



11524 HOUSE LABOR & COMMERCE

1 security is provided in the form of a savings certificate, certificate of deposit, or  
2 investment certificate, the certificate must state that the amount is unavailable for  
3 withdrawal except on order of the director.

4 (b) In addition to complying with the requirements of (a) of this section, an  
5 association of self-insured employers shall maintain a combined tangible net worth of  
6 all members in the association of at least \$5,000,000 or deposit with the director a  
7 solvency bond, in a form prescribed by the director, in an aggregate amount of at least  
8 \$5,000,000.

9 (c) The administrator of the association of self-insured employers shall deposit  
10 with the director a bond, in an amount determined by the director, executed by the  
11 association's administrator as principal, issued by a licensed surety, payable to the  
12 State of Alaska, and conditioned on the faithful performance of the administrator's  
13 duties.

14 (d) A third-party administrator providing claims services for the association of  
15 self-insured employers shall deposit with the director a bond, in an amount determined  
16 by the director, executed by the third-party administrator as principal, issued by a  
17 licensed surety, payable to the State of Alaska, and conditioned on the faithful  
18 performance of the third party administrator's duties.

19 (e) The director may increase or decrease the amount of a bond or money  
20 required to be deposited under this section in accordance with statutory and regulatory  
21 requirements for loss reserves in casualty insurance. If the director requires an  
22 association of self-insured employers, the association's administrator, or the third-  
23 party administrator to increase its deposit, the director may specify the form of the  
24 additional security. The association, association's administrator, or third-party  
25 administrator shall provide the additional security within 60 days after receiving notice  
26 from the director.

27 (f) The security deposited under this section does not relieve an association of  
28 self-insured employers from responsibility for the administration of claims and  
29 payment of compensation under AS 23.30.

30 **Sec. 21.77.030. Surety and solvency bonds.** A surety or bonding company  
31 may not furnish a bond or other form of security required under this chapter for an

1 association of self-insured employers or the association's members unless the surety or  
2 bonding company is authorized to do business in the state.

3 **Sec. 21.77.040. Issuance of certificate of self-insurance.** (a) On determining  
4 that an association is qualified as an association of self-insured employers, the director  
5 shall issue a certificate of self-insurance to the association and the association's  
6 administrator.

7 (b) A certificate of self-insurance must include, without limitation, the name  
8 of the association of self-insured employers, the name of each employer who the  
9 director determines is a member of the association at the time the certificate is issued,  
10 an identification number assigned to the association by the director, and the date the  
11 certificate was issued.

12 (c) A certificate of self-insurance is valid until it is withdrawn by the director  
13 or voluntarily terminated by the association.

14 (d) The director may not issue a certificate of self-insurance to an association  
15 that has had its certification as an association of self-insured employers involuntarily  
16 withdrawn by the director within two years immediately preceding the association's  
17 application.

18 (e) The director may not grant a request to cancel a certificate of self-  
19 insurance unless the association has insured or reinsured all incurred obligations with  
20 an insurer authorized to do business in the state under an agreement filed with an  
21 approved by the director. The agreement must include coverage for actual claims,  
22 claims incurred but not reported, and expenses associated with those claims.

23 **Sec. 21.77.050. Effect of certificate.** (a) An association of self-insured  
24 employers directly assumes the responsibility for providing compensation due the  
25 employees of the members of the association and the employers' beneficiaries under  
26 AS 23.30.

27 (b) An association of self-insured employers is not required to pay premiums  
28 required of other employers under AS 23.30, but is relieved from other liability for  
29 personal injury to the same extent as other employers.

30 (c) An association of self-insured employers may act on behalf of or for the  
31 benefit of its members to provide for its members' workers' compensation obligations

1 under AS 23.30. An association of self-insured employers shall have the rights and  
2 obligations of an employer under AS 23.30.

3 (d) The claims of employees and their beneficiaries resulting from injuries  
4 while in the employment of a member of an association of self-insured employers  
5 must be handled in the manner provided under AS 23.30, and the association is subject  
6 to regulations adopted by the Alaska Workers' Compensation Board.

7 **Sec. 21.77.060. Board of directors; members; duties; prohibited acts.** (a)

8 An association of self-insured employers shall be operated by a board of directors  
9 consisting of at least five members elected by the members of the association for terms  
10 as set out in the bylaws of the association. At least two-thirds of the members of the  
11 board of directors shall be employees, officers, or directors of the members of the  
12 association. An association's administrator, third-party administrator, or an owner,  
13 officer, employee or other person affiliated with the association's administrator or  
14 third-party administrator may not serve as a member of the board of directors. A  
15 member of the board of directors must be a resident of this state or an officer of a  
16 corporation authorized to do business in this state.

17 (b) The board of directors of an association of self-insured employers shall

18 (1) ensure the prompt payment of compensation due under AS 23.30;

19 (2) take all actions necessary to protect the assets of the association;

20 (3) employ full time an administrator to carry out the policies of the  
21 board of directors and perform the duties the board delegates to the administrator; an  
22 association's administrator may not perform the duties assigned to a third-party  
23 administrator;

24 (4) employ a third-party administrator to administer the claims or other  
25 obligations of the association during the period of the contract;

26 (5) engage the services of an independent certified public accountant to  
27 prepare the statement of financial condition required under AS 21.77.150; and

28 (6) maintain minutes of the meetings of the board and make the  
29 minutes available for inspection by the director.

30 (c) The board of directors of an association of self-insured employers may not

31 (1) extend credit to any member of the association for the payment of

1 that member's annual assessment, except under a payment plan approved by the  
2 director;

3 (2) borrow money from the association or in the name of the  
4 association, except in the ordinary course of its business, without prior approval from  
5 the director.

6 **Sec. 21.77.070. Fiscal responsibilities.** (a) The board of directors of an  
7 association of self-insured employers is responsible for the money collected and  
8 disbursed by the association.

9 (b) The board of directors shall establish

10 (1) a claims account in a financial institution in this state that is  
11 approved by the director and that is federally insured; except as provided in (c) of this  
12 section, at least 65 percent of the annual assessments collected by the association from  
13 its members must be deposited in the claims account to pay claims, expenses related to  
14 those claims, costs associated with the association's policy of excess insurance or  
15 reinsurance contract, and assessments, payments, and penalties related to the  
16 subsequent injury account and the uninsured employers' claim account;

17 (2) an administrative account in a financial institution in this state that  
18 is approved by the director and that is federally insured; the amount of annual  
19 assessments collected by the association not deposited in the claims account must be  
20 deposited in the administrative account to pay the administrative expenses of the  
21 association.

22 (c) The director may authorize an association of self-insured employers to  
23 deposit less than 65 percent of the associations annual assessments in a claims account  
24 if the association presents evidence satisfactory to the director that more than 35  
25 percent of the association's annual assessments are needed to maintain programs for  
26 loss control and occupational safety.

27 (d) The board of directors may invest the money of the association of self-  
28 insured employers not needed to pay the obligations of the association under  
29 AS 23.30.

30 (e) The director shall review the accounts of an association of self-insured  
31 employers established under this section at the times necessary to ensure compliance

1 with the provisions of this section.

2 **Sec. 21.77.080. Prohibited relationships.** (a) An administrator of an  
3 association of self-insured employers or an employee, officer, or director of an  
4 association's administrator may not be an employee, officer, or director of a third-party  
5 administrator employed by the association or have a direct or indirect financial interest  
6 in the third-party administrator.

7 (b) A third-party administrator or an employee, officer, or director of a third-  
8 party administrator may not be an employee, officer, or director of the association's  
9 administrator or have a direct or indirect financial interest in the association's  
10 administrator.

11 **Sec. 21.77.090. Termination and cancellation of membership in**  
12 **association; coverage following termination or cancellation.** (a) A member of an  
13 association of self-insured employers may terminate its membership at any time by  
14 submitting to the association's administrator a notice of intent to withdraw from the  
15 association at least 120 days before the effective date of withdrawal. The notice of  
16 intent to withdraw must include a statement indicating that the member has

17 (1) been certified as a self-insured employer under AS 23.30.090;

18 (2) become a member of another association of self-insured employers;

19 or

20 (3) become insured for liability under AS 23.30 by a private carrier  
21 authorized to do business in this state.

22 (b) The board of directors of an association of self-insured employers may  
23 cancel the membership of a member of the association in accordance with the bylaws  
24 of the association.

25 (c) At the expense of the member whose membership is terminated or  
26 cancelled, the association of self-insured employers shall maintain coverage for that  
27 member for 30 days after the notice is given under (a) of this section unless the  
28 association first receives notice from the association's administrator that the member  
29 has

30 (1) been certified as a self-insured employer under AS 23.30.090;

31 (2) become a member of another association of self-insured employers;

1 or

2 (3) become insured for liability under AS 23.30 by a private carrier  
3 authorized to do business in this state.

4 **Sec. 21.77.100. Notification of additional members, termination or**  
5 **cancellation of membership, or change in information.** (a) An association of self-  
6 insured employers shall notify the director in writing within 30 days after a member  
7 withdraws from the association, a new member joins the association, or the board of  
8 directors of the association cancels a membership. In the case of a new member, the  
9 notice must include information that the new member is qualified under AS 21.77.010  
10 and the financial information for the new member required under AS 21.77.010(b)(9).

11 (b) An association of self-insured employers shall notify the director of any  
12 change in the information submitted in its application for a certificate of self-insurance  
13 or in the manner of its compliance with AS 21.77.020 within 30 days after the change.

14 **Sec. 21.77.110. Liability for compensation obligations of members.** An  
15 association of self-insured employers is liable for the payment of any compensation  
16 required to be paid by a member of the association under AS 23.30 during the period  
17 of membership. Insolvency or bankruptcy of a member does not relieve the association  
18 of liability for the payment of compensation.

19 **Sec. 21.77.120. Examination of books, records, accounts, and assets;**  
20 **payment of fees.** The director may examine the books, records, accounts, and assets  
21 of an association of self-insured employers as necessary to carry out the provisions of  
22 this chapter. The director may charge the association a reasonable fee for conducting  
23 the examination.

24 **Sec. 21.77.130. Director as resident agent of association.** The director is  
25 considered the resident agent to receive initial legal process authorized by law or court  
26 rule to be served on the association of self-insured employers for as long as the  
27 association is obligated to pay compensation under AS 23.30.

28 **Sec. 21.77.140. Merger of associations.** An association of self-insured  
29 employers may merge with another association of self-insured employers if the  
30 members of the merging associations are members of the same trade association, the  
31 resulting association assumes in full all obligations of the merging associations, and

1 the merger is approved by the director. The director may hold a hearing on a proposed  
2 merger on the motion of the director or at the request of a member of the merging  
3 associations.

4 **Sec. 21.77.150. Statement of financial condition.** (a) An association of self-  
5 insured employers shall file with the director an audited statement of financial  
6 condition prepared by an independent certified public accountant. The statement must  
7 be filed within 120 days after the conclusion of the association's fiscal year and must  
8 contain information for the previous fiscal year.

9 (b) The statement required in (a) of this section must be prepared in  
10 accordance with generally accepted accounting principles and must include

11 (1) a statement of reserves for actual claims and expenses, claims  
12 incurred but not reported and expenses associated with those claims, assessments that  
13 are due but not paid, and unpaid debts; unpaid debts must be shown as liabilities;

14 (2) an actuarial opinion regarding reserves, prepared by a member of  
15 the American Academy of Actuaries or another specialist in loss reserves identified in  
16 the annual statement adopted by the National Association of Insurance  
17 Commissioners, including a statement of actual claims and the expenses associated  
18 with those claims and a statement of claims incurred but not reported, and the  
19 expenses associated with those claims.

20 (c) The director may require the filing of other reports necessary to carry out  
21 the provisions of this section, including

22 (1) audits of the payrolls of the members of an association of self-  
23 insured employers;

24 (2) reports of losses; and

25 (3) quarterly financial statements.

26 **Sec. 21.77.160. Calculation of annual assessments.** (a) Except as provided in  
27 (b) of this section, the annual assessment required to be paid by each member of an  
28 association of self-insured employers must be

29 (1) calculated by a rate service organization that is a member of the  
30 American Academy of Actuaries or another specialist approved by the director; and

31 (2) based on the assessment rate for the industrial classification of that

1 member, adjusted by the member's individual experience.

2 (b) The director may approve a reduction in the annual assessment based on  
3 the association's level of expenses and loss experience.

4 (c) If approved by the director, an association of self-insured employers may  
5 calculate the annual assessment required to be paid by each member of the association.  
6 An assessment calculated by the association must be based on at least three years of  
7 the member's individual experience.

8 **Sec. 21.77.170. Annual audits.** An association of self-insured employers shall  
9 cause to be conducted at least annually an audit of each member to verify the  
10 individual experience of each member of the association, the payroll of each member  
11 of the association, and the assessment required to be paid by each member of the  
12 association. The audit required under this section must be conducted by a payroll  
13 auditor approved by the director. An association shall pay the expenses of an audit  
14 required under this section.

15 **Sec. 21.77.180. Objections to industrial classification.** An association of  
16 self-insured employers or a member of the association may request a hearing before  
17 the director to object to an industrial classification assigned to a member of the  
18 association as a result of an audit conducted under AS 21.77.170. If the director  
19 determines that the assessment required to be paid by a member of the association is  
20 insufficient because of the industrial classification assigned to the employer, the  
21 director shall order the association to collect from that member any amount required to  
22 recover the deficiency. If the director determines that the assessment is excessive  
23 because of the industrial classification assigned to the employer, the director shall  
24 order the association to pay the member the excess amount collected.

25 **Sec. 21.77.190. Payment of dividends to members.** The board of directors of  
26 an association of self-insured employers may, with the approval of the director,  
27 declare and distribute dividends to the members of the association if the assets of the  
28 association exceed the amount necessary to pay its obligations and administrative  
29 expenses, carry reasonable reserves, and provide for contingencies. A dividend  
30 declared under this section must be distributed not less than 12 months after the date  
31 of declaration. A dividend may be paid only to an employer who was a member for at

1 least 12 months before to the date of declaration, and payment of a dividend may not  
2 be conditioned on a member's continuing membership in the association.

3 **Sec. 21.77.200. Plan for payment of annual assessment.** An association of  
4 self-insured employers shall adopt a plan for the payment of annual assessments by the  
5 members of the association. The plan must be approved by the director and must  
6 include a requirement for an initial payment, in advance, of a portion of the annual  
7 assessment due from each member of the association and for the balance of the annual  
8 installment to be paid in quarterly or monthly instalments. The advance payment must  
9 be in an amount equal to at least 15 percent of the member's annual assessment.

10 **Sec. 21.77.210. Required reserves.** An association of self-insured employers  
11 shall maintain actuarially appropriate loss reserves. Loss reserves must include  
12 reserves for

13 (1) actual claims and the expenses associated with those claims;

14 (2) claims incurred but not reported and the expenses associated with  
15 those claims; and

16 (3) reserves for uncollected debts based on the experience of the  
17 association or other associations.

18 **Sec. 21.77.220. Regulation by division of insurance.** Self-insurance provided  
19 under a certificate issued to an association of self-insured employers may not be  
20 considered insurance for the purpose of any other law of the state and is subject only  
21 to regulations adopted by the director to implement this chapter.

22 **Sec. 21.77.230. Insufficient assets to pay compensation and maintain**  
23 **reserves.** (a) If the assets of an association of self-insured employers are insufficient  
24 to pay all compensation under AS 23.30 and to maintain the reserves required under  
25 AS 21.77.210, the association shall immediately notify the director and

26 (1) transfer surplus funds acquired from a previous year to the current  
27 year to make up the deficiency;

28 (2) transfer money from the administrative account of the association  
29 to the claims account of the association;

30 (3) collect an additional assessment from the members of the  
31 association in an amount required to make up the deficiency; or

1 (4) take any other action, approved by the director, to make up the  
2 deficiency.

3 (b) If an association of self-insured employers wishes to transfer surplus funds  
4 from one year to another, the association shall first notify the director of the transfer.

5 (c) The director shall order the association of self-insured employers to make  
6 up any deficiency in accordance with (a) of this section if the association fails to do so  
7 within 30 days after notifying the director of the deficiency.

8 (d) An association of self-insured employers is considered to be insolvent if it  
9 fails to collect an additional assessment from its members within 30 days after being  
10 ordered to do so by the director or fails to make up the deficiency in any other manner  
11 within 60 days after being ordered to do so by the director.

12 **Sec. 21.77.240. Order to cease and desist; penalties.** (a) The director may  
13 issue an order requiring an association of self-insured employers or a member of an  
14 association to cease and desist from engaging in an act or practice found to be in  
15 violation of this chapter or a regulation adopted under AS 21.77.300.

16 (b) If the director determines that an association of self-insured employers or  
17 member of an association has violated an order to cease and desist, the director may  
18 impose an administrative fine of not more than \$10,000 for each violation of the order,  
19 not to exceed an aggregate amount of \$100,000, and may, in addition, withdraw the  
20 association's certificate of self-insurance.

21 **Sec. 21.77.250. Administrative fines.** The director may impose an  
22 administrative fine for each violation of a provision of this chapter or regulation  
23 adopted under AS 21.77.300. Except as provided in AS 21.77.240, the amount of the  
24 fine may not exceed \$1,000 for each violation or an aggregate amount of \$10,000.

25 **Sec. 21.77.260. Withdrawal of certificate; effect of withdrawal.** (a) The  
26 director may withdraw the certificate of an association of self-insured employers if

- 27 (1) the association's certificate was obtained by fraud;  
28 (2) the application for the certificate contained a material  
29 misrepresentation;  
30 (3) the association is found to be insolvent;  
31 (4) the association fails to have five or more members;

1 (5) the association fails to pay the costs of an examination or a penalty,  
2 fee, or assessment required under this chapter;

3 (6) the association fails to comply with a provision of this chapter or  
4 regulation adopted under AS 21.77.300;

5 (7) the association fails to comply with an order of the director within  
6 the time prescribed by law or in the director's order; or

7 (8) the association or its third-party administrator misappropriates,  
8 converts, illegally withholds, or refuses to pay any money to which a person is entitled  
9 and that was entrusted to the association in its fiduciary capacity.

10 (b) If the director withdraws a certificate of self-insurance, each employer who  
11 is a member of the association of self-insured employers remains liable for the  
12 employer's obligations incurred before and after the order of withdrawal.

13 (c) Before withdrawing a certificate under this section, the director shall give  
14 written notice to the association of self-insured employers by certified mail that the  
15 certificate of the association will be withdrawn 10 days after receipt of the notice  
16 unless, within that time, the association corrects the conduct set out in the notice as the  
17 reason for the withdrawal or submits a written request for a hearing to the director.  
18 The director may grant additional time, not to exceed an additional 120 days, before  
19 the withdrawal of the certificate if the grounds for withdrawal are based on (a)(4) of  
20 this section and the association is financially sound and capable of fulfilling its  
21 commitments.

22 (d) The director may not take action under this section unless the director has  
23 provided the association of self-insured employers with an opportunity for an informal  
24 meeting to discuss and seek correction of conduct that would be grounds for  
25 withdrawal of the association's certificate of self-insurance.

26 **Sec. 21.77.270. Retention of security deposit in event of termination.** If the  
27 certificate of an association of self-insured employers is terminated or withdrawn for  
28 any reason, the security deposited under AS 21.77.020 must remain on deposit for at  
29 least 36 months in an amount necessary to secure the outstanding and contingent  
30 liability for compensation payable under AS 23.30. At the expiration of the 36-month  
31 period, or another period the director may prescribe, the director may accept a paid-up

1 policy of insurance in a form approved by the director in lieu of the previously  
2 deposited security.

3 **Sec. 21.77.280. Insolvency; termination of liability on surety bond; effect**  
4 **of termination of surety bond.** (a) For purposes of this chapter, an association of  
5 self-insured employers is insolvent if it is unable to pay its outstanding obligations as  
6 they mature in the regular course of business.

7 (b) If an association of self-insured employers becomes insolvent, institutes  
8 any voluntary proceeding under the bankruptcy laws of the United States or is named  
9 in any involuntary proceeding under those laws, makes a general or special assignment  
10 for the benefit of creditors, or fails to pay compensation due under AS 23.30, after an  
11 order for the payment of a claim becomes final, the director may, after giving at least  
12 10 days' notice to the association and its insurer or guarantor, use money or interest on  
13 securities, sell securities, or institute legal proceedings on a surety bond deposited with  
14 the director to the extent necessary to make the payment.

15 (c) A surety providing a surety bond under AS 21.77.020 may terminate  
16 liability on its surety bond by giving the director and the association of self-insured  
17 employers, the association's administrator, or the third-party administrator 90 days'  
18 written notice. Termination does not limit liability that was incurred under the surety  
19 bond before the termination. If the association fails to requalify as an association of  
20 self-insured employers on or before the termination date, the director shall withdraw  
21 the association's certificate of self-insurance, effective on the date the termination  
22 becomes effective.

23 **Sec. 21.77.290. Judicial review.** A party aggrieved by a decision of the  
24 director under this chapter may seek judicial review in accordance with applicable  
25 court rules.

26 **Sec. 21.77.300. Regulations.** The director may adopt regulations to implement  
27 the provisions of this chapter.

28 **Sec. 21.77.399. Definitions.** In this chapter,

29 (1) "association of self-insured employers" means an association of  
30 employers that has been granted a certificate of self-insurance under AS 21.77.010;

31 (2) "third-party administrator" means a person under contract with an

1 association of self-insured employers to administer, from one or more offices in this  
2 state, all claims for the association arising under AS 23.30 and maintain records  
3 concerning those claims.

4 \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

## SECTIONAL ANALYSIS

### CSSSHB 51 Workdraft "S" 3/3/06

#### Associations of Self-insured Employers for Providing Workers' Compensation Coverage

#### OVERVIEW:

CSSSHB 51 differs from SSHB 51 in two significant ways. First, while both versions allow employers who are in the same trade or business to form associations for the purpose of self-insuring their workers' compensation obligations, SSHB 51 placed regulatory authority for the self-insurance program with the Workers' Compensation Board. The CS places regulatory authority in the Division of Insurance. Second, SSHB 51 included only the most basic requirements for the self-insurance program, leaving many details to be established by regulation. The CS contains a much more detailed set of statutory requirements for the program.

#### SECTION BY SECTION ANALYSIS OF CSSSHB 51:

**Section 1** adds Chapter 77 to the Alaska Insurance Code (AS 21). The provisions of the new Chapter 77 are as follows:

**Sec. 21.77.010.** Subsection (a) sets out the requirements that an association of employers must meet in order to qualify for a certificate of self-insurance. Members of the association must have at least 100 employees in the aggregate and must have a net worth of at least \$5 million in the aggregate. The association must have paid the annual service fee assessed under AS 23.05.067; each member of the association must have a workplace safety rate reduction program in effect, and the association must file an indemnity agreement with the director that makes each member jointly and severally liable to secure the payment of all workers' compensation obligations of all members of the association. Subsection (b) sets out the information and supporting documentation that must accompany an application for a certificate of self-insurance, including financial statements. Subsection (c) provides that financial information filed with the director is confidential and not a public record (that is, it is not available to the public for inspection or copying). Subsection (d) specifies that the membership in the association must include at least five employers who are members of the same Alaska trade association and that the trade association must have been in existence for at least five years.

**Sec. 21.77.020.** Subsection (a) requires an association of self-insured employers to maintain excess coverage in an amount and in a form required by the Director of the Division of Insurance, to collect an annual assessment from its members to cover their workers' compensation obligations and associated administrative expenses, and to provide security for the payment of the workers' compensation obligations of its

members. Subsection (b) requires the association to maintain an aggregate tangible net worth of at least \$5 million or provide a solvency bond in an aggregate amount of at least \$5 million. Subsections (c) and (d) require the association's administrator and third-party administrator each to deposit bonds with the director to secure performance of their respective duties. Subsection (e) allows the director to increase or decrease the amount of bonds required under the section in accordance with reserves requirements for casualty insurance. Subsection (f) makes it clear that depositing a bond does not relieve an association from the responsibility of administering claims and making workers' compensation payments.

**Sec. 21.77.030.** This section provides that only a surety or bonding company authorized to business in Alaska may furnish a bond or other form of security under the chapter.

**Sec. 21.77.040.** This section requires the director to issue a certificate of self-insurance if the director determines that the association meets the qualifications set out in Sec. 21.77.020. A certificate remains valid until it is withdrawn by the director or voluntarily terminated by the association. An association is not entitled to receive a new certificate if it has had a previous certificate involuntarily withdrawn within the previous two years. The director may not grant a request to cancel a certificate unless the association has insured or reinsured all incurred obligations.

**Sec. 21.77.050.** If a certificate is issued, the association directly assumes responsibility for providing workers' compensation to the members' employees and beneficiaries under the workers' compensation statutes (AS 23.30). In addition, except for the requirement to pay workers' compensation insurance premiums, the association is treated the same as any other employer under AS 23.30 for purposes of liability to the members' employees for injury. The association also acts on behalf of or for the benefit of its members and has the same rights and obligations under AS 23.30 as an employer. Claims must be handled in accordance with the requirements of AS 23.30, and the association is subject to regulations adopted by the Alaska Workers' Compensation Board.

**Sec. 21.77.060.** Subsection (a) provides that an association of self-insured employers shall be governed by a board of directors and imposes restrictions on who may serve on the board. Subsection (b) imposes a number of duties on the board of directors, including prompt payment of compensation due under AS 23.30, protection of association assets, the employment of a full time administrator, the employment of a third-party administrator to administer claims, engagement of an independent certified public accountant to prepare statements of financial condition, and maintenance of minutes of board meetings. Subsection (c) sets out certain prohibited acts, including extension of credit to a member of the association for payment of workers' compensation, unless under a payment plan approved by the director, and borrowing money from the association, except in the ordinary course of its business.

**Sec. 21.77.070.** Under subsection (a), the association's board of directors is responsible for the funds of the association. Subsection (b) requires the association to establish a claims account in a financial institution approved by the director and to deposit in the claims account at least 65 percent of the annual assessments received from its members. The director, under subsection (c), is authorized to allow a deposit of less than 65 percent if more than 35 percent of the annual assessments are needed to maintain loss control and occupational safety programs. Subsection (d) authorizes the association's board of directors to invest funds not needed to pay compensation payments. Subsection (e) authorizes the director to review the association's accounts to assure compliance with this section.

**Sec. 21.77.080** This section prohibits an association's administrator and third-party administrator from having a direct or indirect financial relationship with one another.

**Sec. 21.77.090.** This section governs the relationship between the association and its members. Subsection (a) allows a member to withdraw from an association if the member has either become a self-insured individual employer under AS 23.30.090, has become a member of another association, or has obtained workers' compensation insurance. Subsection (b) allows the association to provide for cancellation of membership in accordance with the association's bylaws. Subsection (c) requires the association to maintain coverage for a canceled or terminated member for 30 days after notice of cancellation or termination unless the member has been certified as a self-insured employer under AS 23.30.090, has become a member of another association of self-insured employers, or has obtained workers' compensation insurance.

**Sec. 21.77.100.** This section requires the association to notify the director in writing if a member withdraws from the association, a new member is added, or the board of directors cancels a membership. It also requires the association to notify the director of any changes in the information submitted with the application for a certificate of self-insurance.

**Sec. 21.77.110.** This section provides that the association is liable for payment of compensation required to be paid by a member under AS 23.30 and further provides that insolvency or bankruptcy of a member does not relieve the association of liability for payment of compensation due that member's employees.

**Sec. 21.77.120.** This section allows the director to examine the books, records, accounts and assets of an association of self-insured employers as necessary to carry out the provisions of Chapter 77 and allows the director to charge the association for the costs of the examination.

**Sec. 21.77.130.** This section provides that the director is considered to be the resident agent to receive service of initial legal process that may be served on the association of self-insured employers so long as the association is obligated to pay compensation under AS 23.30.

**Sec. 21.77.140.** This section authorizes an existing association of self-insured employers to merge with another association of self-insured employers if the members of both associations are members of the same trade association and if the merger is approved by the director. The section further provides that the resulting association assumes all of the obligations of the merging associations.

**Sec. 21.77.150.** Subsection (a) requires an association of self-insured employers to file an annual audited statement of financial condition with the director. Subsection (b) requires the statement to be prepared in accordance with generally accepted accounting principles and to include a statement of reserves for actual claims and expenses, claims incurred but not yet reported, the expenses associated with those claims, and unpaid debts, which must be shown as liabilities. The statement must also include an actuarial opinion regarding reserves prepared by a member of the American Academy of Actuaries or another specialist in loss reserves identified in the annual statement adopted by the National Association of Insurance Commissioners. Subsection (c) allows the director to require the filing of other reports, including payroll audits, reports of losses and quarterly financial statements.

**Sec. 21.77.160.** This section provides two alternative methods for calculating the annual assessments that must be paid by the association's members. One method is for the assessment to be calculated by a rate service organization that is a member of the American Academy of Actuaries or another specialist approved by the director and based on the assessment rate for the industrial classification of each member. The other method, which must be approved by the director, is for the association itself to calculate the assessment, based on three years of the member's actual experience. Under subsection (b), the director may approve a reduction in the annual assessment based on the association's expenses and loss experience.

**Sec. 21.77.170.** This section requires the association to conduct an annual audit of each of its members to verify the individual experience of each member, each member's payroll, and the assessment required to be paid by each member. The audit must be conducted by a payroll auditor approved by the director.

**Sec. 21.77.180.** This section allows an association to object to the industrial classification assigned to a member and to request a hearing on the objection before the director. The director may increase or decrease the amount of a member's annual assessment based on the industrial classification.

**Sec. 21.77.190.** This section allows the board of directors of an association, with the approval of the director, to declare and distribute dividends to its members if the assets of the association exceed the amount needed to pay its obligations and expenses, maintain reasonable reserves, and provide for contingencies.

**Sec. 21.77.200.** This section requires the association of self-insured employers to adopt a plan for payment of annual assessments by its members. The plan must be

approved by the director and must require an initial advance payment of a portion of the annual assessment and provide for the balance to be paid quarterly or in monthly installments. The advance payment must be at least 15 percent of the total.

**Sec. 21.77.210.** This section requires an association to maintain actuarially appropriate loss reserves necessary to for actual claims and expenses, claims incurred but not reported and the expenses associated with those claims, and reserves for unpaid debts based on the experience of the association or other associations.

**Sec. 21.77.220.** This section provides that self-insurance is not to be considered insurance for purposes of the director's general statutory and regulatory authority over insurance companies. Associations of self-insured employers are subject only to the statutory provisions of Chapter 77 and regulations adopted by the director to implement these provisions.

**Sec. 21.77.230.** Subsection (a) requires an association to notify the director immediately if the assets of the association become insufficient to pay compensation under AS 23.30 and to maintain the reserves required under Sec. 21.77.210. Subsection (a) also requires the association under such circumstances to take actions to make up the deficiency. Subsection (b) requires the association to notify the director before making any transfers of surplus funds from one year to another. Subsection (c) requires the director to order the association to make up any deficiencies within 30 days after the association notifies the director of the deficiency. Under subsection (d), the director may find the association to be insolvent if the association fails to collect additional assessments from its members within 30 days of being ordered to do so by the director.

**Sec. 21.77.240.** This section authorizes the director to order an association or a member of an association to cease and desist from engaging in an act or practice in violation of Chapter 77 or regulations adopted under the chapter. The director may impose administrative fines for violation of an order to cease and desist of not more than \$10,000 for each violation of the order, not to exceed \$100,000 in the aggregate.

**Sec. 21.77.250.** This section authorizes the director to impose an administrative fine for violation of a provision of Chapter 77 or a regulation adopted under the chapter. The maximum fine under this section is \$1,000 for each violation, not to exceed an aggregate amount of \$10,000.

**Sec. 21.77.260.** Subsection (a) allows the director to withdraw a certification of self-insurance if the association obtained its certificate through fraud or material misrepresentation, becomes insolvent, fails to maintain a minimum of five members, fails to pay the costs of an examination or a penalty imposed under the chapter, fails to comply with a provision of Chapter 77 or a regulation adopted under the chapter, fails to comply with an order of the director, or misappropriates funds or fails to pay money to which a person is entitled and that was entrusted to the association in its fiduciary capacity. Subsection (b) provides that if a certificate is withdrawn, the

members remain liable for their workers' compensation obligations. Subsection (c) provides that before withdrawing a certificate, the director shall notify the association in writing and provide 10 days within which to correct the conduct set out in the notice as the reason for the withdrawal. An association may request a hearing prior to withdrawal. Subsection (d) requires the director to provide an opportunity for an informal conference before taking any action to withdraw a certificate of self-insurance.

**Sec. 21.77.270.** This section provides that in the event a certificate is terminated or withdrawn, the security deposited under Sec. 21.77.020 must remain on deposit for at least 36 months. The director may release the security if the director receives evidence of a policy of insurance in lieu of the previously deposited security.

**Sec. 21.77.280.** Subsection (a) provides that an association is insolvent if it is unable to pay its outstanding obligations as they mature in the ordinary course of business. Under subsection (b), if an association becomes insolvent, files for bankruptcy, makes an assignment for the benefit of creditors, or fails to pay compensation due under AS 23.30 after an order for payment of a claim becomes final, the director may take action against any security filed with the director. Subsection (c) allows a surety providing a surety bond to terminate the bond by giving the director and the association notice of termination. Termination does not limit liability on the bond incurred before the termination. The director may withdraw the association's certificate of insurance if the association fails to requalify as an association of self-insured employers before the termination date.

**Sec. 21.77.290.** This section allows a party aggrieved by a decision of the director to seek judicial review in accordance with applicable court rules.

**Sec. 21.77.300.** This section gives the director authority to adopt regulations to implement the provisions of Chapter 77.

**Sec. 21.77.399.** This section defines "association of self-insured employers" as an association of employers that has been granted a certificate of self-insurance under Sec. 21.77.010. It defines "third-party administrator" as a person under contract with an association of self-insured employers to administer, from one or more offices in Alaska, all claims for the association arising under AS 23.30 and to maintain records concerning the claims.

**Section 2** of the Act provides for an immediate effective date.

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SSH:B 51(L&C)  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title: Employer Assn. for RDU: Insurance (116)  
Workers' Comp Insurance Component: Insurance Operations  
 Sponsor: Meyer et al  
 Requester: Labor & Commerce Component No.: 354

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

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</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--Do not abbreviate)						
<b>TOTAL</b>						

Estimate of any current year (FY2006) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation modifies the qualifications required for workers' compensation self-insurance and permits employers in the same trade or industry to form an employer association for self-insured workers' compensation coverage.

The insurance premium level used as the basis for calculating premium tax will be reduced to the extent that groups elect to self-insure. This would reduce general fund revenue. The amount of fiscal impact is indeterminate since we are unable to ascertain the amount by which premium would be reduced and the related drop in premium tax.

Prepared by: Linda S. Hall, Director Phone 907.269.7900  
 Division: Insurance Date/Time: 2/9/06 3:35 PM  
 Approved by: William C. Noll, Commissioner Date: 2/9/2006  
 Agency: Commerce, Community and Economic Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB51SS-DOLWD-WC-02-07-06  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Department: Labor & Workforce Development  
 Title: Employer Assn for Workers' Comp Ins RDU: Workers' Compensation  
 Component: Workers' Compensation  
 Sponsor: Representative Meyer  
 Requester: House L&C Component Number: 344

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	89.7	89.7	89.7	89.7	89.7	89.7
Travel	9.7	9.7	9.7	9.7	9.7	9.7
Contractual	32.1	32.1	32.1	32.1	32.1	32.1
Supplies	14.0	2.0	2.0	2.0	2.0	2.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>145.5</b>	<b>133.5</b>	<b>133.5</b>	<b>133.5</b>	<b>133.5</b>	<b>133.5</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						
1157 Workers' Safety Account	145.5	133.5	133.5	133.5	133.5	133.5
<b>TOTAL</b>	<b>145.5</b>	<b>133.5</b>	<b>133.5</b>	<b>133.5</b>	<b>133.5</b>	<b>133.5</b>

Estimate of any current year (FY2006) cost: None  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

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

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

(See Attached)

Prepared by: Paul F. Lisankie, Director Phone: 465-5059  
 Division: Workers' Compensation Date/Time: 2/7/06 3:27 PM  
 Approved by: Greg O'Claray, Commissioner Date: 2/7/2006  
 Agency: Department of Labor and Workforce Development

FISCAL NOTE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

BILL VERSION: HB51SS-DOLWD-WC-02-07-06

ANALYSIS: (continued)

This legislation would open the workers' compensation self-insurance program to an indeterminate number of trade associations. Any association in existence for at least five years, composed of at least five member employers engaging in a similar trade or industry and belonging to an Alaskan trade association, could seek to self-insure their workers' compensation liabilities. This expansion of the program (currently comprised of a limited number of large employers and governmental entities) would require an increased level of regulatory oversight. The Division would need to employ an Insurance Financial Examiner to develop and oversee the new regulatory system.

Personal Services: Insurance Financial Examiner II will be responsible for developing a program and monitoring self insured employers and entities. (\$89.7)

Travel: Funding of \$7.7 is necessary for the travel, per diem and hotel costs to enable the Insurance Financial Examiner to go on-site to verify the financial status of self-insured entities. In addition, travel funds of \$2.0 is requested to attend necessary training.

Contractual: Contractual services for the new position include lease costs (\$6.7); mail (\$3.0); departmental administrative support costs (\$11.1); interdepartment chargeback costs (\$5.3); copies, printing, etc (\$4.0) and training (\$2.0).

Commodities: Funding of \$14.0 for supplies for the new positions is required. (\$12.0 for one-time set-up costs and \$2.0 for ongoing costs)

March 6, 2006

**Representative Tom Anderson, chair Labor & Commerce  
FAX 465-2418**

Dear Representative Tom Anderson,

I am writing as Broker and CEO of Northern Trust Real Estate, Inc. We support HB 51 "An act relating to modifying the qualifications required for workers' compensation self-insurance and permitting employers in the same trade or industry to form an employer association for self-insured workers' compensation coverage."

State law currently requires a business to have 100 employees and net assets of \$5 Million to be able to self insure workers compensation. The goal of HB 51 is to allow associations to collectively pool employees and assets to achieve the same requirements. Northern Trust Real Estate, Inc. supports the concept of controlling safety in the work place, and rewarding with lower premiums those businesses who go the extra mile. We also support the concept of finding ways to provide more options in the marketplace for contractors who face burdensome and growing work compensation premiums.

Thank you for all your previous help and support of our industry. Please evaluate HB 51 based on these concepts, and work with our local and state associations to develop a bill that you and your committee can support and pass. Your efforts to help us address worker's compensation insurance costs are greatly appreciated.

I am available to answer any questions you might have by calling me at 907.727.9497.

Sincerely,

*Patricia Baker*

Patricia Baker  
Broker and CEO  
Northern Trust Real Estate, Inc.

**Headquarters:**  
217 2nd Street, Suite 201  
Juneau, Alaska 99801  
(907) 586-2323 FAX 463-5515  
www.alaskachamber.com



**Regional Office:**  
601 W. 5th Ave., Suite 700  
Anchorage, Alaska 99501  
(907) 278-2722 FAX 278-6643

March 15, 2006

Representative Tom Anderson, Chair  
& Members of the House Labor & Commerce Committee  
State Capitol  
Juneau, Alaska 99801

The Honorable Chairman and Members of the House Labor & Commerce Committee,

The Alaska State Chamber of Commerce strongly supports House Bill 51. HB 51 simply allows for the formation of same trade joint-insurance arrangements; the State Chamber of Commerce supports this additional option, which will hopefully create advantages to those trade groups in lowering their worker's compensation insurance. HB 51 also provides another option for coverage which will likely help those trades or industries that currently have little or no options for worker's compensation insurance coverage.

As you know the Alaska State Chamber of Commerce has worked hard in the past few years to lower the high costs associated with worker's compensation insurance. Through passage of HB 51, we feel that Alaska's businesses will likely gain additional flexibility, while creating new options for worker's compensation insurance coverage. The chamber encourages your constructive work and we are hopeful that the bill will move through the legislative process.

Yours in economic prosperity,

A handwritten signature in black ink that reads "Wayne G. Stevens". The signature is written in a cursive style.

Wayne Stevens, President  
Alaska State Chamber of Commerce



March 13, 2006

Rep. Tom Anderson, Chair Labor & Commerce  
FAX (907) 465-2418

Dear Rep. Tom Anderson,

I am writing as the executive director, representing Anchorage Cabaret, Hotel, Restaurant, and Retailers Association (CHARR). We support HB 51 "An act relating to modifying the qualifications required for workers' compensation self-insurance and permitting employers in the same trade or industry to form an employer association for self-insured workers' compensation coverage."

State law currently requires a business to have 100 employees and net assets of \$5 Million to be able to self insure for workers comp. The goal of HB 51 is to allow associations to collectively pool employees and assets to achieve the same requirements. Anchorage CHARR supports the concept of controlling safety in the work place, and rewarding with lower premiums those businesses who go the extra mile. We also support the concept of finding ways to provide more options in the marketplace for contractors who face burdensome and growing workers compensation premiums.

Thank you for all of your previous help and support in our industry. Please evaluate HB 51 based on these concepts, and work with our local and state associations to develop a bill that you and your committee can support and pass. Your efforts to help us address worker's compensation insurance costs are greatly appreciated.

I am available to answer any questions you might have by calling me at (907) 646-4628.

Sincerely,

*S. Villamides*  
Silvia Villamides, Executive Director  
Anchorage CHARR  
PO Box 242023  
Anchorage, AK 99524

333 West 4th Avenue, Suite 214  
P.O. Box 242023  
Anchorage, AK 99524  
907.646.4628  
anchoragecharr@pci.net





# REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

## MEMORANDUM

Date: January 23, 2006

TO: Representative Tom Anderson, Chairman  
House Labor and Commerce Committee

FR: Representative Kevin Meyer, Co-Chairman  
House Finance Committee

RE: Sponsor Substitute for HB 51

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Representative Anderson,

I introduced a sponsor substitute to HB 51 *Joint Insurance Arrangements* after working over the interim with interested parties. This memorandum is intended to provide a comparison between the two versions of HB 51 and insight into the reasons for the changes.

**Statutory Change: From AS 21.76.010 to AS 23.30.090**

The original version of HB 51 amended AS 21.076.010, the *Joint Insurance Association* statutes. The provisions of title 21 apply to Municipalities and their public corporations. The joint insurance arrangements covered by title 21 are limited to public entities that ultimately can turn to taxes and other revenue instruments and who were therefore removed from regulation under AS 21.76.020. Though the original version of HB 51 required an association to meet the standards for a self-insurance certificate issued under AS 23.30.090, there was no oversight due to AS 21.76.020.

Since the intent of HB 51 is to apply to private entities, the sponsor substitute to HB 51 shifts the proposed changes from AS 21.76.010 *Joint Insurance Arrangements* to AS 23.30.090 *Self Ins. rance Certificates*. By moving to AS 23.30.090, the proposed associations of employers are treated the same as an existing single employer provided the association meets similar financial criteria. Through the joint and several liability provision of SSHB 51 (page 2 lines 8-10) the members of an association are responsible for the workers compensation obligations accrued by any of the individual members of the association. The joint and several liability provision enables an association to, in the aggregate, meet the minimum financial thresholds (a net worth of \$5 million) a single employer is currently required to meet.

Email: Representative\_Kevin\_Meyer@legis.state.ak.us • Toll Free: (866) 465-4945

Session: State Capitol, Juneau, Alaska 99801-1182 • Phone: (907) 465-4945 Fax: (907) 465-3476

Interim: 716 W. 4th Ave., Anchorage, Alaska 99501-2133 • Phone: (907) 269-0199 Fax: (907) 269-0197

A single employer is allowed to self-insure their workers compensation obligations under current statutes. SSHB 51 would repeal and reenact the current authorization in statute to allow an association of employers to self-insure without changing the existing rules for a single employer.

**Changes to AS 23.30.090 Self-Insurance Certificates**

SSHB 51 repeals and reenacts AS 23.30.090 to authorize an *association of employers* as well as an *employer* to self-insure workers' compensation obligations. The proposed reenacted statute incorporates several provisions currently found in regulations adopted by the Alaska Workers' Compensation Board. Below is a summary of the provisions in the proposed AS 23.30.090 and their source material.

23.30.090 (1) [Page 1, lines 10-12] – 8 AAC 46.010 (5)

23.30.090 (2) [Page 1, lines 13-14 & Page 2 line 1] – 8 AAC 46.010 (6)

23.30.090 (3) [Page 2, lines 2-3] – Current AS 23.30.090

23.30.090 (4) [Page 2, lines 4-5] – 8 AAC 46.010 (4)

23.30.090 (5) [Page 2, lines 6-7] – 8 AAC 46.050

23.30.090 (6) [Page 2, lines 8-10] – **New requirement limited to an association of self-insured employers.** Requires an association to file an agreement with the board jointly and severally binding each member of the association.

23.30.090 (b) [Page 2, lines 11-18] – 8 AAC 46.020

23.30.090 (c) [Page 2, lines 19-20] – **New provision** making information provided under (b) confidential.

23.30.090 (d) [Page 2 lines 21-27] – **Changed provision.** Modifies existing AS 23.30.090 to provide that a certificate of self-insurance remains in effect until revoked by the board. Does not alter or change the timeline/process of revocation or the authority to reissue a certificate.

23.30.090 (e) [Page 2 lines 29-31] – Current AS 23.30.090

23.30.090 (f) [Page 3 lines 1-6] – **New requirement limited to an association of self-insured employers.** Requires an association to notify the board if one of its members withdraws from the association or a new member joins the association.

- 23.30.090 (g) [Page 3 lines 7-10] – **New provision limited to an association of self-insured employers.** Allows an association to function on behalf of its members as an “employer” for purposes of complying with AS 23.30.
- 23.30.090 (h) [Page 3 line 11] – Current AS 23.30.090 (*explicitly allows the Board to adopt regulations to implement this chapter.*)
- 23.30.090 (i) [Page 3 lines 12-16] – **New provision defining an “association of employers.”**

Thank you for considering SSHB 51,

Representative Kevin Meyer



# REPRESENTATIVE KEVIN MEYER

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HOUSE DISTRICT 30

## Sponsor Statement

### House Bill 51

**“An Act relating to permitting employers in the same trade to form joint insurance arrangements for self-insured workers’ compensation coverage.”**

The workers compensation system was developed as a compromise between employees and employers to ensure that employees received compensation for injuries received on the job. Employers provide compensation for medical expenses and lost wages, and in exchange employees agree not to sue employers for damages.

Traditionally, employers have transferred the risk of compensation liability to insurance companies, who, for a premium, agree to cover the costs of an employee’s claim under the worker’s compensation system. Several states, including Alaska, allow an employer to self-insure providing that they meet financial requirements set in statute and regulation.

House Bill 51 allows a group of five or more employers to form an association to self-insure the employers’ workers compensation obligations. The members of the association must be engaged in the same or similar employment classifications, be members of a qualified trade association, and receive a certificate to self-insure under Alaska’s existing rules and regulations.

Workers compensation insurance premiums are a significant cost for employers. While the prospect of reducing costs attracts employers to self-insurance associations, employers and employees in states with similar statutes have seen other benefits. Directly assuming the risks for workers compensation obligations aligns employers and employees in managing workers compensation claims and costs. HB 51 is a tool for Alaska’s trade associations and employers to take direct control of the obligations they are exposed to under current law.

SECTIONAL ANALYSIS  
SS FOR HB 51  
(Workers' Compensation Self-insurance)

**OVERVIEW:**

Existing law (AS 23.30.090) allows the Alaska Workers' Compensation Board to issue a certificate of self-insurance to a qualified individual employer. The board, through the Division of Workers' Compensation, administers the self-insurance program under regulations adopted by the board (8 AAC 46.010 – 8 AAC 46.900).

SS HB 51 amends existing law by allowing the board to issue a certificate of self-insurance to a qualified association of employers.

**Section 1** of the bill repeals and reenacts AS 23.30.090, the statute that currently allows individual employers to obtain self-insurance certificates. The bill would allow the board to issue self-insurance certificates to both qualified individual employers and qualified groups of employers and sets out a number of requirements that employers and associations of employers must meet. The bill makes only one change that affects the existing self-insurance program for individual self-insured employers by providing that self-insurance certificates remain in effect until revoked. Under current regulations, 8 AAC 46.065(b), certificates remain in effect for 12 months.

**Section 2** provides for an immediate effective date.

**SECTIONAL ANALYSIS:**

All substantive provisions of the bill are contained in Section 1 of the bill, which would adopt a new Sec. 23.30.090(a) through (i):

**Sec. 23.30.090(a):**

Subsection (a) allows the Alaska Workers' Compensation Board to issue a self-insurance certificate to an employer or an association of employers meeting six specified requirements. Requirements (1) and (2) are currently contained in the self-insurance regulations governing individual employers and require an individual employer to have at least 100 employees, a net worth of at least \$5,000,000. (Sec. 8 AAC 46.010(a)(5) and (6)). The bill would place these regulatory minimums in statute, and would require an association of self-insured employers to meet the minimum requirements in the aggregate. Requirement (3) is contained in existing AS 23.30.090 and the bill would require both individual employers and associations of self-insured employers to pay the annual service fee assessed under AS 23.05.067. Requirements (4) and (5) are currently contained in self-insurance regulations governing individual employers, and require that the employer maintain a workplace safety program and obtain excess insurance coverage in amounts and with coverage required by the board. (Sec. 8 AAC 46.010(a)(4) and 8 AAC 46.050.) The bill

would place these requirements in statute and they would apply to both individual employers and associations of self-insured employers. Requirement (6) is new and requires an association of self-insured employers to file with the board an indemnity agreement jointly and severally binding each member of the association to secure the payment of all compensation due to any of the members' employees.

**Sec. 23.30.090(b).**

Subsection (b) would allow the board, either before issuing a self-insurance certificate or at other times designated by the board, to require individual employers and associations of self-insured employers to provide financial information necessary to determine whether the individual employer or the association meets or continues to meet the financial requirements for a self-insurance certificate.

**Sec. 23.30.090(c):**

Subsection (c) makes confidential the financial information provided under subsection (b).

**Sec. 23.30.090(d):**

The bill retains the provisions of existing AS 23.30.090 that allow the board to revoke a self-insurance certificate on at least 10 days' notice and a hearing. Existing AS 23.30.090 also allows the board to fix the time that a self-insurance certificate remains in effect. Current regulations provide that certificates remain in effect for one year, subject to renewal. The bill provides that a certificate would remain in effect until it is revoked. The bill retains existing provisions of AS 23.30.090 that allow for a certificate to be re-issued following revocation if the employer or association of employers provides satisfactory proof that it once again meets the requirements for self-insurance.

**Sec. 23.30.090(e):**

The bill retains the requirements of existing AS 23.30.090 relating to claims facilities, and would require both an individual employer and an association of employers to provide claims adjusting facilities through by its own staff located in Alaska or through independent, licensed resident adjusters with power to effect settlement in Alaska.

**Sec. 23.30.090(f):**

Subsection (f) applies only to associations of self-insured employers and requires the association to notify the board if a member withdraws from the association or a new member joins. New members would be required to show that they belong to an Alaska trade association, as provided in subsection (i), and to provide the same financial information required under subsection (b).

**Sec. 23.30.090(g):**

Subsection (g) applies only to associations of self-insured employers and provides that an association may act on behalf of or for the benefit of its members in providing for its members' workers' compensation obligations and provides that the association has the same rights and obligations under AS 23 as an employer. For example, this section would allow an association to file the same annual reports on behalf of its members that are currently required for individual self-insured employers under AS 23.30.155(n) and to exercise a member's assignment rights in the case of third party liability under AS 23.30.015.

**Sec. 23.30.090(h):**

Subsection (h) provides express authority for the board to adopt regulations to implement the self-insurance program.

**Sec. 23.30.080(i):**

Subsection (i) defines an "association of employers" to mean a group of five or more employers who are merchants, craftsmen, or businesses in a similar trade or industry and who are members of the same Alaska trade association.

# **ABOUT GROUP SELF INSURERS WORKERS' COMPENSATION FUNDS (SIFs)**

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**Q. WHAT IS A GROUP SELF-INSURED WORKERS' COMPENSATION FUND (SIF)?**

A. An SIF is a not-for-profit association of employers formed for the specific purpose of providing statutory workers' compensation and employers' liability coverage. Organizations that form SIFs are typically medium-size companies that may not have the size or financial capacity to become a self-insurer on their own, but want to assume control over their workers' compensation costs and obtain the benefits often realized with self-insurance, just as the larger employers have been doing for years at substantial savings.

**Q. WHAT BENEFITS DO SIFs OFFER?**

A. The primary benefits that can be expected from membership in a SIF are:

- Improved cash flow through elimination of advance premium payments;
- Improved loss experience through more effective loss prevention, loss control, and managed care programs;
- Savings from reduced administrative costs;
- Savings by earning interest income on premium dollars;
- The potential for dividend returns from loss-and-expense-fund surpluses.

In essence, an SIF helps employers control many aspects of their workers' compensation cost. However, the degree to which benefits can be achieved on a variety of factors will be discussed in this discourse.

**Q. HOW DO SIFs WORK?**

A. An SIF enables employers to assume a major portion of their risk and provides group purchasing power for excess insurance to cover losses incurred individually or collectively in excess of a specified amount.

Members of SIFs pay a premium based on their exposures, classification codes, payroll, experience modifications, and rates developed by the state workers' compensation rate making bureau. Premiums are used to pay coverage losses, claims administration and costs associated with the management of the group, such as loss control, legal, accounting and actuarial. Premium surpluses from both the claims fund and the administrative expense fund can be returned to group members on a pro rata share basis in the form of dividends.

Many costs associated with traditional workers' compensation insurance, such as premium taxes (in most states) and residual market charges, do not apply to SIFs. These costs can amount to a significant percentage of traditional workers' compensation insurance premiums. Membership fees are an additional cost.

### **Q. HOW ARE SELF-INSURED GROUPS RELATED?**

A. SIFs must receive approval to operate from the state insurance department or state workers' compensation agency. The standards for qualification vary from state to state, for the general to the very specific. SIFs are required to follow rating plans and procedures filed in their state of operation. Although the specific requirements for the administration of SIFs may vary, the state regulatory authority's role is to ensure the group's ability to administer and pay claims through appropriate planning and funding.

1. Coverage requirements: Most regulatory authorities require that a SIF purchase additional coverage, such as excess insurance on both a specific and aggregate base to insure that they can pay large losses. The amount and type of insurance may vary by state.
2. Financial requirements: The regulatory authorities require that SIFs meet various financial requirements regarding net worth, profitability, liquidity, and solvency.
3. Security requirements: SIFs are required to post security in the form of cash, surety bond, negotiable securities, and irrevocable letter of credit, or a combination of these.

### **Q. HOW ARE SIF'S ADMINISTERED?**

A. SIFs select a board of trustees to govern the activities of the group including who may join, the purchase of excess insurance, the distribution of dividends, and the selection of service providers.

SIFs are responsible for the payment of claims in conformance with state workers' compensation laws. In addition, groups usually require a variety of services, such as loss prevention, loss control, and claims management. These services can be performed by company personnel if they have the resources and capabilities or contracted to an outside firm with the requisite expertise. To a large extent, the success of any SIF depends on how effectively it manages and integrates many of these activities. To operate most effectively, an outside firm is usually selected to provide a variety of these services.

### **Q. HOW ARE CLAIMS MANAGED?**

- 1. A primary benefit of self-insurance is the degree of control to a group can exercise over all aspects of the claims handling process to help contain costs. A group may select to implement a variety of claims management services including:

Claims processing and settlement

Investigation

Managed care and cost containment programs

Preferred provider service

Litigation management

Subrogation

Medical bill reviews

Work hardening and early-return-to-work programs

Risk management reports

## **Q. WHAT ARE SOME OTHER ISSUES TO BE CONSIDERED RELATIVE TO SIFs?**

### **CASE MANAGEMENT**

A.

2. Case management is an effective way to reduce cost through early intervention and an effective early-return-to-work plan. Case management includes:

Immediate contact by a health care professional to monitor the employee's medical care and to ensure that the employee receives the appropriate care from the time of injury, through treatment and recuperation.

Developing modified work plans with the injured employee and the health care provider to help the employee make the transition back to work and to expedite early-return-to-work.

Implement work hardening and vocational rehabilitation programs, where appropriate, to help individuals return to work and ensure that the early-return-to-work plan is successful.

### **RISK MANAGEMENT**

3. Risk management and loss control planning is designed to prevent losses from occurring and to reduce the frequency or severity when they do occur. Risk management specialists can:

- Analyze and reduce site hazards to prevent or eliminate causes of injury;
- Evaluate the effectiveness of existing safety programs;
- Provide periodic inspections and written reports recommending specific corrective action;

- Develop written safety policies and guidelines to help prevent injury;
- Assist in developing and implementing new safety programs;
- Provide risk management analyses reports

#### **MARKETING AND MEMBERSHIP**

4. Marketing and membership: SIFs require ongoing efforts to promote the group's program, attract new member organizations, and evaluate applications of potential members to ensure the group's long-term survival and continued financial viability. Risk management consultants, insurance companies, and insurance brokers are just a few of the resources that can assist a group in gathering information on prospective group members.

#### **UNDERWRITING SERVICE**

5. Underwriting is required to develop guidelines for membership, evaluate exposure to loss for individual members and the group as a whole, calculate the premium to be charged to each member, and establish loss reserves in compliance with state regulation

#### **FEASIBILITY STUDIES**

6. Feasibility studies play an important role when forming an SIF as well as once a group is formed. When forming a self-insurance group, they are used to review and analyze specific state regulations and to provide specific financial and actuarial information to the regulatory authority. Once a group is formed, studies help prospective members determine the financial/cash flow effects that joining the group will have on their firm. Accurate loss forecasting is an extremely important component of a feasibility study. Loss forecasting usually requires a minimum of three years of premium, payroll, experience modification, and claims history. Pro forma financial statements can then be prepared on prospective group members.

#### **ACCOUNTING AND FINANCIAL MANAGEMENT**

7. Accounting and financial management: SIFs are responsible for the proper establishment, maintenance, and administration of accounting procedures and financial controls including:
  - Collection of accounts and monies owed to the group in connection with providing coverage and the group's administration;
  - Maintenance of all claims fund and administrative fund accounts necessary to satisfy the legal and financial obligations of the group;
  - Systems for the safekeeping of records, books of accounts, and financial affairs;
  - Reporting of financial statements and reports as required by state regulations and the group's bylaws;

- Selection of independent accounting and actuarial services, as appropriate, and proper investment management.

## **Q. ARE THERE DISADVANTAGES TO FORMING AN SIF?**

A. SIFs offer many advantages, but there are also potential disadvantages.

### **JOINT AND SEVERAL LIABILITY**

1. Members of the group are typically jointly and severally liable for workers' compensation and employers' liability losses incurred by membership. The subsequent bankruptcy or termination of a member does not release the remaining group members from this liability.

### **CATASTROPHIC LOSSES**

2. If a catastrophic event occurs that exhausts the group's self-insured retention and excess insurance, the group members are typically responsible for paying their pro rata share of the amount required to cover the total loss.

### **MULTI-STATE OPERATION**

3. SIFs are regulated by the state and may only cover exposures within that state. As a result, employers with operations in more than one state must find another SIF or alternate means to cover any out-of-state portions of the workers' compensation exposure.

### **ADMINISTRATIVE FUNCTIONS AND ADDITIONAL COSTS**

4. Many of the services usually provided by an insurer (i.e. claims administration and record keeping, loss control, legal services, and actuarial service) are now the responsibility of the group. The group must select the services it requires, and, if necessary, hire service providers where appropriate.

24-LS0233AS  
Bailey  
3/3/06

**CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 51( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES MEYER, Holm, Ramras, Wilson, Neuman**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to associations of self-insured employers for purposes of providing**  
2 **workers' compensation coverage and allowing employers who are members of the same**  
3 **trade to form associations for providing self-insurance for workers' compensation**  
4 **coverage; and providing for an effective date."**

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

6 **\* Section 1. AS 21 is amended by adding a new chapter to read:**

7 **Chapter 77. Associations of Self-insured Employers for Providing Workers'**  
8 **Compensation Coverage.**

9 **Sec. 21.77.010. Self-insurance certificates.** (a) The director may issue a self-  
10 insurance certificate to an association of employers if the association files an  
11 application for a certificate and demonstrates that

12 (1) the members of the association of employers have at least 100  
13 employees in the aggregate;

14 (2) the members of the association of employers have a net worth of at

1 least \$5,000,000 in the aggregate;

2 (3) the association of employers has paid the annual service fee  
3 assessed under AS 23.05.067;

4 (4) each member of the association of employers has a workplace  
5 safety rate reduction program in effect under AS 21.89.015;

6 (5) the association of employers has obtained excess insurance  
7 coverage in amounts and with coverage required by the director; and

8 (6) the association of employers has filed with the director an  
9 indemnity agreement in a form approved by the director jointly and severally binding  
10 each member of the association of employers to secure the payment of all  
11 compensation due to the members' employees under AS 23.30.

12 (b) An application for a self-insurance certificate must include

13 (1) the name of the association of employers;

14 (2) the address of the principal office of the association of employers  
15 and the location where the books and records of the association will be maintained;

16 (3) the date the association of employers was organized;

17 (4) the name and address of each member of the association of  
18 employers;

19 (5) the names of the initial members of the board of directors of the  
20 association of employers and the name of the association's initial administrator;

21 (6) a copy of agreements entered into with the administrator of the  
22 association of employers and a third-party administrator;

23 (7) a copy of the bylaws of the association of employers;

24 (8) a pro forma financial statement prepared by an independent  
25 certified public accountant in accordance with generally accepted accounting  
26 principles that shows the financial ability of the association of employers to pay all  
27 compensation due to its members' employees and their beneficiaries under AS 23.30;

28 (9) a compiled, reviewed, or audited financial statement prepared by an  
29 independent certified public accountant for each member of the association of  
30 employers or internal financial statements with at least three years of tax returns or  
31 evidence of the ability of the association or its members to provide a solvency bond

1 under AS 21.77.020(c);

2 (10) proof that each member of the association of employers will make  
3 the initial payment to the association required under AS 21.77.160 on a date specified  
4 by the director.

5 (c) Financial information relating to a member of an association of employers  
6 received by the director under this section is confidential and is not a public record.

7 (d) For purposes of this section, "association of employers" means a group of  
8 five or more employers who are

9 (1) merchants, craftsmen, or businesses in a similar trade or industry;  
10 and

11 (2) members of an Alaska trade association for that trade or industry;  
12 the Alaska trade association shall be organized under the laws of this state to promote  
13 the common interests of the trade or industry and shall have been in existence for at  
14 least five years.

15 **Sec. 21.77.020. Excess insurance, reinsurance contracts, surety, and**  
16 **solvency bonds.** (a) Except as otherwise provided in this section, an association of  
17 self-insured employers shall

18 (1) maintain a policy of specific and aggregate excess insurance or a  
19 reinsurance contract in a form and amount required by the director; excess insurance  
20 or a reinsurance contract must be written by an insurer approved by the director;  
21 nothing in this paragraph prohibits an association from purchasing secondary excess  
22 insurance or reinsurance contracts in addition to the excess insurance or reinsurance  
23 contract required under this paragraph;

24 (2) collect an annual assessment from each member of the association  
25 in an amount necessary to maintain the solvency of the association;

26 (3) except as provided in (4) of this subsection, deposit as security with  
27 the director a bond executed by the association as principal and issued by a licensed  
28 surety, payable to the State of Alaska, and conditioned on the payment of  
29 compensation due to the members' employees under AS 23.30;

30 (4) in lieu of a bond, deposit with the director a like amount of lawful  
31 money of the United States or other form of security authorized by the director; if

1 security is provided in the form of a savings certificat , certificate of deposit, or  
2 investment certificate, the certificate must state that the amount is unavailable for  
3 withdrawal except on order of the director.

4 (b) In addition to complying with the requirements of (a) of this section, an  
5 association of self-insured employers shall maintain a combined tangible net worth of  
6 all members in the association of at least \$5,000,000 or deposit with the director a  
7 solvency bond, in a form prescribed by the director, in an aggregate amount of at least  
8 \$5,000,000.

9 (c) The administrator of the association of self-insured employers shall deposit  
10 with the director a bond, in an amount determined by the director, executed by the  
11 association's administrator as principal, issued by a licensed surety, payable to the  
12 State of Alaska, and conditioned on the faithful performance of the administrator's  
13 duties.

14 (d) A third-party administrator providing claims services for the association of  
15 self-insured employers shall deposit with the director a bond in an amount determined  
16 by the director, executed by the third-party administrator as principal, issued by a  
17 licensed surety, payable to the State of Alaska, and conditioned on the faithful  
18 performance of the third-party administrator's duties.

19 (e) The director may increase or decrease the amount of a bond or money  
20 required to be deposited under this section in accordance with statutory and regulatory  
21 requirements for loss reserves in casualty insurance. If the director requires an  
22 association of self-insured employers, the association's administrator, or the third-  
23 party administrator to increase its deposit, the director may specify the form of the  
24 additional security. The association, association's administrator, or third-party  
25 administrator shall provide the additional security within 60 days after receiving notice  
26 from the director.

27 (f) The security deposited under this section does not relieve an association of  
28 self-insured employers from responsibility for the administration of claims and  
29 payment of compensation under AS 23.30.

30 **Sec. 21.77.030. Surety and solvency bonds.** A surety or bonding company  
31 may not furnish a bond or other form of security required under this chapter for an

1 association of self-insured employers or the association's members unless the surety or  
2 bonding company is authorized to do business in the state.

3 **Sec. 21.77.040. Issuance of certificate of self-insurance.** (a) On determining  
4 that an association is qualified as an association of self-insured employers, the director  
5 shall issue a certificate of self-insurance to the association and the association's  
6 administrator.

7 (b) A certificate of self-insurance must include, without limitation, the name  
8 of the association of self-insured employers, the name of each employer who the  
9 director determines is a member of the association at the time the certificate is issued,  
10 an identification number assigned to the association by the director, and the date the  
11 certificate was issued.

12 (c) A certificate of self-insurance is valid until it is withdrawn by the director  
13 or voluntarily terminated by the association.

14 (d) The director may not issue a certificate of self-insurance to an association  
15 that has had its certification as an association of self-insured employers involuntarily  
16 withdrawn by the director within two years immediately preceding the association's  
17 application.

18 (e) The director may not grant a request to cancel a certificate of self-  
19 insurance unless the association has insured or reinsured all incurred obligations with  
20 an insurer authorized to do business in the state under an agreement filed with and  
21 approved by the director. The agreement must include coverage for actual claims,  
22 claims incurred but not reported, and expenses associated with those claims.

23 **Sec. 21.77.050. Effect of certificate.** (a) An association of self-insured  
24 employers directly assumes the responsibility for providing compensation due the  
25 employees of the members of the association and the employers' beneficiaries under  
26 AS 23.30.

27 (b) An association of self-insured employers is not required to pay premiums  
28 required of other employers under AS 23.30, but is relieved from other liability for  
29 personal injury to the same extent as other employers.

30 (c) An association of self-insured employers may act on behalf of or for the  
31 benefit of its members to provide for its members' workers' compensation obligations

1 under AS 23.30. An association of self-insured employers shall have the rights and  
2 obligations of an employer under AS 23.30.

3 (d) The claims of employees and their beneficiaries resulting from injuries  
4 while in the employment of a member of an association of self-insured employers  
5 must be handled in the manner provided under AS 23.30, and the association is subject  
6 to regulations adopted by the Alaska Workers' Compensation Board.

7 **Sec. 21.77.060. Board of directors; members; duties; prohibited acts.** (a)

8 An association of self-insured employers shall be operated by a board of directors  
9 consisting of at least five members elected by the members of the association for terms  
10 as set out in the bylaws of the association. At least two-thirds of the members of the  
11 board of directors shall be employees, officers, or directors of the members of the  
12 association. An association's administrator, third-party administrator, or an owner,  
13 officer, employee or other person affiliated with the association's administrator or  
14 third-party administrator may not serve as a member of the board of directors. A  
15 member of the board of directors must be a resident of this state or an officer of a  
16 corporation authorized to do business in this state.

17 (b) The board of directors of an association of self-insured employers shall

18 (1) ensure the prompt payment of compensation due under AS 23.30;

19 (2) take all actions necessary to protect the assets of the association;

20 (3) employ full time an administrator to carry out the policies of the  
21 board of directors and perform the duties the board delegates to the administrator; an  
22 association's administrator may not perform the duties assigned to a third-party  
23 administrator;

24 (4) employ a third-party administrator to administer the claims or other  
25 obligations of the association during the period of the contract;

26 (5) engage the services of an independent certified public accountant to  
27 prepare the statement of financial condition required under AS 21.77.150; and

28 (6) maintain minutes of the meetings of the board and make the  
29 minutes available for inspection by the director.

30 (c) The board of directors of an association of self-insured employers may not

31 (1) extend credit to any member of the association for the payment of

1 that member's annual assessment, except under a payment plan approved by the  
2 director;

3 (2) borrow money from the association or in the name of the  
4 association, except in the ordinary course of its business, without prior approval from  
5 the director.

6 **Sec. 21.77.070. Fiscal responsibilities.** (a) The board of directors of an  
7 association of self-insured employers is responsible for the money collected and  
8 disbursed by the association.

9 (b) The board of directors shall establish

10 (1) a claims account in a financial institution in this state that is  
11 approved by the director and that is federally insured; except as provided in (c) of this  
12 section, at least 65 percent of the annual assessments collected by the association from  
13 its members must be deposited in the claims account to pay claims, expenses related to  
14 those claims, costs associated with the association's policy of excess insurance or  
15 reinsurance contract, and assessments, payments, and penalties related to the  
16 subsequent injury account and the uninsured employers' claim account;

17 (2) an administrative account in a financial institution in this state that  
18 is approved by the director and that is federally insured; the amount of annual  
19 assessments collected by the association not deposited in the claims account must be  
20 deposited in the administrative account to pay the administrative expenses of the  
21 association.

22 (c) The director may authorize an association of self-insured employers to  
23 deposit less than 65 percent of the associations annual assessments in a claims account  
24 if the association presents evidence satisfactory to the director that more than 35  
25 percent of the association's annual assessments are needed to maintain programs for  
26 loss control and occupational safety.

27 (d) The board of directors may invest the money of the association of self-  
28 insured employers not needed to pay the obligations of the association under  
29 AS 23.30.

30 (e) The director shall review the accounts of an association of self-insured  
31 employers established under this section at the times necessary to ensure compliance

1 with the provisions of this section.

2 **Sec. 21.77.080. Prohibited relationships.** (a) An administrator of an  
3 association of self-insured employers or an employee, officer, or director of an  
4 association's administrator may not be an employee, officer, or director of a third-party  
5 administrator employed by the association or have a direct or indirect financial interest  
6 in the third-party administrator.

7 (b) A third-party administrator or an employee, officer, or director of a third-  
8 party administrator may not be an employee, officer, or director of the association's  
9 administrator or have a direct or indirect financial interest in the association's  
10 administrator.

11 **Sec. 21.77.090. Termination and cancellation of membership in**  
12 **association; coverage following termination or cancellation.** (a) A member of an  
13 association of self-insured employers may terminate its membership at any time by  
14 submitting to the association's administrator a notice of intent to withdraw from the  
15 association at least 120 days before the effective date of withdrawal. The notice of  
16 intent to withdraw must include a statement indicating that the member has

17 (1) been certified as a self-insured employer under AS 23.30.090;

18 (2) become a member of another association of self-insured employers;

19 or

20 (3) become insured for liability under AS 23.30 by a private carrier  
21 authorized to do business in this state.

22 (b) The board of directors of an association of self-insured employers may  
23 cancel the membership of a member of the association in accordance with the bylaws  
24 of the association.

25 (c) At the expense of the member whose membership is terminated or  
26 cancelled, the association of self-insured employers shall maintain coverage for that  
27 member for 30 days after the notice is given under (a) of this section unless the  
28 association first receives notice from the association's administrator that the member  
29 has

30 (1) been certified as a self-insured employer under AS 23.30.090;

31 (2) become a member of another association of self-insured employers;

1 or

2 (3) become insured for liability under AS 23.30 by a private carrier  
3 authorized to do business in this state.

4 **Sec. 21.77.100. Notification of additional members, termination or**  
5 **cancellation of membership, or change in information.** (a) An association of self-  
6 insured employers shall notify the director in writing within 30 days after a member  
7 withdraws from the association, a new member joins the association, or the board of  
8 directors of the association cancels a membership. In the case of a new member, the  
9 notice must include information that the new member is qualified under AS 21.77.010  
10 and the financial information for the new member required under AS 21.77.010(b)(9).

11 (b) An association of self-insured employers shall notify the director of any  
12 change in the information submitted in its application for a certificate of self-insurance  
13 or in the manner of its compliance with AS 21.77.020 within 30 days after the change.

14 **Sec. 21.77.110. Liability for compensation obligations of members.** An  
15 association of self-insured employers is liable for the payment of any compensation  
16 required to be paid by a member of the association under AS 23.30 during the period  
17 of membership. Insolvency or bankruptcy of a member does not relieve the association  
18 of liability for the payment of compensation.

19 **Sec. 21.77.120. Examination of books, records, accounts, and assets;**  
20 **payment of fees.** The director may examine the books, records, accounts, and assets  
21 of an association of self-insured employers as necessary to carry out the provisions of  
22 this chapter. The director may charge the association a reasonable fee for conducting  
23 the examination.

24 **Sec. 21.77.130. Director as resident agent of association.** The director is  
25 considered the resident agent to receive initial legal process authorized by law or court  
26 rule to be served on the association of self-insured employers for as long as the  
27 association is obligated to pay compensation under AS 23.30.

28 **Sec. 21.77.140. Merger of associations.** An association of self-insured  
29 employers may merge with another association of self-insured employers if the  
30 members of the merging associations are members of the same trade association, the  
31 resulting association assumes in full all obligations of the merging associations, and

1 the merger is approved by the director. The director may hold a hearing on a proposed  
2 merger on the motion of the director or at the request of a member of the merging  
3 associations.

4 **Sec. 21.77.150. Statement of financial condition.** (a) An association of self-  
5 insured employers shall file with the director an audited statement of financial  
6 condition prepared by an independent certified public accountant. The statement must  
7 be filed within 120 days after the conclusion of the association's fiscal year and must  
8 contain information for the previous fiscal year.

9 (b) The statement required in (a) of this section must be prepared in  
10 accordance with generally accepted accounting principles and must include

11 (1) a statement of reserves for actual claims and expenses, claims  
12 incurred but not reported and expenses associated with those claims, assessments that  
13 are due but not paid, and unpaid debts; unpaid debts must be shown as liabilities;

14 (2) an actuarial opinion regarding reserves, prepared by a member of  
15 the American Academy of Actuaries or another specialist in loss reserves identified in  
16 the annual statement adopted by the National Association of Insurance  
17 Commissioners, including a statement of actual claims and the expenses associated  
18 with those claims and a statement of claims incurred but not reported, and the  
19 expenses associated with those claims.

20 (c) The director may require the filing of other reports necessary to carry out  
21 the provisions of this section, including

22 (1) audits of the payrolls of the members of an association of self-  
23 insured employers;

24 (2) reports of losses; and

25 (3) quarterly financial statements.

26 **Sec. 21.77.160. Calculation of annual assessments.** (a) Except as provided in  
27 (b) of this section, the annual assessment required to be paid by each member of an  
28 association of self-insured employers must be

29 (1) calculated by a rate service organization that is a member of the  
30 American Academy of Actuaries or another specialist approved by the director; and

31 (2) based on the assessment rate for the industrial classification of that

1 member, adjusted by the member's individual experience.

2 (b) The director may approve a reduction in the annual assessment based on  
3 the association's level of expenses and loss experience.

4 (c) If approved by the director, an association of self-insured employers may  
5 calculate the annual assessment required to be paid by each member of the association.  
6 An assessment calculated by the association must be based on at least three years of  
7 the member's individual experience.

8 **Sec. 21.77.170. Annual audits.** An association of self-insured employers shall  
9 cause to be conducted at least annually an audit of each member to verify the  
10 individual experience of each member of the association, the payroll of each member  
11 of the association, and the assessment required to be paid by each member of the  
12 association. The audit required under this section must be conducted by a payroll  
13 auditor approved by the director. An association shall pay the expenses of an audit  
14 required under this section.

15 **Sec. 21.77.180. Objections to industrial classification.** An association of  
16 self-insured employers or a member of the association may request a hearing before  
17 the director to object to an industrial classification assigned to a member of the  
18 association as a result of an audit conducted under AS 21.77.170. If the director  
19 determines that the assessment required to be paid by a member of the association is  
20 insufficient because of the industrial classification assigned to the employer, the  
21 director shall order the association to collect from that member any amount required to  
22 recover the deficiency. If the director determines that the assessment is excessive  
23 because of the industrial classification assigned to the employer, the director shall  
24 order the association to pay the member the excess amount collected.

25 **Sec. 21.77.190. Payment of dividends to members.** The board of directors of  
26 an association of self-insured employers may, with the approval of the director,  
27 declare and distribute dividends to the members of the association if the assets of the  
28 association exceed the amount necessary to pay its obligations and administrative  
29 expenses, carry reasonable reserves, and provide for contingencies. A dividend  
30 declared under this section must be distributed not less than 12 months after the date  
31 of declaration. A dividend may be paid only to an employer who was a member for at

1 least 12 months before to the date of declaration, and payment of a dividend may not  
2 be conditioned on a member's continuing membership in the association.

3 **Sec. 21.77.200. Plan for payment of annual assessment.** An association of  
4 self-insured employers shall adopt a plan for the payment of annual assessments by the  
5 members of the association. The plan must be approved by the director and must  
6 include a requirement for an initial payment, in advance, of a portion of the annual  
7 assessment due from each member of the association and for the balance of the annual  
8 installment to be paid in quarterly or monthly installments. The advance payment must  
9 be in an amount equal to at least 15 percent of the member's annual assessment.

10 **Sec. 21.77.210. Required reserves.** An association of self-insured employers  
11 shall maintain actuarially appropriate loss reserves. Loss reserves must include  
12 reserves for

- 13 (1) actual claims and the expenses associated with those claims;
- 14 (2) claims incurred but not reported and the expenses associated with  
15 those claims; and
- 16 (3) reserves for uncollected debts based on the experience of the  
17 association or other associations.

18 **Sec. 21.77.220. Regulation by division of insurance.** Self-insurance provided  
19 under a certificate issued to an association of self-insured employers may not be  
20 considered insurance for the purpose of any other law of the state and is subject only  
21 to regulations adopted by the director to implement this chapter.

22 **Sec. 21.77.230. Insufficient assets to pay compensation and maintain**  
23 **reserves.** (a) If the assets of an association of self-insured employers are insufficient  
24 to pay all compensation under AS 23.30 and to maintain the reserves required under  
25 AS 21.77.210, the association shall immediately notify the director and

- 26 (1) transfer surplus funds acquired from a previous year to the current  
27 year to make up the deficiency;
- 28 (2) transfer money from the administrative account of the association  
29 to the claims account of the association;
- 30 (3) collect an additional assessment from the members of the  
31 association in an amount required to make up the deficiency; or

1 (4) take any other action, approved by the director, to make up the  
2 deficiency.

3 (b) If an association of self-insured employers wishes to transfer surplus funds  
4 from one year to another, the association shall first notify the director of the transfer.

5 (c) The director shall order the association of self-insured employers to make  
6 up any deficiency in accordance with (a) of this section if the association fails to do so  
7 within 30 days after notifying the director of the deficiency.

8 (d) An association of self-insured employers is considered to be insolvent if it  
9 fails to collect an additional assessment from its members within 30 days after being  
10 ordered to do so by the director or fails to make up the deficiency in any other manner  
11 within 60 days after being ordered to do so by the director.

12 **Sec. 21.77.240. Order to cease and desist, penalties.** (a) The director may  
13 issue an order requiring an association of self-insured employers or a member of an  
14 association to cease and desist from engaging in an act or practice found to be in  
15 violation of this chapter or a regulation adopted under AS 21.77.300.

16 (b) If the director determines that an association of self-insured employers or  
17 member of an association has violated an order to cease and desist, the director may  
18 impose an administrative fine of not more than \$10,000 for each violation of the order,  
19 not to exceed an aggregate amount of \$100,000, and may, in addition, withdraw the  
20 association's certificate of self-insurance.

21 **Sec. 21.77.250. Administrative fines.** The director may impose an  
22 administrative fine for each violation of a provision of this chapter or regulation  
23 adopted under AS 21.77.300. Except as provided in AS 21.77.240, the amount of the  
24 fine may not exceed \$1,000 for each violation or an aggregate amount of \$10,000.

25 **Sec. 21.77.260. Withdrawal of certificate; effect of withdrawal.** (a) The  
26 director may withdraw the certificate of an association of self-insured employers if

27 (1) the association's certificate was obtained by fraud;

28 (2) the application for the certificate contained a material  
29 misrepresentation;

30 (3) the association is found to be insolvent;

31 (4) the association fails to have five or more members;

1 (5) the association fails to pay the costs of an examination or a penalty,  
2 fee, or assessment required under this chapter;

3 (6) the association fails to comply with a provision of this chapter or  
4 regulation adopted under AS 21.77.300;

5 (7) the association fails to comply with an order of the director within  
6 the time prescribed by law or in the director's order; or

7 (8) the association or its third-party administrator misappropriates,  
8 converts, illegally withholds, or refuses to pay any money to which a person is entitled  
9 and that was entrusted to the association in its fiduciary capacity.

10 (b) If the director withdraws a certificate of self-insurance, each employer who  
11 is a member of the association of self-insured employers remains liable for the  
12 employer's obligations incurred before and after the order of withdrawal.

13 (c) Before withdrawing a certificate under this section, the director shall give  
14 written notice to the association of self-insured employers by certified mail that the  
15 certificate of the association will be withdrawn 10 days after receipt of the notice  
16 unless, within that time, the association corrects the conduct set out in the notice as the  
17 reason for the withdrawal or submits a written request for a hearing to the director.  
18 The director may grant additional time, not to exceed an additional 120 days, before  
19 the withdrawal of the certificate if the grounds for withdrawal are based on (a)(4) of  
20 this section and the association is financially sound and capable of fulfilling its  
21 commitments.

22 (d) The director may not take action under this section unless the director has  
23 provided the association of self-insured employers with an opportunity for an informal  
24 meeting to discuss and seek correction of conduct that would be grounds for  
25 withdrawal of the association's certificate of self-insurance.

26 **Sec. 21.77.270. Retention of security deposit in event of termination.** If the  
27 certificate of an association of self-insured employers is terminated or withdrawn for  
28 any reason, the security deposited under AS 21.77.020 must remain on deposit for at  
29 least 36 months in an amount necessary to secure the outstanding and contingent  
30 liability for compensation payable under AS 23.30. At the expiration of the 36-month  
31 period, or another period the director may prescribe, the director may accept a paid-up

1 policy of insurance in a form approved by the director in lieu of the previously  
2 deposited security.

3 **Sec. 21.77.280. Insolvency; termination of liability on surety bond; effect**  
4 **of termination of surety bond.** (a) For purposes of this chapter, an association of  
5 self-insured employers is insolvent if it is unable to pay its outstanding obligations as  
6 they mature in the regular course of business.

7 (b) If an association of self-insured employers becomes insolvent, institutes  
8 any voluntary proceeding under the bankruptcy laws of the United States or is named  
9 in any involuntary proceeding under those laws, makes a general or special assignment  
10 for the benefit of creditors, or fails to pay compensation due under AS 23.30, after an  
11 order for the payment of a claim becomes final, the director may, after giving at least  
12 10 days' notice to the association and its insurer or guarantor, use money or interest on  
13 securities, sell securities, or institute legal proceedings on a surety bond deposited with  
14 the director to the extent necessary to make the payment.

15 (c) A surety providing a surety bond under AS 21.77.020 may terminate  
16 liability on its surety bond by giving the director and the association of self-insured  
17 employers, the association's administrator, or the third-party administrator 90 days'  
18 written notice. Termination does not limit liability that was incurred under the surety  
19 bond before the termination. If the association fails to requalify as an association of  
20 self-insured employers on or before the termination date, the director shall withdraw  
21 the association's certificate of self-insurance, effective on the date the termination  
22 becomes effective.

23 **Sec. 21.77.290. Judicial review.** A party aggrieved by a decision of the  
24 director under this chapter may seek judicial review in accordance with applicable  
25 court rules.

26 **Sec. 21.77.300. Regulations.** The director may adopt regulations to implement  
27 the provisions of this chapter.

28 **Sec. 21.77.399. Definitions.** In this chapter,

29 (1) "association of self-insured employers" means an association of  
30 employers that has been granted a certificate of self-insurance under AS 21.77.010;

31 (2) "third-party administrator" means a person under contract with an

1 association of self-insured employers to administer, from one or more offices in this  
2 state, all claims for the association arising under AS 23.30 and maintain records  
3 concerning those claims.

4 \* **Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).



**ANCHORAGE BOARD OF REALTORS® INC.**

REALTOR® *The Voice for Real Estate™* In Anchorage

1500 W. 33rd Avenue  
Suite #220  
Anchorage, Alaska 99503  
(907) 581-2338  
(907) 563-8478 Fax

March 3, 2006

**Rep. Tom Anderson, chair Labor & Commerce  
FAX 488-2418**

Dear Rep. Tom Anderson,

I am writing as the Executive Officer representing the Anchorage Board of REALTORS. We support HB 51 "An act relating to modifying the qualifications required for workers' compensation self-insurance and permitting employers in the same trade or industry to form an employer association for self-insured workers' compensation coverage."

State law currently requires a business to have 100 employees and net assets of \$5 Million to be able to self insure for workers comp. The goal of HB51 is to allow associations to collectively pool employees and assets to achieve the same requirements. The Anchorage Board of REALTORS supports the concept of controlling safety in the work place, and rewarding with lower premiums those businesses who go the extra mile. We also support the concept of finding ways to provide more options in the marketplace for contractors who face burdensome and growing work comp premiums.

Thank you for all your previous help and support of our industry. Please evaluate HB51 based on these concepts, and work with our local and state associations to develop a bill that you and your committee can support and pass. Your efforts to help us address worker's compensation insurance costs are greatly appreciated.

Should further information be required, please call Cody Gibson, President of the Board of Directors (907) 273-7272

Sincerely,

**Kay DuBouk  
Executive Officer  
Anchorage Board of REALTORS**





March 2, 2006

Rep. Tom Anderson, chair Labor & Commerce  
FAX 485-2418

Dear Rep. Tom Anderson,

I am writing as President of the Anchorage Home Builders Association, representing over 300 members in Anchorage and Eagle River. We support HB 61 "An act relating to modifying the qualifications required for workers' compensation self-insurance and permitting employers in the same trade or industry to form an employer association for self-insured workers' compensation coverage."

State law currently requires a business to have 100 employees and net assets of \$5 Million to be able to self insure for workers comp. The goal of HB51 is to allow associations to collectively pool employees and assets to achieve the same requirements. ASHBA supports the concept of controlling safety in the work place, and rewarding with lower premiums those businesses who go the extra mile. We also support the concept of finding ways to provide more options in the marketplace for contractors who face burdensome and growing work comp premiums.

Thank you for all your previous help and support of our industry. Please evaluate HB51 based on these concepts, and work with our local associations to develop a bill that you and your committee can support and pass. Your efforts to help us address worker's compensation insurance costs are greatly appreciated.

I am available to answer any questions you might have by calling me at 907-830-2052.

Sincerely,

President  
Anchorage Home Builders Association

**"Building Better Places to Live, Work and Play"**

**ANCHORAGE HOME BUILDERS ASSOCIATION, INC.**

8301 Schoon Street, Suite 200 • Anchorage, AK 99518 • (907) 522-3605 • Fax (907) 522-3757





**Alaska State  
Home Building Association**

February 23, 2006

**Rep. Tom Anderson, chair Labor & Commerce  
FAX 465-2418**

Dear Rep. Tom Anderson,

I am writing as President of the Alaska State Home Building Association, representing over 900 members across the state. We support HB 51 "An act relating to modifying the qualifications required for workers' compensation self-insurance and permitting employers in the same trade or industry to form an employer association for self-insured workers' compensation coverage."

State law currently requires a business to have 100 employees and net assets of \$5 Million to be able to self insure for workers comp. The goal of HB51 is to allow associations to collectively pool employees and assets to achieve the same requirements. ASHBA supports the concept of controlling safety in the work place, and rewarding with lower premiums those businesses who go the extra mile. We also support the concept of finding ways to provide more options in the marketplace for contractors who face burdensome and growing work comp premiums.

Thank you for all your previous help and support of our industry. Please evaluate HB51 based on these concepts, and work with our local building associations to develop a bill that you and your committee can support and pass. Your efforts to help us address worker's compensation insurance costs are greatly appreciated.

I am available to answer any questions you might have by calling me at 907-232-3751.

Sincerely,

Tom Smith  
President  
Alaska State Home Building Association



8301 Schoon, Ste 200 • Anchorage, Alaska 99518  
Phone (907) 644-4190 • FAX (907) 522-3757  
Website: [www.buildersofalaska.com](http://www.buildersofalaska.com) • E-mail: [info@buildersofalaska.com](mailto:info@buildersofalaska.com)



## ASSOCIATED GENERAL CONTRACTORS of ALASKA

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8005 SCHOON STREET • ANCHORAGE, ALASKA 99518  
TELEPHONE (907) 561-5354 • FAX (907) 562-6118

February 24, 2006

Representative Tom Anderson  
Chairman, House Labor & Commerce Committee  
Alaska State Legislator  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182

Re: HB 51

Dear Representative Anderson:

The Associated General Contractors of Alaska supports the concept of group self-insurance for workers compensation as one means by which Alaskan businesses can deal with the high cost of such insurance.

The bill, as drafted, provides protection for injured workers by making all employers within the group jointly and severally liable for claims, requires a safety rate reduction program, and basically requires all interested members of such groups to make a long term commitment to the program. The fear that a faulty business plan may cause some groups to fail thereby leaving injured workers without their benefits is minimized in this legislation. While this risk cannot be totally eliminated, it should be recognized that the problem also exists under the current insurance structure.

The proposed legislation gives businesses another opportunity to control the costs of doing business in Alaska. The safeguards incorporated in the bills seem sufficient to protect injured workers and allow the state to exercise sufficient oversight of participating groups. AGC urges your support of the proposed legislation.

Sincerely,

Richard Cattanach



February 23, 2006

Dear Representative Tom Anderson,

We would appreciate your support on passing HB-51.

Workman's Comp Insurance as it is now structured is a prohibitive drain on small business. Our company has been in business for the last 25 years. In that period of time we have had one small claim, which was approximately 6 years ago. Over the years our premium has gone up from approximately \$6,000 per annum to over \$27,000 per annum.

Please support HB-51 to enable us to have another source of Workman's Compensation Insurance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alfred J. Romaszewski'.

Alfred J. Romaszewski  
Broker

**RE/MAX** of Eagle River, Inc.  
16500 Centerfield Dr., Suite 201  
Eagle River, Alaska 99577  
Office: (907) 894-4200  
Fax: (907) 696-0214

# ALASKA TRUCKING ASSOCIATION

3443 Minnesota Drive • Anchorage, Alaska 99503 • Phone: (907) 276-1149 • Fax: (907) 274-1946

[www.aktrucks.org](http://www.aktrucks.org)

---

February 15<sup>th</sup> 2005

Representative Tom Anderson  
State Capital  
Juneau, AK 99801

RE: HB 51

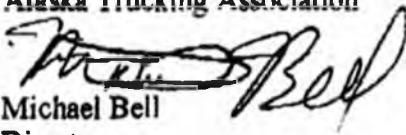
Dear Representative Anderson,

Workers compensation continues to be one of the largest concerns and problems for trucking in Alaska. Companies large and small are faced with increasing rates that can only be attributed to market increases. These companies are faced with extremely limited choices of providers and little alternative to combat the rates continue to increase. These circumstances force small business to operate without or even close their doors.

HB 51 creates the ability for like minded companies to come together to diversify and control risk. The Alaska Trucking Association supports this provision to allow a group or association members to combined to carry the workman's compensation insurance. This will allow for a greater safety presence, ability to control there own pool members resulting in a reduction of the risk of the program. It should provide for long term cost savings and better control of programs fait.

We hope you are able to move this bill forth, this bill provides the new ability of a choice in Alaska where there are so few. It also provides the opportunity for a company to have a fighting chance to determine their own outcome.

Sincerely,  
Alaska Trucking Association

  
Michael Bell  
Director



*Spinell*  
HOMES, Inc.

February 9, 2006

Rep. Tom Anderson  
Chair, Labor & Commerce

Vis Fax No. 465-2418

RE: HB 51

Dear Mr. Anderson;

As a member of the Anchorage Home Builders Association and as a local home builder I am urging your support for House Bill 51.

State law currently requires a business to have 100 employees and net assets of \$5 Million to be able to self insure for workers compensation. This is impossible for many businesses, and our goal is to allow associations to collectively pool employees and assets to achieve these requirements.

Currently we are at the mercy of regional workers compensation rates. By working together in a self insurance program, not only do we have the best probability of controlling safety in the work place, but we will have the ability to reward those businesses who go the extra mile in safety with lower premiums.

Not only is this bill good for our communities, it will also benefit our economy. Lower premiums for businesses means employers will be able to provide better benefits and pay to their employees.

If you would like to discuss this further please feel free to contact me at 344-5678. Again, I would greatly appreciate your support of HB 51.

Sincerely,  
  
Charles Spinelli

Fax from :

# FAX COVER

To: Chuck Spinelli

Company : Spinell Homes, Inc.

Fax Number : 3441978

From : Vicki Portwood

Company : Anchorage Home Builders Association

Fax Number : 907-522-3757

Subject : workers comp

Pages including cover page: 1

Time: 2:46:52 PM

Date: 2/8/2006

## MESSAGE

The **Government Affairs Committee** is working in Juneau on our Workers Comp Legislation HB 51. Our bill comes up for hearings on Friday, Feb 10th in Juneau and Larry Partusch will be testifying.

Partusch is asking for your help with your company information.

1) What percentage of your company's expense burden is workers comp? *2005 = 2.6%*

2) What have you rats done in the last 5 years?

PLEASE FAX this information to **Matt Gill** (Matt is part of our lobbyist Joe Hayes offices in Juneau) at **907-586-8977**. If you would like the information for you send it to our offices at 522-3757.

Anchorage Home Builders Assn. Government Affairs



**WORKERS COMP RATES**

CLASS	2002 RATES	2006 RATES
5610	\$ 3.11	\$10.66
5645	\$13.45	\$27.93
6217	\$ 9.53	\$19.52
8742	\$ .61	\$ 1.44
8810	\$ .56	\$ 1.23

YEAR	EMPLOYBES	TOTAL AMOUNT
2002	60	\$ 77,512.00
2003	70	\$199,011.00
2004	85	\$294,287.00
2005	85	\$323,738.00

## Employers Self-Insured For Workers' Compensation Liability In Alaska

### I. Self-Insured Employers Currently Authorized

Total: 31    Private: 23    Public: 8

Alaska Airlines	Fred Meyer Stores, Inc.
Alaska Communications Systems	General Communications Inc.
Alaska Interstate Construction	Harnish Group (NC Machinery/Power)
Alaska Railroad Corp.	Holland America Line-Westours (Carnival)
Alyeska Pipeline Service Co.	Icicle Seafoods, Inc.
Anchorage Daily News	Kenai Peninsula Borough & SD
(McClatchy Newspapers)	Mat-Su School District
Anchorage School District	Municipality of Anchorage
Arctic Slope Regional Corp.	Nabors Alaska Drilling, Inc.
Bristol Bay Area Health Corp.	Peak Oilfield Service Co.
Chevron/Texaco	Providence Health System
City & Borough of Juneau	Safeway, Inc.
Costco Wholesale Corp.	State of Alaska
Enstar Natural Gas Co.	University of Alaska
Fairbanks Northstar Borough	Unocal Corp.
Federal Express Corp.	Veco Corp.

### II. Employees Working for Self-Insured Employers

<u>Total:</u>		<u>Average number of employees per employer:</u>	
2006	75,792	2006	2,445
2005	73,912	2005	2,640
2004	67,403	2004	2,930

<u>% of all covered workers:</u>		<u>% of all injury reports filed:</u>	
2006	26.0%*	2006	N/A
2005	26.0%**	2005	28.1%
2004	25.4%	2004	26.0%

\* 2006 based on estimated data

\*\* 2005 based on preliminary data

### III. Workers' Compensation Benefits/Costs Paid By Self-Insured Employers

<u>Total:</u>		<u>As percentage of all benefits/costs paid:</u>	
2004	\$56,700,000	2004	24.4%
2003	\$48,570,000	2003	21.8%

### IV. Self-Insured Employers - Average Net Worth - Median Net Worth

<u>Average:</u>		<u>Median:</u>	
2006	\$4.997 billion	2006	\$9.971 billion
7 smallest	\$ 55.6 million	7 smallest	\$ 37.2 million

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB51SS-DOLWD-WC-02-07-06  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Department: Labor & Workforce Development  
 Title: Employer Assn for Workers' Comp Ins RDU: Workers' Compensation  
 Sponsor: Representative Meyer Component: Workers' Compensation  
 Requester: House L&C Component Number: 344

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

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	89.7	89.7	89.7	89.7	89.7	89.7
Travel	9.7	9.7	9.7	9.7	9.7	9.7
Contractual	32.1	32.1	32.1	32.1	32.1	32.1
Supplies	14.0	2.0	2.0	2.0	2.0	2.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>145.5</b>	<b>133.5</b>	<b>133.5</b>	<b>133.5</b>	<b>133.5</b>	<b>133.5</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						
1157 Workers' Safety Account	145.5	133.5	133.5	133.5	133.5	133.5
<b>TOTAL</b>	<b>145.5</b>	<b>133.5</b>	<b>133.5</b>	<b>133.5</b>	<b>133.5</b>	<b>133.5</b>

Estimate of any current year (FY2006) cost: None  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

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

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

(See Attached)

Prepared by: Paul F. Lisankle, Director Phone: 465-6059  
 Division: Workers' Compensation Date/Time: 2/7/06 3:27 PM  
 Approved by: Greg O'Claray, Commissioner Date: 2/7/2006  
 Agency: Department of Labor and Workforce Development

FISCAL NOTE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

BILL VERSION: HB51SS-DOLWD-WC-02-07-06

ANALYSIS: (continued)

This legislation would open the workers' compensation self-insurance program to an indeterminate number of trade associations. Any association in existence for at least five years, composed of at least five member employers engaging in a similar trade or industry and belonging to an Alaskan trade association, could seek to self-insure their workers' compensation liabilities. This expansion of the program (currently comprised of a limited number of large employers and governmental entities) would require an increased level of regulatory oversight. The Division would need to employ an Insurance Financial Examiner to develop and oversee the new regulatory system.

**Personal Services:** Insurance Financial Examiner II will be responsible for developing a program and monitoring self insured employers and entities. (\$89.7)

**Travel:** Funding of \$7.7 is necessary for the travel, per diem and hotel costs to enable the Insurance Financial Examiner to go on-site to verify the financial status of self-insured entities. In addition, travel funds of \$2.0 is requested to attend necessary training.

**Contractual:** Contractual services for the new position include lease costs (\$6.7); mail (\$3.0); departmental administrative support costs (\$11.1); interdepartment chargeback costs (\$5.3); copies, printing, etc (\$4.0) and training (\$2.0).

**Commodities:** Funding of \$14.0 for supplies for the new positions is required. (\$12.0 for one-time set-up costs and \$2.0 for ongoing costs)



# REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

ANCH. HOMEROUTTERS  
MEMORANDUM

Date: January 23, 2006

TO: Representative Tom Anderson, Chairman  
House Labor and Commerce Committee

FR: Representative Kevin Meyer, Co-Chairman  
House Finance Committee

RE: Sponsor Substitute for HB 51

TIMBER  
EXCHANGE  
OR  
ARECA

RECIPROCAL -  
UNOAS 21  
- REVENUE  
REPORTS  
- INVEST.  
MONITORING  
- AUDIT  
- MARKET  
CONDUCT  
ASSETS.

Representative Anderson,

I introduced a sponsor substitute to HB 51 *Joint Insurance Arrangements* after working over the interim with interested parties. This memorandum is intended provide a comparison between the two versions of HB 51 and insight into the reasons for the changes.

**Statutory Change: From AS 21.76.010 to AS 23.30.090**

The original version of HB 51 amended AS 21.076.010, the *Joint Insurance Association* statutes. The provisions of title 21 apply to Municipalities and their public corporations. The joint insurance arrangements covered by title 21 are limited to public entities that ultimately can turn to taxes and other revenue instruments and who were therefore removed from regulation under AS 21.76.020. Though the original version of HB 51 required an association to meet the standards for a self-insurance certificate issued under AS 23.30.090, there was no oversight due to AS 21.76.020.

Since the intent of HB 51 is to apply to private entities, the sponsor substitute to HB 51 shifts the proposed changes from AS 21.76.010 *Joint Insurance Arrangements* to AS 23.30.090 *Self Insurance Certificates*. By moving to AS 23.30.090, the proposed associations of employers are treated the same as an existing single employer provided the association meets similar financial criteria. Through the joint and several liability provision of SSHB 51 (page 2 lines 8-10) the members of an association are responsible for the workers compensation obligations accrued by **any** of the individual members of the association. The joint and several liability provision enables an association to, in the aggregate, meet the minimum financial thresholds (a net worth of \$5 million) a single employer is currently required to meet.

TIA -  
TITLE 23  
PTX  
ADMIN.

JOINT/  
SEVERAL  
LIAB.  
HURTS MAYBE  
OTHER COMPANIES  
NO GUARANTEE  
FUND  
EITHER

WE BOARD  
DOESNT  
KNOW RISK/LOSS

- WANT WORKERS COMP  
BOARD TO ISSUE  
CERTIFICATES TO SELF-INSURE  
CUTTING  
INSURE  
STATUTES

PULLED UNDER  
TITLE 23  
LABOR/2  
AS A SINGLE  
COMPANY

A single employer is allowed to self-insure their workers compensation obligations under current statutes. SSHB 51 would repeal and reenact the current authorization in statute to allow an association of employers to self-insure without changing the existing rules for a single employer.

**Changes to AS 23.30.090 Self-Insurance Certificates**

SSHB 51 repeals and reenacts AS 23.30.090 to authorize an *association of employers* as well as an *employer* to self-insure workers' compensation obligations. The proposed reenacted statute incorporates several provisions currently found in regulations adopted by the Alaska Workers' Compensation Board. Below is a summary of the provisions in the proposed AS 23.30.090 and their source material.

23.30.090 (1) [Page 1, lines 10-12] – 8 AAC 46.010 (5)

23.30.090 (2) [Page 1, lines 13-14 & Page 2 line 1] – 8 AAC 46.010 (6)

23.30.090 (3) [Page 2, lines 2-3] – Current AS 23.30.090

23.30.090 (4) [Page 2, lines 4-5] – 8 AAC 46.010 (4)

23.30.090 (5) [Page 2, lines 6-7] – 8 AAC 46.050

23.30.090 (6) [Page 2, lines 8-10] – **New requirement limited to an association of self-insured employers.** Requires an association to file an agreement with the board jointly and severally binding each member of the association.

23.30.090 (b) [Page 2, lines 11-18] – 8 AAC 46.020

23.30.090 (c) [Page 2, lines 19-20] – **New provision** making information provided under (b) confidential.

23.30.090 (d) [Page 2 lines 21-27] – **Changed provision.** Modifies existing AS 23.30.090 to provide that a certificate of self-insurance remains in effect until revoked by the board. Does not alter or change the timeline/process of revocation or the authority to reissue a certificate.

23.30.090 (e) [Page 2 lines 29-31] – Current AS 23.30.090

23.30.090 (f) [Page 3 lines 1-6] – **New requirement limited to an association of self-insured employers.** Requires an association to notify the board if one of its members withdraws from the association or a new member joins the association.

23.30.090 (g) [Page 3 lines 7-10] – **New provision limited to an association of self-insured employers.** Allows an association to function on behalf of its members as an “employer” for purposes of complying with AS 23.30.

23.30.090 (h) [Page 3 line 11] – Current AS 23.30.090 (*explicitly allows the Board to adopt regulations to implement this chapter.*)

23.30.090 (i) [Page 3 lines 12-16] – **New provision defining an “association of employers.”**

Thank you for considering SSHB 51,

Representative Kevin Meyer



# REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

## Sponsor Statement

### House Bill 51

**“An Act relating to permitting employers in the same trade to form joint insurance arrangements for self-insured workers’ compensation coverage.”**

The workers compensation system was developed as a compromise between employees and employers to ensure that employees received compensation for injuries received on the job. Employers provide compensation for medical expenses and lost wages, and in exchange employees agree not to sue employers for damages.

Traditionally, employers have transferred the risk of compensation liability to insurance companies, who, for a premium, agree to cover the costs of an employee’s claim under the worker’s compensation system. Several states, including Alaska, allow an employer to self-insure providing that they meet financial requirements set in statute and regulation.

House Bill 51 allows a group of five or more employers to form an association to self-insure the employers’ workers compensation obligations. The members of the association must be engaged in the same or similar employment classifications, be members of a qualified trade association, and receive a certificate to self-insure under Alaska’s existing rules and regulations.

Workers compensation insurance premiums are a significant cost for employers. While the prospect of reducing costs attracts employers to self-insurance associations, employers and employees in states with similar statutes have seen other benefits. Directly assuming the risks for workers compensation obligations aligns employers and employees in managing workers compensation claims and costs. HB 51 is a tool for Alaska’s trade associations and employers to take direct control of the obligations they are exposed to under current law.

SECTIONAL ANALYSIS  
SS FOR HB 51  
(Workers' Compensation Self-insurance)

**OVERVIEW:**

Existing law (AS 23.30.090) allows the Alaska Workers' Compensation Board to issue a certificate of self-insurance to a qualified individual employer. The board, through the Division of Workers' Compensation, administers the self-insurance program under regulations adopted by the board (8 AAC 46.010 - 8 AAC 46.900).

SS HB 51 amends existing law by allowing the board to issue a certificate of self-insurance to a qualified association of employers.

**Section 1** of the bill repeals and reenacts AS 23.30.090, the statute that currently allows individual employers to obtain self-insurance certificates. The bill would allow the board to issue self-insurance certificates to both qualified individual employers and qualified groups of employers and sets out a number of requirements that employers and associations of employers must meet. The bill makes only one change that affects the existing self-insurance program for individual self-insured employers by providing that self-insurance certificates remain in effect until revoked. Under current regulations, 8 AAC 46.065(b), certificates remain in effect for 12 months.

**Section 2** provides for an immediate effective date.

**SECTIONAL ANALYSIS:**

All substantive provisions of the bill are contained in Section 1 of the bill, which would adopt a new Sec. 23.30.090(a) through (i):

**Sec. 23.30.090(a):**

Subsection (a) allows the Alaska Workers' Compensation Board to issue a self-insurance certificate to an employer or an association of employers meeting six specified requirements. Requirements (1) and (2) are currently contained in the self-insurance regulations governing individual employers and require an individual employer to have at least 100 employees, a net worth of at least \$5,000,000. (See, 8 AAC 46.010(a)(5) and (6)). The bill would place these regulatory minimums in statute, and would require an association of self-insured employers to meet the minimum requirements in the aggregate. Requirement (3) is contained in existing AS 23.30.090 and the bill would require both individual employers and associations of self-insured employers to pay the annual service fee assessed under AS 23.05.067. Requirements (4) and (5) are currently contained in self-insurance regulations governing individual employers, and require that the employer maintain a workplace safety program and obtain excess insurance coverage in amounts and with coverage required by the board. (See, 8 AAC 46.010(a)(4) and 8 AAC 46.050.) The bill

would place these requirements in statute and they would apply to both individual employers and associations of self-insured employers. Requirement (6) is new and requires an association of self-insured employers to file with the board an indemnity agreement jointly and severally binding each member of the association to secure the payment of all compensation due to any of the members' employees.

**Sec. 23.30.090(b):**

Subsection (b) would allow the board, either before issuing a self-insurance certificate or at other times designated by the board, to require individual employers and associations of self-insured employers to provide financial information necessary to determine whether the individual employer or the association meets or continues to meet the financial requirements for a self-insurance certificate.

**Sec. 23.30.090(c):**

Subsection (c) makes confidential the financial information provided under subsection (b).

**Sec. 23.30.090(d):**

The bill retains the provisions of existing AS 23.30.090 that allow the board to revoke a self-insurance certificate on at least 10 days' notice and a hearing. Existing AS 23.30.090 also allows the board to fix the time that a self-insurance certificate remains in effect. Current regulations provide that certificates remain in effect for one year, subject to renewal. The bill provides that a certificate would remain in effect until it is revoked. The bill retains existing provisions of AS 23.30.090 that allow for a certificate to be re-issued following revocation if the employer or association of employers provides satisfactory proof that it once again meets the requirements for self-insurance.

**Sec. 23.30.090(e):**

The bill retains the requirements of existing AS 23.30.090 relating to claims facilities, and would require both an individual employer and an association of employers to provide claims adjusting facilities through by its own staff located in Alaska or through independent, licensed resident adjusters with power to effect settlement in Alaska.

**Sec. 23.30.090(f):**

Subsection (f) applies only to associations of self-insured employers and requires the association to notify the board if a member withdraws from the association or a new member joins. New members would be required to show that they belong to an Alaska trade association, as provided in subsection (i), and to provide the same financial information required under subsection (b).

**Sec. 23.30.090(g):**

Subsection (g) applies only to associations of self-insured employers and provides that an association may act on behalf of or for the benefit of its members in providing for its members' workers' compensation obligations and provides that the association has the same rights and obligations under AS 23 as an employer. For example, this section would allow an association to file the same annual reports on behalf of its members that are currently required for individual self-insured employers under AS 23.30.155(n) and to exercise a member's assignment rights in the case of third party liability under AS 23.30.015.

**Sec. 23.30.090(h):**

Subsection (h) provides express authority for the board to adopt regulations to implement the self-insurance program.

**Sec. 23.30.080(i):**

Subsection (i) defines an "association of employers" to mean a group of five or more employers who are merchants, craftsmen, or businesses in a similar trade or industry and who are members of the same Alaska trade association.

# **ABOUT GROUP SELF INSURERS WORKERS' COMPENSATION FUNDS (SIFs)**

## **TABLE OF CONTENTS**

- 1. INTRODUCTION**
- 2. WHAT IS A SELF-INSURANCE GROUP?**
- 3. WHAT BENEFITS DO SIFs OFFER?**
- 4. HOW DO SIFs WORK?**
- 5. HOW ARE SIFs REGULATED?**
- 6. GROUP ADMINISTRATION**
- 7. POTENTIAL DISADVANTAGE**
- 8. CONCLUSION**

**Q. WHAT IS A GROUP SELF-INSURED WORKERS' COMPENSATION FUND (SIF)?**

A. An SIF is a not-for-profit association of employers formed for the specific purpose of providing statutory workers' compensation and employers' liability coverage. Organizations that form SIFs are typically medium-size companies that may not have the size or financial capacity to become a self-insurer on their own, but want to assume control over their workers' compensation costs and obtain the benefits often realized with self-insurance, just as the larger employers have been doing for years at substantial savings.

**Q. WHAT BENEFITS DO SIFs OFFER?**

A. The primary benefits that can be expected from membership in a SIF are:

- Improved cash flow through elimination of advance premium payments;
- Improved loss experience through more effective loss prevention, loss control, and managed care programs;
- Savings from reduced administrative costs;
- Savings by earning interest income on premium dollars;
- The potential for dividend returns from loss-and-expense-fund surpluses.

In essence, an SIF helps employers control many aspects of their workers' compensation cost. However, the degree to which benefits can be achieved on a variety of factors will be discussed in this discourse.

**Q. HOW DO SIFs WORK?**

A. An SIF enables employers to assume a major portion of their risk and provides group purchasing power for excess insurance to cover losses incurred individually or collectively in excess of a specified amount.

Members of SIFs pay a premium based on their exposures, classification codes, payroll, experience modifications, and rates developed by the state workers' compensation rate making bureau. Premiums are used to pay coverage losses, claims administration and costs associated with the management of the group, such as loss control, legal, accounting and actuarial. Premium surpluses from both the claims fund and the administrative expense fund can be returned to group members on a pro rata share basis in the form of dividends.

Many costs associated with traditional workers' compensation insurance, such as premium taxes (in most states) and residual market charges, do not apply to SIFs. These costs can amount to a significant percentage of traditional workers' compensation insurance premiums. Membership fees are an additional cost.

### **Q. HOW ARE SELF-INSURED GROUPS RELATED?**

A. SIFs must receive approval to operate from the state insurance department or state workers' compensation agency. The standards for qualification vary from state to state, for the general to the very specific. SIFs are required to follow rating plans and procedures filed in their state of operation. Although the specific requirements for the administration of SIFs may vary, the state regulatory authority's role is to ensure the group's ability to administer and pay claims through appropriate planning and funding.

1. Coverage requirements: Most regulatory authorities require that a SIF purchase additional coverage, such as excess insurance on both a specific and aggregate base to insure that they can pay large losses. The amount and type of insurance may vary by state.
2. Financial requirements: The regulatory authorities require that SIFs meet various financial requirements regarding net worth, profitability, liquidity, and solvency.
3. Security requirements: SIFs are required to post security in the form of cash, surety bond, negotiable securities, and irrevocable letter of credit, or a combination of these.

### **Q. HOW ARE SIF'S ADMINISTERED?**

A. SIFs select a board of trustees to govern the activities of the group including who may join, the purchase of excess insurance, the distribution of dividends, and the selection of service providers.

SIFs are responsible for the payment of claims in conformance with state workers' compensation laws. In addition, groups usually require a variety of services, such as loss prevention, loss control, and claims management. These services can be performed by company personnel if they have the resources and capabilities or contracted to an outside firm with the requisite expertise. To a large extent, the success of any SIF depends on how effectively it manages and integrates many of these activities. To operate most effectively, an outside firm is usually selected to provide a variety of these services.

### **Q. HOW ARE CLAIMS MANAGED?**

- 1. A primary benefit of self-insurance is the degree of control to a group can exercise over all aspects of the claims handling process to help contain costs. A group may select to implement a variety of claims management services including:

Claims processing and settlement

Investigation

Managed care and cost containment programs

Preferred provider service

Litigation management

Subrogation

Medical bill reviews

Work hardening and early-return-to-work programs

Risk management reports

#### **Q. WHAT ARE SOME OTHER ISSUES TO BE CONSIDERED RELATIVE TO SIFs?**

##### **CASE MANAGEMENT**

A.

2. Case management is an effective way to reduce cost through early intervention and an effective early-return-to-work plan. Case management includes:

Immediate contact by a health care professional to monitor the employee's medical care and to ensure that the employee receives the appropriate care from the time of injury, through treatment and recuperation.

Developing modified work plans with the injured employee and the health care provider to help the employee make the transition back to work and to expedite early-return-to-work.

Implement work hardening and vocational rehabilitation programs, where appropriate, to help individuals return to work and ensure that the early-return-to-work plan is successful.

##### **RISK MANAGEMENT**

3. Risk management and loss control planning is designed to prevent losses from occurring and to reduce the frequency or severity when they do occur. Risk management specialists can:
  - Analyze and reduce site hazards to prevent or eliminate causes of injury;
  - Evaluate the effectiveness of existing safety programs;
  - Provide periodic inspections and written reports recommending specific corrective action;

- Develop written safety policies and guidelines to help prevent injury;
- Assist in developing and implementing new safety programs;
- Provide risk management analyses reports

#### **MARKETING AND MEMBERSHIP**

4. Marketing and membership: SIFs require ongoing efforts to promote the group's program, attract new member organizations, and evaluate applications of potential members to ensure the group's long-term survival and continued financial viability. Risk management consultants, insurance companies, and insurance brokers are just a few of the resources that can assist a group in gathering information on prospective group members.

#### **UNDERWRITING SERVICE**

5. Underwriting is required to develop guidelines for membership, evaluate exposure to loss for individual members and the group as a whole, calculate the premium to be charged to each member, and establish loss reserves in compliance with state regulation

#### **FEASIBILITY STUDIES**

6. Feasibility studies play an important role when forming an SIF as well as once a group is formed. When forming a self-insurance group, they are used to review and analyze specific state regulations and to provide specific financial and actuarial information to the regulatory authority. Once a group is formed, studies help prospective members determine the financial/cash flow effects that joining the group will have on their firm. Accurate loss forecasting is an extremely important component of a feasibility study. Loss forecasting usually requires a minimum of three years of premium, payroll, experience modification, and claims history. Pro forma financial statements can then be prepared on prospective group members.

#### **ACCOUNTING AND FINANCIAL MANAGEMENT**

7. Accounting and financial management: SIFs are responsible for the proper establishment, maintenance, and administration of accounting procedures and financial controls including:
  - Collection of accounts and monies owed to the group in connection with providing coverage and the group's administration;
  - Maintenance of all claims fund and administrative fund accounts necessary to satisfy the legal and financial obligations of the group;
  - Systems for the safekeeping of records, books of accounts, and financial affairs;
  - Reporting of financial statements and reports as required by state regulations and the group's bylaws;

- Selection of independent accounting and actuarial services, as appropriate, and proper investment management.

## **Q. ARE THERE DISADVANTAGES TO FORMING AN SIF?**

A. SIFs offer many advantages, but there are also potential disadvantages.

### **JOINT AND SEVERAL LIABILITY**

1. Members of the group are typically jointly and severally liable for workers' compensation and employers' liability losses incurred by membership. The subsequent bankruptcy or termination of a member does not release the remaining group members from this liability.

### **CATASTROPHIC LOSSES**

2. If a catastrophic event occurs that exhausts the group's self-insured retention and excess insurance, the group members are typically responsible for paying their pro rata share of the amount required to cover the total loss.

### **MULTI-STATE OPERATION**

3. SIFs are regulated by the state and may only cover exposures within that state. As a result, employers with operations in more than one state must find another SIF or alternate means to cover any out-of-state portions of the workers' compensation exposure.

### **ADMINISTRATIVE FUNCTIONS AND ADDITIONAL COSTS**

4. Many of the services usually provided by an insurer (i.e. claims administration and record keeping, loss control, legal services, and actuarial service) are now the responsibility of the group. The group must select the services it requires, and, if necessary, hire service providers where appropriate.

# Alaska Statutes associated with SSHB51

## **AS 23.30.090. Self-Insurance Certificates.**

If an employer has complied with the provisions of this chapter relating to self-insurance and has paid annual service fees assessed under AS 23.05.067, the board shall issue the employer a certificate that shall remain in force for a period fixed by the board. The board may, upon at least 10 days' notice and a hearing, revoke a self-insurance certificate upon satisfactory proof that an employer is no longer entitled to it. After revocation, the board may grant a new certificate to an employer, upon the employer's petition and satisfactory proof of the employer's financial ability as provided in this chapter. An employer authorized as a self-insurer shall provide claims facilities through its own staffed adjusting facilities located within the state, or independent, licensed, resident adjusters with power to effect settlement within the state.

## **AS 23.05.067. Service Fees For Administration of Workers' Safety and Compensation Programs.**

(a) Each insurer providing workers' compensation insurance and each employer who is self-insured or uninsured for purposes of AS 23.30 in this state shall pay an annual service fee to the department for the administrative expenses of the state for workers' safety programs under AS 18.60 and the workers' compensation program under AS 23.30 as follows:

(1) for each employer,

(A) except as provided in (b) of this section, the service fee shall be paid each year to the department at the time that the annual report is required to be filed under AS 23.30.155

(m) or (n); and

(B) the service fee is 2.9 percent of all payments reported to the Alaska Workers' Compensation Board under AS 23.30.155 (m) or (n), except second injury fund payments; and

(2) for each insurer, the director of the division of insurance shall, under (e) of this section, deposit from funds received from the insurer under AS 21.09.210 a service fee of 1.82 percent of the direct premium income for workers' compensation insurance received by the insurer during the year ending on the preceding December 31, subject to all the deductions specified in AS 21.09.210 (b).

(b) An employer who is required to pay an annual service fee under (a) of this section may elect to pay in yearly increments over a five-year period the portion of the service fee due under (a) of this section as a result of a settlement of over \$50,000 approved under AS 23.30.012. An election under this subsection must be made in the first year that a service fee would be due as a result of the settlement. The employer shall notify the department of an election under this subsection. If an election is made, payment of each

yearly increment that is due shall be made at the time the annual report is required to be filed under AS 23.30.155(m) or (n).

(c) Payment of the annual service fee under this section shall be made in the manner and by the method specified by the department.

(d) If an employer who is required to pay an annual service fee under this section does not pay the required amount of the service fee by the time specified in this section, the employer shall pay a civil penalty of \$100 for the first day the payment is late and \$10 a day for each additional day the payment is late. The civil penalty under this subsection is in addition to any civil penalties imposed for late filings of reports under AS 23.30.155 (m).

(e) Annual service fees and civil penalties collected under this section shall be deposited in the workers' safety and compensation administration account in the state treasury. Under AS 37.05.146 (c), the service fees and civil penalties shall be accounted for separately, and appropriations from the account are not made from the unrestricted general fund. The legislature may appropriate money from the account for expenditures by the department for necessary costs incurred by the department in the administration of the workers' safety programs contained in AS 18.60 and of the Alaska Workers' Compensation Act contained in AS 23.30. Nothing in this subsection creates a dedicated fund or dedicates the money in the account for a specific purpose. Money deposited in the account does not lapse at the end of a fiscal year unless otherwise provided by an appropriation.

(f) The department may adopt regulations to implement this section.

(g) Notwithstanding AS 21.76.020 (a), a joint insurance arrangement established under AS 21.76 is subject to the provisions of this section and regulations adopted under this section and, if self-insured, is subject to the annual service fee on behalf of its members.

(h) The department shall grant a credit against the service fee imposed under (a)(1) of this section to an employer if (1) the employer applies to the department for the credit on a form prescribed by the department; (2) the employer provides proof that the employer has paid a premium tax imposed under AS 21.09.210 on an insurance policy; and (3) workers' compensation claims have been paid under the insurance policy described in (2) of this subsection and the claims are subject to the service fee imposed under (a) of this section. The credit allowed under this subsection is equal to the amount of the premium tax paid by the employer under the insurance policy, may not exceed the service fee imposed under (a) of this section, and only applies to premium taxes paid by the employer on or after January 1, 2000.

(i) In this section, "insurer" has the meaning given in AS 21.90.900.

## **AS 21.89.015. Workplace Safety Program.**

An insurer who provides workers' compensation insurance in this state shall establish and maintain a workplace safety rate reduction program, subject to the approval of the division.

## **Administrative Codes associated w/ SSHB51**

### **08 AAC 46.010. Qualifying as a Self-Insurer**

- (a) An employer may self-insure its obligations under the Act if the employer provides satisfactory proof to the board that it has
- (1) the financial ability to meet the obligations;
  - (2) available claims facilities through its own staffed adjusting facilities located within the state or through independent, licensed, resident adjusters with power to effect settlement within the state; for purposes of this paragraph, insurance companies with a certificate of authority from the division of insurance, Department of Community and Economic Development, and with staff adjusters in this state, are considered independent, licensed, resident adjusters;
  - (3) been in business within Alaska for at least five years immediately preceding the filing of the application;
  - (4) a safety/loss control program;
  - (5) in combination with its parent company or subsidiary companies of the employer, a minimum of 100 employees either in Alaska or in another state or states; and
  - (6) a net worth of at least \$5,000,000.
- (b) The board will, in its discretion, waive the requirement in (a)(3) of this section
- (1) if the employer has self-insured its workers' compensation obligations in another jurisdiction for a period of at least five years immediately preceding the filing of the application; or
  - (2) if the employer is a wholly-owned subsidiary and its parent company has been in business for at least five years immediately preceding filing and guarantees the subsidiary's obligations under the Act.
- (c) An employer which is a majority or wholly-owned subsidiary must have its obligations under the Act guaranteed by its parent company.

### **08 AAC 46.050. Excess Insurance**

- (a) Both specific and aggregate excess insurance with policy limits and retention amounts acceptable to the board must be provided by each self-insurer unless the board waives this requirement.
- (b) An acceptable excess insurance policy must
- (1) be written by a casualty insurance company or reinsurance company authorized to transact such business in Alaska;
  - (2) not be cancellable except upon at least 60 days' advance written notice by registered or certified mail to the self-insurer and the board; and
  - (3) not contain any type of commutation clause, unless it provides that any commutation does not relieve the underwriter of any liability unknown at the time of the commutation.

(c) If an existing excess policy submitted in compliance with this chapter is cancelled or not renewed, the self-insurer shall file proof of replacement excess coverage within the 60-day notice period required by (b)(2) of this section.

## **08 AAC 46.020. Application For Self-Insurance Certificate**

- (a) An employer shall apply for a self-insurance certificate on Department of Labor and Workforce Development form number 07-6129. The completed application must be
- (1) filed with the board at least 90 days before the desired effective date of self-insurance;
  - (2) signed before a person authorized to take an oath, affirmation, or acknowledgement;
  - (3) accompanied by the employer's audited financial statements for the three fiscal or calendar years immediately preceding the filing of the application; the employer may submit consolidated financial statements of its parent company if the employer does not have its own audited financial statements and the employer is a majority or wholly-owned subsidiary; a public entity must submit audited comprehensive annual financial reports, including detailed schedules, for the three fiscal or calendar years immediately preceding the filing of the application;
  - (4) accompanied by a description of the proposed excess insurance including the effective dates, the types of coverage, the conditions and exclusions, the limits and retentions of each type of coverage, and a guarantee of coverage until the board receives a copy of the policies; and
  - (5) accompanied by a parent company's guarantee of the subsidiary's obligations under the Act, if the employer is a majority or wholly-owned subsidiary.
- (b) If the employer or its parent company self-insures its workers' compensation obligations in any other jurisdiction, the application must be accompanied by a summary of the most recent filings, including a summary of losses, self-insured retention limits, and other data pertinent to the other self-insurance programs. The summary of losses must be categorized by total incurred loss, amount of loss within retention limit, amount of loss subject to reinsurance or excess recovery, and amount of loss subject to subrogation recovery.
- (c) An employer shall submit, as part of the application, a detailed outline or manual of its safety/loss control program.
- (d) An employer shall report for the most recent three years, its total Alaska payroll, Alaska workers' compensation losses, and premiums paid.

**Ray Hickel**  
**President, Anchorage Home Builders Association, Inc.**  
**Govt. Affairs Co Chair**  
**Northern Home Builders**  
3425 Murphy Circle  
Anchorage, AK 99502  
Phone: (907) 245-6268  
Cell: (907) 830-2052  
Fax: (907) 245-6269

**Larry Partusch**  
**Govt. Affairs Co Chair**  
8301 Schoon St., Suite 100  
Anchorage, AK 99518  
Phone: (907)345-0152,  
Cell: (907) 242-2683

SS: HB 51

- ① Rep. Meyer + Mike Pawlowski
- ② Larry Portusch
- ③ Linda Hall + Paul Lisankre  
DIV of INS                      DIV of Wk
- ④ Robert Vogel → Nevada Third PARTY ADMIN  
P&O GROUP MGMT TEAM

Financial Oversight - Solvency Oversight  
Examination - Audits & Review  
Regulatory Oversight

Today's Paper - ALG Settlement due to accounting Practices.

FIN Guarantee Funds - Past legislation to shore up Guarantee Fund  
Not proper to include self insured groups in this fund.  
Possibly have their own Guarantee fund?

Reg Oversight for Insurance  
→ audits file review → statutory Authority.

AR.ECA + Timber Association

We have different Business/Regulatory markets than Nevada