution that holds a valid authorization to  
16 operate issued under AS 14.48 by the Alaska Commission on Postsecondary Education  
17 if the program is a postsecondary educational program operated by a postsecondary  
18 educational institution subject to regulation under AS 14.48;

19                    (3) provide to the Department of Labor the information required by the  
20 department for the preparation of the statistical information necessary for the council  
21 to evaluate programs by the standards set out in (e) of this section.

22            (e) The council shall develop standards that encourage agencies to contract for  
23 training programs that maximize the program's class size. The council shall adopt  
24 standards for the evaluation of training programs listed in (f) of this section with  
25 regard to the following:

26                    (1) the percent of former participants who have a job one year after  
27 leaving the training program;

28                    (2) the median wage of former participants seven to 12 months after  
29 leaving the program;

30                    (3) the percent of former participants who were employed after leaving  
31 the training program who received training under the program that was related to their

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jobs or somewhat related to their jobs seven to 12 months after leaving the training program;

(4) the percent of former participants of a training program who indicate that they were satisfied with or somewhat satisfied with the overall quality of the training program;

(5) the percent of employers who indicate that they were satisfied with the quality of the work of new employees who had recently completed the training program.

(f) The following training programs are subject to the provisions of (d) and (e) of this section:

(1) in the Department of Administration: Alaska Professional Development Institute, providing continuing education and training for employed workers;

(2) in the Department of Community and Regional Affairs or operated by the department:

(A) One Stop Career Center;

(B) Job Training Partnership Act programs, assisting communities in moving toward a self-sustainable economy and providing training;

(C) state training and employment program (AS 23.15.620), providing training and employment services for people who are unemployed or likely to become unemployed, fostering new jobs, and increasing training opportunities for workers severely affected by fluctuations in the state economy or adversely affected by technology advances in the workplace;

(3) in the Department of Education or operated by the department:

(A) employment-related adult basic education;

(B) School-to-Work;

(C) vocational education and Tech Prep;

(D) Alaska Career Information System;

(E) high school completion project;

(F) Kotzebue Technical Center;

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10*

1 (G) Alaska Vocational Technical Center;

2 (4) in the Department of Health and Social Services: Alaskans on  
3 Temporary Assistance Plan employment education and job training programs;

4 (5) in the Department of Labor:

5 (A) unemployment insurance grants provided under the federal  
6 training relocation assistance program;

7 (B) Alaska works programs, assisting with the welfare-to-work  
8 program;

9 (C) state training employment program, coordinated with the  
10 Department of Community and Regional Affairs.

11 (g) The council shall assess the programs listed in this subsection and make  
12 recommendations to the legislature in its report required under (b)(9) of this section  
13 about whether to include one or more of these programs under the requirements of (f)  
14 of this section:

15 (1) in the Department of Community and Regional Affairs or operated  
16 by the department:

17 (A) local government assistance training and development,  
18 including the rural utility business advisory program;

19 (B) energy operations, providing training in management and  
20 administration of electric utilities and bulk fuel storage systems;

21 (2) in the Department of Corrections:

22 (A) Correctional Academy, training individuals applying for a  
23 correctional officer position;

24 (B) inmate programs, providing vocational technical training and  
25 education courses for inmates preparing to be released from a correctional  
26 facility;

27 (C) correctional industries program, providing inmates with jobs  
28 while they are incarcerated;

29 (3) in the Department of Environmental Conservation:

30 (A) remote maintenance worker program, providing training and  
31 technical assistance to communities to keep drinking water and sewage disposal

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systems running, and providing on-the-job training to local operators;

(B) water and wastewater operator training and assistance;

(C) federal drinking water operator training and certification;

(4) in the Department of Military and Veterans' Affairs: educational benefits for members of the Alaska National Guard and the Alaska Naval Militia;

(5) in the Department of Public Safety:

(A) fire service training to maintain emergency training skills for existing fire fighter staff and volunteers and individuals interested in becoming fire fighters;

(B) Public Safety Training Academy, training trooper recruits;

(6) in the Department of Transportation and Public Facilities:

(A) engineer-in-training program, providing on-the-job training for apprentice engineers to enable them to gain the experience necessary to be certified;

(B) statewide transportation improvement program, offered by the United States National Highway Institute;

(C) local technical assistance program, transferring technical expertise to local governments;

(D) Native technical assistance program, transferring technical expertise to Native governments;

(E) border technology exchange program, to coordinate highway issues with the Yukon Territory;

(7) in the Department of Education: vocational rehabilitation client services and special work projects;

(8) in the Department of Labor: employment services, including job development, assisting individuals in finding employment, and assisting employed individuals in finding other employment.

(h) The University of Alaska shall evaluate the performance of its training programs using the standards set out in (e) of this section and shall provide a report on the results to the council for inclusion in the council's annual report to the legislature.

*insert (9)*

*Language added  
ABDI  
insert no. 4*

1 (i) The council shall review each program listed in (f) of this section to  
2 determine whether it is in compliance with the standards set out in (d) and (e) of this  
3 section. If the council finds that a program has failed to comply with the standards  
4 set out in (d) and (e) of this section, it shall notify the program director of the failure.  
5 If the program director fails to improve the performance of the program within a  
6 reasonable time, the council shall notify the governor and the legislative budget and  
7 audit committee that the program is out of compliance. A contract entered into by a  
8 state agency relating to a training program set out in (f) of this section must contain  
9 terms consistent with this section.

10 (j) A department that operates or contracts for a training program listed in (f)  
11 of this section shall pay to the council a management assessment fee not to exceed .75  
12 percent of the program's annual operating budget. The total amount received as  
13 management assessment fees may not exceed the council's authorized budget for the  
14 fiscal year. The council shall, by regulation, establish a method to determine annually  
15 the amount of the management assessment fee. If the amount the council expects to  
16 collect under this subsection exceeds the authorized budget of the council, the council  
17 shall reduce the percentages set out in this subsection so that the total amount of the  
18 fees collected approximately equals the authorized budget of the council for the fiscal  
19 year. The council shall adopt regulations under AS 44.62 (Administrative Procedure  
20 Act) necessary to administer this subsection.

21 (k) Upon the enactment of a new federal or state program relating to work  
22 force development, the council shall

23 (1) advise the governor and the legislature on whether the council  
24 should provide oversight for the new program under this section; and

25 (2) make recommendations necessary to streamline and coordinate state  
26 efforts to meet the guidelines of the new program.

27 (l) For purposes of this section, "program"

28 (1) does not refer to the overall activities of an individual institution  
29 or individual fields of study or courses that are not associated with programs for which  
30 the council has oversight responsibility;

31 (2) may include a certificate or associate degree course or a course that

1 is not for credit, whether it is offered by a public or private institute or contracted for  
2 by the private sector, so long as it is related to employment.

3 \* **Sec. 11.** Section 6, ch. 116, SLA 1996, is amended to read:

4 Sec. 6. AS 23.15.620, 23.15.625, 23.15.630, 23.15.635, 23.15.640, 23.15.645,  
5 23.15.651, and 23.15.660 are repealed June 30, 2002 [1998].

6 \* **Sec. 12.** TRANSITION. Notwithstanding the requirement in AS 44.19.623, as amended  
7 by sec. 6 of this Act, that the chair and the vice chair of the council be members of the  
8 council appointed under AS 44.19.620(a)(4), as amended by sec. 1 of this Act, a member who  
9 is serving as chair or vice chair of the council on the day before the effective date of this Act  
10 may continue to serve in that capacity until the expiration of the member's term of office.  
11 However, if the vice-chair is a commissioner of a department of state government, the office  
12 becomes vacant on the effective date of this Act and the council shall elect a vice chair who  
13 meets the requirements of AS 44.19.623, as amended by sec. 6 of this Act.

14 \* **Sec. 13.** This Act takes effect immediately under AS 01.10.070(c).

**S B**

**3 3 6**

# FISCAL NOTE

No. 1  
 Bill Version: CSSB 336 (L&C)  
 (S) Publish Date: 3-23-98

STATE OF ALASKA  
 1998 LEGISLATIVE SESSION

Revision Date (Note if correction) _____	Dept. Affected <u>Labor</u>	
Title <u>Workers' Comp: Exempt Hockey Players</u>	BRU _____	<u>Workers' Compensation</u>
	Component _____	<u>Workers' Compensation</u>
Sponsor <u>Senate L&amp;C</u>		
Requester <u>Senate L&amp;C</u>	Component Serial No. <u>344</u>	

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>						

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY98) cost: 0.0

POSITIONS	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 This proposed bill amends AS 23.30.230(a) to include persons employed as a player or coach of a professional hockey team as persons not covered by workers' compensation. The passage of this bill is not anticipated to result in any noticable activity.

Prepared by <u>Paul Grossi, Director</u>	Phone <u>465-2790</u>
Division <u>Workers' Compensation</u>	Date <u>3/13/98</u>
Approved by Commissioner: <u>Tom Cashen</u>	Date <u>3/13/98</u>
Agency <u>Labor</u>	

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# Alaska State Legislature

## Senate



Official Business

State Capitol  
Juneau, AK. 99801-1182

### Senate Labor & Commerce Committee

#### Sponsor Statement

SB 336: "An Act relating to excluding professional hockey team members from worker's compensation coverage"

This bill amends Worker's Compensation provisions by adding professional hockey teams to the list of persons not covered under AS 23.30.230. In exchange for this exemption, a team owner would have to provide a medical and disability program to cover the players (and anyone else associated with the team who is in the same Worker's Comp risk category, e.g., coaches, assistant coaches, but not office personnel) 100% of the time - whether on duty, travel or their own time. The owner is responsible for the cost of the premiums on this coverage. The idea is taken from Florida's approach to this problem.

The committee was asked to introduce this legislation by the sole professional hockey team in the state, the Anchorage Aces.

The Department of Labor, Division of Worker's Compensation has reviewed the legislation and is neutral on the bill.

TONY KNOWLES, GOVERNOR

DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

3601 C STREET, SUITE 1324  
ANCHORAGE, ALASKA 99503-5948  
PHONE: (907) 269-7900  
FAX: (907) 269-7910  
TDD: (907) 465-5437

September 11, 1997

Judi LeSuer Johnson  
Alaska Business Insurance, Inc.  
1400 West Benson, Suite 410  
Anchorage, Alaska 99503

Dear Ms. Johnson:

Re: Anchorage Aces  
Workers' Compensation Insurance Requirement

This will acknowledge receipt of your fax dated September 8, 1997 to Director Burke. The director requested that I respond on her behalf.

The Division of Workers' Compensation is the appropriate government agency that you should contact if you wish to amend the Alaska Workers' Compensation Statute to add professional athletes as persons not covered (see AS 23.30.230).

As I am sure you are aware, although such an exemption will reduce your client's workers' compensation premiums for professional athletes, the exemption will eliminate the exclusive remedy defense to claims against your client by professional athletes. Therefore, there are risks as well as benefits to be considered by your client under such an approach.

Very truly yours,

  
Stan Garlington  
Insurance Analyst

*workers comp  
file*

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DONNA STINSON  
OF COUNSEL

KELLY R. MONEY  
LEGAL ASSISTANT

\* ADMITTED IN FLORIDA, UTAH  
\*\* ADMITTED IN GEORGIA ONLY

July 19, 1996

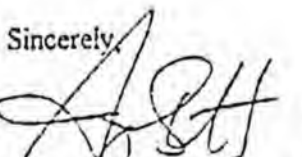
Walt Edwards  
Vice President/Business Operations  
1659 Folkstone Road  
Tallahassee, FL 32312

Re: Eastern Indoor Soccer League

Dear Walt:

I have enclosed a copy of § 440.09(3) and 440.02(15)(c)(3), Florida Statutes, which discusses exemption of professional athletes from Florida's Workers Compensation requirements in certain situations as you requested. As you will notice, professional soccer players are not specifically mentioned, although a plain reading of the language of the statute seems to include them. I took a quick look at the case law and found no cases specifically including or excluding professional soccer.

As always, please call with any questions.

Sincerely,  
  
Tammy deSoto Cicchetti

TdC/nw

- 440.525 Examination of carriers.
- 440.53 Effect of unconstitutionality
- 440.54 Violation of child labor law
- 440.55 Proceedings against state.
- 440.572 Authorization for individual self-insurer to provide coverage.
- 440.585 Workers' compensation group self-insurance fund application disclosure.
- 440.59 Reporting requirements.
- 440.591 Administrative procedure: rulemaking authority.
- 440.593 Electronic reporting.
- 440.50 Application of laws

440.01 Short title.—This chapter may be cited as the "Workers' Compensation Law."

History.—s. 1, ch. 17481, 1935; s. 1936 Supp. 1936; s. 22, ch. 78-300, ss. 1, 124, ch. 79-40, s. 21, ch. 79-212, s. 43, ch. 89-289, s. 58, ch. 90-201, s. 32, ch. 91-1.

440.015 Legislative intent.—It is the intent of the Legislature that the Workers' Compensation Law be interpreted so as to assure the quick and efficient delivery of disability and medical benefits to an injured worker and to facilitate the worker's return to gainful reemployment at a reasonable cost to the employer. It is the specific intent of the Legislature that workers' compensation cases shall be decided on their merits. The workers' compensation system in Florida is based on a mutual renunciation of common-law rights and defenses by employers and employees alike. In addition, it is the intent of the Legislature that the facts in a workers' compensation case are not to be interpreted liberally in favor of either the rights of the injured worker or the rights of the employer. Additionally, the Legislature hereby declares that disputes concerning the facts in workers' compensation cases are not to be given a broad liberal construction in favor of the employee on the one hand or of the employer on the other hand, and the laws pertaining to workers' compensation are to be construed in accordance with the basic principles of statutory construction and not liberally in favor of either employee or employer. It is the intent of the Legislature to ensure the prompt delivery of benefits to the injured worker. Therefore, an efficient and self-executing system must be created which is not an economic or administrative burden. The Division of Workers' Compensation shall administer the Workers' Compensation Law in a manner which facilitates the self-execution of the system and the process of ensuring a prompt and cost-effective delivery of payments.

History.—s. 8, ch. 90-201; s. 6, ch. 91-1; s. 1, ch. 93-415.

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(1) "Accident" means only an unexpected or unusual event or result that happens suddenly. A mental or nervous injury due to stress, fright, or excitement only, or disability or death due to the accidental acceleration or aggravation of a venereal disease or of a disease due to the habitual use of alcohol or controlled substances or narcotic drugs, or a disease that manifests itself in the fear of or dislike for an individual because of the individu-

al's race, color, religion, sex, national origin, age, or handicap is not an injury by accident arising out of the employment if a preexisting disease or anomaly is accelerated or aggravated by an accident arising out of and in the course of employment, only acceleration of death or acceleration or aggravation of the preexisting condition reasonably attributable to the accident is compensable, with respect to death or permanent impairment.

(2) "Adoption" or "adopted" means legal adoption prior to the time of the injury.

(3) "Carrier" means any person or fund authorized under s. 440.38 to insure under this chapter and includes a self-insurer, and a commercial self-insurance fund authorized under s. 624.462.

(4) "Casual" as used in this section shall be taken to refer only to employments when the work contemplated is to be completed in not exceeding 10 working days, without regard to the number of men employed, and when the total labor cost of such work is less than \$100.

(5) "Child" includes a posthumous child, a child legally adopted prior to the injury of the employee, and a stepchild or acknowledged child born out of wedlock dependent upon the deceased, but does not include married children unless wholly dependent on him. "Grandchild" means a child as above defined of a child as above defined. "Brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but does not include married brothers or married sisters unless wholly dependent on the employee. "Child," "grandchild," "brother," and "sister" include only persons who at the time of the death of the deceased employee are under 16 years of age, or under 22 years of age if a full-time student in an accredited educational institution.

(6) "Compensation" means the money allowance payable to an employee or to his dependents as provided for in this chapter.

(7) "Construction Industry" means for-profit activities involving the carrying out of any building, clearing, filling, excavation, or substantial improvement in the size or use of any structure or the appearance of any land. When appropriate to the context, "construction" refers to the act of construction or the result of construction. However, "construction" shall not mean a landowner's act of construction or the result of a construction upon his or her own premises, provided such premises are not intended to be sold or resold.

(8) "Date of maximum medical improvement" means the date after which further recovery from, or lasting improvement to, an injury or disease can no longer reasonably be anticipated, based upon reasonable medical probability.

(9) "Death" as a basis for a right to compensation means only death resulting from an injury.

(10) "Department" means the Department of Labor and Employment Security.

(11) "Disability" means incapacity because of the injury to earn in the same or any other employment the wages which the employee was receiving at the time of the injury.

(12) "Division" means the Division of Workers' Compensation of the Department of Labor and Employment Security.

(13)(a) "Employee" means any person engaged in any employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes, but is not limited to, aliens and minors.

(b) "Employee" includes any person who is an officer of a corporation and who performs services for remuneration for such corporation within this state, whether or not such services are continuous.

1. Any officer of a corporation may elect to be exempt from this chapter by filing written notice of the election with the division as provided in s. 440.05.

2. As to officers of a corporation who are actively engaged in the construction industry, no more than three officers may elect to be exempt from this chapter by filing written notice of the election with the division as provided in s. 440.05.

3. An officer of a corporation who elects to be exempt from this chapter by filing a written notice of the election with the division as provided in s. 440.05 is not an employee.

Services are presumed to have been rendered to the corporation if the officer is compensated by other than dividends upon shares of stock of the corporation which he owns.

(c) "Employee" includes a sole proprietor or a partner who devotes full time to the proprietorship or partnership and, except as provided in this paragraph, elects to be included in the definition of employee by filing notice thereof as provided in s. 440.05. Partners or sole proprietors actively engaged in the construction industry are considered employees unless they elect to be excluded from the definition of employee by filing written notice of the election with the division as provided in s. 440.05. However, no more than three partners in a partnership that is actively engaged in the construction industry may elect to be excluded. A sole proprietor or partner who is actively engaged in the construction industry and who elects to be exempt from this chapter by filing a written notice of the election with the division as provided in s. 440.05 is not an employee. For purposes of this chapter, an independent contractor is an employee unless he meets all of the conditions set forth in subparagraph (d)1.

(d) "Employee" does not include:

1. An independent contractor, if:

a. The independent contractor maintains a separate business with his own work facility, truck, equipment, materials, or similar accommodations;

b. The independent contractor holds or has applied for a federal employer identification number, unless the independent contractor is a sole proprietor who is not required to obtain a federal employer identification number under state or federal requirements;

c. The independent contractor performs or agrees to perform specific services or work for specific amounts of money and controls the means of performing the services or work;

d. The independent contractor incurs the principal expenses related to the service or work that he performs or agrees to perform.

e. The independent contractor is responsible for the satisfactory completion of work or services that he performs or agrees to perform and is or could be held liable for a failure to complete the work or services;

f. The independent contractor receives compensation for work or services performed for a commission or on a per-job or competitive-bid basis and not on any other basis;

g. The independent contractor may realize a profit or suffer a loss in connection with performing work or services;

h. The independent contractor has continuing or recurring business liabilities or obligations; and

i. The success or failure of the independent contractor's business depends on the relationship of business receipts to expenditures.

However, the determination as to whether an individual included in the Standard Industrial Classification Manual of 1987, Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762, 0781, 0782, 0783, 0814, 0831, 0851, 2411, 2421, 2435, 2436, 2448, or 2449, or a newspaper delivery person, is an independent contractor is governed not by the criteria in this paragraph but by common-law principles, giving due consideration to the business activity of the individual.

2. A real estate salesperson or agent, if that person agrees, in writing, to perform for remuneration solely by way of commission.

3. Bands, orchestras, and musical and theatrical performers, including disk jockeys, performing in licensed premises as defined in chapter 562, if a written contract evidencing an independent contractor relationship is entered into before the commencement of such entertainment.

4. An owner-operator of a motor vehicle who transports property under a written contract with a motor carrier which evidences a relationship by which the owner-operator assumes the responsibility of an employer for the performance of the contract, if the owner-operator is required to furnish the necessary motor vehicle equipment and all costs incidental to the performance of the contract, including, but not limited to, fuel, taxes, licenses, repairs, and hired help; and the owner-operator is paid a commission for his transportation service and is not paid by the hour or on some other time-measured basis.

5. A person whose employment is both casual and not in the course of the trade, business, profession, or occupation of the employer.

6. A volunteer, except a volunteer worker for the state or a county, municipality, or other governmental entity. A person who does not receive monetary remuneration for his services is presumed to be a volunteer unless there is substantial evidence that a valuable consideration was intended by both employer and employee. For purposes of this chapter, the term "volunteer" includes, but is not limited to:

a. Persons who serve in private nonprofit agencies and who receive no compensation other than expenses in an amount less than or equivalent to the standard mileage and per diem expenses provided to salaried employees in the same agency or, if such agency does

not have sufficient employees who receive mileage and per diem, then such volunteers who receive no compensation other than expenses in an amount less than or equivalent to the customary mileage and per diem paid to salaried workers in the community as determined by the division; and

b. Volunteers participating in federal programs established under Pub. L. No. 93-113.

7. Any officer of a corporation who elects to be exempt from this chapter.

8. A sole proprietor or officer of a corporation who actively engages in the construction industry, and a partner in a partnership that is actively engaged in the construction industry, who elects to be exempt from the provisions of this chapter. Such sole proprietor, officer, or partner is not an employee for any reason until the notice of revocation of election filed pursuant to s. 440.05 is effective.

9. An exercise rider who does not work for a single horse farm or breeder, and who is compensated for riding on a case-by-case basis, provided a written contract is entered into prior to the commencement of such activity which evidences that an employee/employer relationship does not exist.

10. A taxicab, limousine, or other passenger vehicle-for-hire driver who operates said vehicles pursuant to a written agreement with a company which provides any dispatch, marketing, insurance, communications, or other services under which the driver and any fees or charges paid by the driver to the company for such services are not conditioned upon, or expressed as a proportion of, fare revenues.

(14) "Employer" means the state and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any employment, and the legal representative of a deceased person or the receiver or trustee of any person. If the employer is a corporation, parties in actual control of the corporation, including, but not limited to, the president, officers who exercise broad corporate powers, directors, and all shareholders who directly or indirectly own a controlling interest in the corporation, are considered the employer for the purposes of ss. 440.105 and 440.106.

(15)(a) "Employment," subject to the other provisions of this chapter, means any service performed by an employee for the person employing him.

(b) "Employment" includes:

1. Employment by the state and all political subdivisions thereof and all public and quasi-public corporations therein, including officers elected at the polls.

2. All private employments in which four or more employees are employed by the same employer or, with respect to the construction industry, all private employment in which one or more employees are employed by the same employer.

3. Volunteer firefighters responding to or assisting with fire or medical emergencies whether or not the firefighters are on duty.

(c) "Employment" does not include service performed by or as:

1. Domestic servants in private homes.

2. Agricultural labor performed on a farm in the employ of a bona fide farmer, or association of farmers,

who employs 5 or fewer regular employees and who employs fewer than 12 other employees at one time for seasonal agricultural labor that is completed in less than 30 days, provided such seasonal employment does not exceed 45 days in the same calendar year. The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, fish, and truck farms, ranches, nurseries, and orchards. The term "agricultural labor" includes field foremen, limekeepers, checkers, and other farm labor supervisory personnel.

3. Professional athletes, such as professional boxers, wrestlers, baseball, football, basketball, hockey, polo, tennis, jai alai, and similar players, and motorsports teams competing in a motor racing event as defined in s. 549.08.

4. Labor under a sentence of a court to perform community services as provided in s. 318.193.

(16) "Misconduct" includes, but is not limited to, the following, which shall not be construed in pari materia with each other:

(a) Conduct evincing such willful or wanton disregard of an employer's interests as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of his employee; or

(b) Carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of an employer's interests or of the employee's duties and obligations to his employer.

(17) "Injury" means personal injury or death by accident arising out of and in the course of employment, and such diseases or infection as naturally or unavoidably result from such injury. Damage to dentures, eyeglasses, prosthetic devices, and artificial limbs may be included in this definition only when the damage is shown to be part of, or in conjunction with, an accident. This damage must specifically occur as the result of an accident in the normal course of employment.

(18) "Parent" includes stepparents and parents by adoption, parents-in-law, and any persons who for more than 3 years prior to the death of the deceased employee stood in the place of a parent to him and were dependent on the injured employee.

(19) "Permanent impairment" means any anatomic or functional abnormality or loss determined as a percentage of the body as a whole, existing after the date of maximum medical improvement, which results from the injury.

(20) "Person" means individual, partnership, association, or corporation, including any public service corporation.

(21) "Self-insurer" means:

(a) Any employer who has secured payment of compensation pursuant to s. 440.38(1)(b) or (6) as an individual self-insurer;

(b) Any employer who has secured payment of compensation through a group self-insurance fund under s. 624.4621;

(c) Any group self-insurance fund established under s. 624.4621;

(d) A public utility as defined in s. 364.02 or s. 366.02 that has assumed by contract the liabilities of contractors or subcontractors pursuant to 's. 440.57'; or

(e) Any local government self-insurance fund established under s. 624.4622.

(22) "Spouse" includes only a spouse substantially dependent for financial support upon the decedent and living with the decedent at the time of the decedent's injury and death, or substantially dependent upon the decedent for financial support and living apart at that time for justifiable cause.

(23) "Time of injury" means the time of the occurrence of the accident resulting in the injury.

(24) "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury and includes only the wages earned and reported for federal income tax purposes on the job where the employee is injured and any other concurrent employment where he is also subject to workers' compensation coverage and benefits, together with the reasonable value of housing furnished to the employee by the employer which is the permanent year-round residence of the employee, and gratuities to the extent reported to the employer in writing as taxable income received in the course of employment from others than the employer and employer contributions for health insurance for the employee or the employee's dependants. However, housing furnished to migrant workers shall be included in wages unless provided after the time of injury. In employment in which an employee receives consideration for housing, the reasonable value of such housing compensation shall be the actual cost to the employer or based upon the Fair Market Rent Survey promulgated pursuant to s. 8 of the Housing and Urban Development Act of 1974, whichever is less. However, if employer contributions for housing or health insurance are continued after the time of the injury, the contributions are not "wages" for the purpose of calculating an employee's average weekly wage.

(25) "Weekly compensation rate" means and refers to the amount of compensation payable for a period of 7 consecutive days, including any Saturdays, Sundays, holidays, and other nonworking days which fall within such period of 7 consecutive days. When Saturdays, Sundays, holidays, or other nonworking days immediately follow the first 7 days of disability or occur at the end of a period of disability as the last day or days of such period, such nonworking days constitute a part of the period of disability with respect to which compensation is payable.

(26) "Construction design professional" means an architect, professional engineer, landscape architect, or surveyor and mapper, or any corporation, professional or general, that has a certificate to practice in the construction design field from the Department of Business and Professional Regulation.

(27) "Individual self-insurer" means any employer who has secured payment of compensation pursuant to s. 440.38(1)(b) as an individual self-insurer.

(28) "Domestic individual self-insurer" means an individual self-insurer

(A) Which is a corporation formed under the laws of this state

(B) Who is an individual who is a resident of this state or whose primary place of business is located in this state or

(C) Which is a partnership whose principals are residents of this state or whose primary place of business is located in this state.

(29) "Foreign individual self-insurer" means an individual self-insurer:

(2) Which is a corporation formed under the laws of any state, district, territory, or commonwealth of the United States other than this state;

(3) Who is an individual who is not a resident of this state and whose primary place of business is not located in this state; or

(c) Which is a partnership whose principals are not residents of this state and whose primary place of business is not located in this state.

(30) "Insolvent member" means an individual self-insurer which is a member of the Florida Self-Insurers Guaranty Association, Incorporated, or which was a member and has withdrawn pursuant to s. 440.385(1)(b), and which has been found insolvent, as defined in paragraph (31)(a), paragraph (31)(b), or paragraph (31)(c), by a court of competent jurisdiction in this or any other state, or meets the definition of paragraph (31)(d).

(31) "Insolvency" or "insolvent" means:

(a) With respect to an individual self-insurer:

1. That all assets of the individual self-insurer, if made immediately available, would not be sufficient to meet all the individual self-insurer's liabilities;

2. That the individual self-insurer is unable to pay its debts as they become due in the usual course of business;

3. That the individual self-insurer has substantially ceased or suspended the payment of compensation to its employees as required in this chapter; or

4. That the individual self-insurer has sought protection under the United States Bankruptcy Code or has been brought under the jurisdiction of a court of bankruptcy as a debtor pursuant to the United States Bankruptcy Code.

(b) With respect to an employee claiming insolvency pursuant to s. 440.25(5), a person is insolvent who:

1. Has ceased to pay his debts in the ordinary course of business and cannot pay his debts as they become due; or

2. Has been adjudicated insolvent pursuant to the federal bankruptcy law.

(22) "Arising out of" pertains to occupational causation. An accidental injury or death arises out of employment if work performed in the course and scope of employment is the major contributing cause of the injury or death.

(33) "Soft-tissue injury" means an injury that produces damage to the soft tissues, rather than to the skeletal tissues or soft organs.

(34) "Catastrophic injury" means a permanent impairment constituted by

(a) Spinal cord injury involving severe paralysis of an arm, a leg, or the trunk;

(b) Amputation of an arm, a hand, a foot, or a leg involving the effective loss of use of that appendage;

(c) Severe brain or closed-head injury, as evidenced by

\* Severe sensory or motor disturbances.

- 2 Severe communicative disturbances.
- 3 Severe complex integrated disturbances of cerebral function;
- 4 Severe episodic neurological disorders; or
- 5 Other severe brain and closed-head injury conditions at least as severe in nature as any condition provided in subparagraphs 1.-4 ;

(d) Second-degree or third-degree burns of 25 percent or more of the total body surface or third-degree burns of 5 percent or more to the face and hands;

(e) Total or industrial blindness; or

(f) Any other injury that would otherwise qualify under this chapter of a nature and severity that would qualify an employee to receive disability income benefits under Title II or supplemental security income benefits under Title XVI of the federal Social Security Act as the Social Security Act existed on July 1, 1992, without regard to any time limitations provided under that act.

(35) "insurer" means a group self-insurers fund authorized by s. 624.4621, an individual self-insurer authorized by s. 440.38, a commercial self-insurance fund authorized by s. 624.462, an assessable mutual insurer authorized by s. 628.5011, and an insurer licensed to write workers' compensation and employer's liability insurance in this state. The term "carrier," as used in this chapter, means an insurer as defined in this subsection.

(36) "Statement," for the purposes of ss. 440.105 and 440.106, includes, but is not limited to, any notice, representation, statement, proof of injury, bill for services, diagnosis, prescription, hospital or doctor record, X ray, test result, or other evidence of loss, injury, or expense.

History.—s. 2, ch. 17481, 1935; s. 1, ch. 17482, 1935; s. 1, ch. 17483, 1935; CGL 1938 Supp. 596677; s. 1, ch. 18412, 1937; s. 1, ch. 20872, 1941; s. 1, ch. 26228, 1953; s. 1, ch. 29778, 1955; s. 1, ch. 37-185; s. 1, ch. 37-225; s. 1, ch. 38-100; s. 1, ch. 65-104; s. 1, ch. 67-354; ss. 17, 38, ch. 69-100; s. 1, ch. 71-80; s. 162, ch. 71-377; s. 1, ch. 72-243; s. 1, ch. 73-177; s. 1, ch. 73-233; s. 118, ch. 73-333; s. 1, ch. 74-44; s. 1, ch. 74-121; s. 1, ch. 74-177; s. 1, ch. 75-209; s. 1, ch. 77-774; s. 1, ch. 77-790; ss. 1, 23, ch. 78-302; s. 13, ch. 79-7; ss. 2, 128, ch. 79-40; s. 21, ch. 79-312; s. 1, ch. 80-736; s. 3, ch. 81-119; ss. 1, 20, ch. 83-305; s. 1, ch. 84-267; s. 6, ch. 86-171; s. 1, ch. 87-333; s. 1, ch. 88-202; s. 2, ch. 89-81; ss. 1, 43, ch. 89-280; ss. 9, 56, ch. 90-20; ss. 7, 32, ch. 91-1; s. 1, ch. 91-2; s. 2, ch. 93-415; s. 117, ch. 94-119; s. 59, ch. 94-218.

\*Note.—Renumbered to s. 624.4621, by s. 81, ch. 93-415.  
 \*Note.—Redesignated as s. 624.4621, by s. 2, ch. 93-415.  
 \*Note.—Redesignated as s. 624.4621, by s. 2, ch. 93-415.  
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440.021 Exemption of workers' compensation from chapter 120.—Workers' compensation adjudications by judges of compensation claims are exempt from chapter 120, and no judge of compensation claims shall be considered an agency or a part thereof. Communications of the result of investigations by the division pursuant to s. 440.105(4) are exempt from chapter 120. In all instances in which the division institutes action to collect a penalty or interest which may be due pursuant to this chapter, the penalty or interest shall be assessed without hearing, and the party against which such penalty or interest is assessed shall be given written notice of such assessment and shall have the right to protest within 20 days of such notice. Upon receipt of a timely notice of protest and after such investigation as may be necessary, the division shall, if it agrees with such protest, notify the protesting party that the assessment has been revoked. If the division does not agree with the protest, it shall refer the matter to the judge of compensation claims for

determination pursuant to s. 440.25(3) and (4). Such action of the division is exempt from the provisions of chapter 120.

History.—s. 2, ch. 17481, 1935; s. 1, ch. 17482, 1935; s. 1, ch. 17483, 1935; CGL 1938 Supp. 596677; s. 1, ch. 18412, 1937; s. 1, ch. 20872, 1941; s. 1, ch. 26228, 1953; s. 1, ch. 29778, 1955; s. 1, ch. 37-185; s. 1, ch. 37-225; s. 1, ch. 38-100; s. 1, ch. 65-104; s. 1, ch. 67-354; ss. 17, 38, ch. 69-100; s. 1, ch. 71-80; s. 162, ch. 71-377; s. 1, ch. 72-243; s. 1, ch. 73-177; s. 1, ch. 73-233; s. 118, ch. 73-333; s. 1, ch. 74-44; s. 1, ch. 74-121; s. 1, ch. 74-177; s. 1, ch. 75-209; s. 1, ch. 77-774; s. 1, ch. 77-790; ss. 1, 23, ch. 78-302; s. 13, ch. 79-7; ss. 2, 128, ch. 79-40; s. 21, ch. 79-312; s. 1, ch. 80-736; s. 3, ch. 81-119; ss. 1, 20, ch. 83-305; s. 1, ch. 84-267; s. 6, ch. 86-171; s. 1, ch. 87-333; s. 1, ch. 88-202; s. 2, ch. 89-81; ss. 1, 43, ch. 89-280; ss. 9, 56, ch. 90-20; ss. 7, 32, ch. 91-1; s. 1, ch. 91-2; s. 2, ch. 93-415; s. 117, ch. 94-119; s. 59, ch. 94-218.

440.03 Application.—Every employer and employee as defined in s. 440.02 shall be bound by the provisions of this chapter.

History.—s. 1, ch. 17481, 1935; CGL 1938 Supp. 596677; s. 1, ch. 17-148; s. 21, ch. 79-100; s. 124, ch. 79-40; s. 21, ch. 79-312; s. 43, ch. 89-280; s. 58, ch. 90-201; s. 52, ch. 91-1.

440.04 Waiver of exemption.—

(1) Every employer having in his employment any employee not included in the definition "employee," or excluded or exempted from the operation of this chapter may at any time waive such exclusion or exemption and accept the provisions of this chapter by giving notice thereof as provided in s. 440.05, and by so doing be as fully protected and covered by the provisions of this chapter as if such exclusion or exemption had not been contained herein.

(2) When any policy or contract of insurance specifically secures the benefits of this chapter to any person not included in the definition of "employee" or whose services are not included in the definition of "employment" or who is otherwise excluded or exempted from the operation of this chapter, the acceptance of such policy or contract of insurance by the insured and the writing of same by the carrier shall constitute a waiver of such exclusion or exemption and an acceptance of the provisions of this chapter with respect to such person, notwithstanding the provision of s. 440.05 with respect to notice.

(3) A corporate officer who has exempted himself by proper notice from the operation of this chapter may at any time revoke such exemption and thereby accept the provisions of this chapter by giving notice as provided in s. 440.05.

History.—s. 4, ch. 17481, 1935; CGL 1938 Supp. 596677; s. 2, ch. 18412, 1937; s. 2, ch. 27778, 1955; s. 4, ch. 70-148; s. 2, ch. 74-187; s. 25, ch. 78-302; s. 124, ch. 79-40; s. 21, ch. 79-312; s. 43, ch. 89-280; s. 58, ch. 90-201; s. 52, ch. 91-1.

440.05 Election of exemption; revocation of election; notice; certification.—

(1) Each corporate officer who elects not to accept the provisions of this chapter or who, after electing such exemption, revokes that exemption shall mail to the division in Tallahassee notice to such effect in accordance with a form to be prescribed by the division.

(2) Each sole proprietor or partner who elects to be included in the definition of "employee" or who, after such election, revokes that election must mail to the division in Tallahassee notice to such effect, in accordance with a form to be prescribed by the division.

(3) Each sole proprietor, partner, or officer of a corporation who is actively engaged in the construction industry and who elects an exemption from this chapter or who, after electing such exemption, revokes that exemption, must mail a written notice to such effect to the division on a form prescribed by the division. The notice of election to be exempt from the provisions of

This chapter must be notarized and under oath. The election must list the name, federal tax identification number, social security number, and all certified or registered licenses issued pursuant to chapter 489 held by the person seeking the exemption. The form must identify each sole proprietorship, partnership, or corporation that employs the person electing the exemption and must list the social security number or federal tax identification number of each such employer. In addition, the election form must provide that the sole proprietor, partner, or officer electing an exemption is not entitled to benefits under this chapter, must provide that the election does not exceed exemption limits for officers and partnerships provided in s. 440.02, and must certify that any employees of the sole proprietor, partner, or officer electing an exemption are covered by workers' compensation insurance. Upon receipt of the notice of the election to be exempt and a determination that the notice meets the requirements of this subsection, the division shall issue a certification of the election to the sole proprietor, partner, or officer. The certificate of election must list the names of the sole proprietorship, partnership, or corporation listed in the request for exemption. A new certificate of election must be obtained each time the person is employed by a new sole proprietorship, partnership, or corporation that is not listed on the certificate of election. A copy of the certificate of election must be sent to each workers' compensation carrier identified in the request for exemption. The certification of the election is valid until the sole proprietor, partner, or officer revokes his election. Upon filing a notice of revocation of election, a sole proprietor, partner, or officer who is a subcontractor must notify his contractor.

(4) A notice given under subsection (1), subsection (2), or subsection (3) is not effective until 30 days after the date it is mailed to the division in Tallahassee. However, if an accident or occupational disease occurs less than 30 days after the effective date of the insurance policy under which the payment of compensation is secured or the date the employer qualified as a self-insurer, such notice is effective as of 12:01 a.m. of the day following the date it is mailed to the division in Tallahassee.

(5) Any contractor responsible for compensation under s. 440.10 may register in writing with the workers' compensation carrier for any subcontractor and shall thereafter be entitled to receive written notice from the carrier of any cancellation or nonrenewal of the policy.

(6) The division may assess a fee, not to exceed \$50, with each request for election or renewal of election under this section. The funds collected by the division shall be used to administer this section and to audit the businesses that pay the fee for compliance with any requirements of this chapter.

*History.—*s. 2, ch. 17481, 1973; C.S.L. 1974 Supp. 396231, ss. 17, 21, ch. 64-106, s. 2, ch. 70-148, s. 1, ch. 70-230, s. 3, ch. 74-197, s. 2, ch. 75-209, s. 22, ch. 78-300, s. 12, ch. 79-640, s. 21, ch. 79-312, s. 43, ch. 83-289, s. 54, ch. 90-271, s. 57, ch. 91-1, s. 2, ch. 91-2, s. 3, ch. 93-415.

**440.055 Notice requirements.**—An employer who employs fewer than four employees, who is permitted by law to elect not to secure payment of compensation under this chapter, and who elects not to do so shall post clear written notice in a conspicuous location at

each worksite directed to all employees and other persons performing services at the worksite of their lack of entitlement to benefits under this chapter.

*History.—*s. 10, ch. 90-201, s. 8, ch. 91-1, s. 4, ch. 93-415.

**440.06 Failure to secure compensation; effect.**—Every employer who fails to secure the payment of compensation under this chapter as provided in s. 440.38 may not, in any suit brought against him by an employee subject to this chapter to recover damages for injury or death, defend such a suit on the grounds that the injury was caused by the negligence of a fellow servant, that the employee assumed the risk of his employment, or that the injury was due to the comparative negligence of the employee.

*History.—*s. 6, ch. 17481, 1973; C.S.L. 1974 Supp. 396231, s. 5, ch. 70-148, s. 23, ch. 75-300, s. 4, 12, ch. 78-40, s. 27, ch. 79-312, s. 43, ch. 83-289, s. 54, ch. 90-201, s. 62, ch. 91-1.

**440.075 When corporate officer rejects chapter; effect.**—Every corporate officer who elects to reject this chapter shall, in any action to recover damages for injury or death brought against the corporate employer, proceed as at common law, and the employer in such suit may avail itself of all defenses that exist at common law.

*History.—*s. 4, ch. 74-187, s. 23, ch. 75-300, s. 12, ch. 78-40, s. 27, ch. 79-312, s. 43, ch. 83-289, s. 50, ch. 90-201, s. 52, ch. 91-1.

**440.077 When a sole proprietor, partner, or officer rejects chapter; effect.**—A sole proprietor, partner, or officer of a corporation who is actively engaged in the construction industry and who elects to be exempt from the provisions of this chapter may not recover benefits under this chapter.

*History.—*s. 2, ch. 91-2.

#### **440.09 Coverage.**

(1) The employer shall pay compensation or furnish benefits required by this chapter if the employee suffers an accidental injury or death arising out of work performed in the course and the scope of employment. The injury, its occupational cause, and any resulting manifestations or disability shall be established to a reasonable degree of medical certainty and by objective medical findings. Mental or nervous injuries occurring as a manifestation of an injury compensable under this section shall be demonstrated by clear and convincing evidence.

(a) This chapter does not require any compensation or benefits for any subsequent injury the employee suffers as a result of an original injury arising out of and in the course of employment unless the original injury is the major contributing cause of the subsequent injury.

(b) If an injury arising out of and in the course of employment combines with a preexisting disease or condition to cause or prolong disability or need for treatment, the employer must pay compensation or benefits required by this chapter only to the extent that the injury arising out of and in the course of employment is and remains the major contributing cause of the disability or need for treatment.

(c) Death resulting from an operation by a surgeon furnished by the employer for the cure of hernia as required in s. 440.15(6) shall for the purpose of this chapter be considered to be a death resulting from the accident causing the hernia.

(1) If an accident happens while the employee is employed elsewhere than in this state, which would entitle him or his dependents to compensation if it had happened in this state, the employee or his dependents are entitled to compensation if the contract of employment was made in this state, or the employment was principally localized in this state. However, if an employee receives compensation or damages under the laws of any other state, the total compensation for the injury may not be greater than is provided in this chapter.

(2) Benefits are not payable in respect of the disability or death of any employee covered by the Federal Employer's Liability Act, the Longshoremen's and Harbor Worker's Compensation Act, or the Jones Act.

(3) Compensation is not payable if the injury was occasioned primarily by the intoxication of the employee: by the influence of any drugs, barbiturates, or other stimulants not prescribed by a physician; or by the willful intention of the employee to injure or kill himself, herself, or another.

(4) An employee shall not be entitled to compensation or benefits under this chapter if any administrative hearing officer, court, or jury convened in this state determines that the employee has knowingly or intentionally engaged in any of the acts described in s. 440.105 for the purpose of securing workers' compensation benefits.

(5) If injury is caused by the knowing refusal of the employee to use a safety appliance or observe a safety rule required by statute or lawfully adopted by the division, and brought prior to the accident to the employee's knowledge, or if injury is caused by the knowing refusal of the employee to use a safety appliance provided by the employer, the compensation as provided in this chapter shall be reduced 25 percent.

(6) Except as provided in this chapter, a construction design professional who is retained to perform professional services on a construction project, or an employee of a construction design professional in the performance of professional services on the site of the construction project, is not liable for any injuries resulting from the employer's failure to comply with safety standards on the construction project for which compensation is recoverable under this chapter, unless responsibility for safety practices is specifically assumed by contracts. The immunity provided by this subsection to a construction design professional does not apply to the negligent preparation of design plans or specifications.

(7)(a) To ensure that the workplace is a drug-free environment and to deter the use of drugs and alcohol at the workplace, if the employee has reason to suspect that the injury was occasioned primarily by the intoxication of the employee or by the use of any drug, as defined in this chapter, which affected the employee to the extent that the employee's normal faculties were impaired, and the employer has not implemented a drug-free workplace pursuant to ss. 440.101 and 440.102, the employer may require the employee to submit to a test for the presence of any or all drugs or alcohol in his system.

(c) If the employee has, at the time of the injury, a blood alcohol level equal to or greater than the level

specified in s. 316.193, or if the employee has a positive confirmation of a drug as defined in this act, it is presumed that the injury was occasioned primarily by the intoxication of, or by the influence of the drug upon, the employee. In the absence of a drug-free workplace program, this presumption may be rebutted by clear and convincing evidence that the intoxication or influence of the drug did not contribute to the injury. Percent by weight of alcohol in the blood must be based upon grams of alcohol per 100 milliliters of blood. If the results are positive, the testing facility must maintain the specimen for a minimum of 90 days. Blood serum may be used for testing purposes under this chapter; however, if this test is used, the presumptions under this section do not arise unless the blood alcohol level is proved to be medically and scientifically equivalent to or greater than the comparable blood alcohol level that would have been obtained if the test were based on percent by weight of alcohol in the blood. However, if, before the accident, the employer had actual knowledge of and expressly acquiesced in the employee's presence at the workplace while under the influence of such alcohol or drug, the presumptions specified in this subsection do not apply.

(c) If the injured worker refuses to submit to a drug test, it shall be presumed in the absence of clear and convincing evidence to the contrary that the injury was occasioned primarily by the influence of drugs.

(d) The division shall provide by rule for the authorization and regulation of drug-testing policies, procedures, and methods. Testing of injured employees shall not commence until such rules are adopted.

(8) If, by operation of s. 440.04, benefits become payable to a professional athlete under this chapter, such benefits shall be reduced or setoff in the total amount of injury benefits or wages payable during the period of disability by the employer under a collective bargaining agreement or contract for hire.

History.—s. 9, ch. 17481, 1985; CGL 1938 Supp. 596607; s. 3, ch. 18413, 1987; s. 1, ch. 28226, 1983; s. 1, ch. 57-253; s. 2, ch. 73-127; s. 8, ch. 74-187; s. 3, ch. 75-209; s. 2, ch. 77-293; s. 23, ch. 78-300; s. 124, ch. 78-49; s. 21, ch. 78-312; s. 7, ch. 85-171; ss. 4, 3, 6, 43, ch. 86-289; ss. 11, 64, ch. 90-201; ss. 9, 52, ch. 91-11; ss. 5, 63, ch. 93-415.  
 Note.—Repealed by s. 3, ch. 82-217.

**440.091 Law enforcement officer; when acting within the course of employment.—**if an employee:

(1) Is elected, appointed, or employed full time by a municipality, the state, or any political subdivision and is vested with authority to bear arms and make arrests and his primary responsibility is the prevention or detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state;

(2) Was discharging that primary responsibility within the state in a place and under circumstances reasonably consistent with that primary responsibility; and

(3) Was not engaged in services for which he was paid by a private employer, and he and his public employer had no agreement providing for workers' compensation coverage for that private employment;

the employee shall be deemed to have been acting within the course of employment. The term "employee" as used in this section includes all certified supervisory and command personnel whose duties include, in whole