

Background of SB 116

- 1) From 2005-2009, Alaska's workers' compensation premium rates were the highest in the United States; in 2010, Alaska's rates were second highest in the United States. Additionally, according to the National Council on Compensation Insurance, Medical benefits in Alaska constitute a growing majority of total workers' compensation benefit costs, up from 52 percent of total costs in 1988 to 75% in 2010. (See Attached Exhibits I-III)
- 2) The Alaska State Chamber of Commerce is drawing attention to a 2010 report from CNBC, that Alaska is the very least competitive state in the Union for conducting business. A component of this ranking is based on Alaska's high cost of doing business, including the state's high workers' compensation premium rates.¹
- 3) In the 1990s, 10 states passed collective bargaining agreement (CBA) alternative dispute resolution (ADR) legislation, in part, for the purpose of achieving lower workers' compensation premium rates.² Since then, other states have passed or are considering similar legislation.³
- 4) The primary objectives of ADR programs are to reduce litigation costs, improve the quality of medical care, improve the delivery of benefits, promote safety and increase the productivity of workers by reducing workers' compensation costs.
- 5) The ADR process is generally handled by an "ombudsman" or "facilitator," who is typically experienced in the workers' compensation system. The facilitator gathers the facts and evidence in a dispute and attempts to use his or her experience to resolve the dispute among the employer, employee and insurance carrier. If the facilitator is unable to resolve the dispute, the case goes to mediation or arbitration. (See Attached Exhibit IV, a flow-chart illustrating a typical resolution of a medical dispute in the current system, as compared to the resolution process in the ADR program.)
- 6) ADR programs have demonstrated many positive effects on the workers' compensation process in states where they are used. For example:
 - In Minnesota, a 2009 Minnesota Legislative Auditor's Evaluation Report estimated that for the policy years of 2003-2005, insurers were required to pay 43

¹ <http://www.cnbc.com/id/37516043/>

² http://www.pinp.org/files/lmcc/CBCW_Seminar.pdf, at p. 6.

³ See, *Id.*; <http://www.impact-net.org/NewsDetailsView.aspx?id=179>; http://www.sbic.com/pdfs/marcomcat/IMPACT_brochure.pdf, at p. 15.

percent less per \$100 of payroll for the ADR workers' compensation program than for comparable construction workers in the state program. Both indemnity and medical payments were substantially lower under the ADR program (50 percent lower for indemnity and 37 percent lower for medical benefits).⁴

- From July 1, 1997, through December 31, 2009, 11,307 claims were filed with participating contractors in the Minnesota program, of which 2,626 were lost-time accidents. Of these, only 22 claim disputes went to Arbitration—less than 1%. According to the Minnesota Department of Labor and Industry, approximately 3% of lost-time claims in the state system go to a formal hearing—380% more than in the ADR program.⁵
- According to the Southern California Contractors Association, a study by the California Workers' Compensation Institute (CWIC) compared an insurance company ADR program's closed claims from 1993 to 1999 to Standard Industry Results. With the ADR program, they found a 25 percent reduction on average length of claims and a 39.5 percent savings on average total claim costs.⁶

Highlights of SB 116

- Encourages mediation of all workers' compensation disputes by professionally trained personnel employed by the Alaska Division of Workers' Compensation.
- Any benefits or entitlements due to injured workers for compensation cannot be diminished or reduced.
- Allows for voluntary creation and use of an alternative dispute resolution program by industries or groups subject to collective bargaining agreements (CBAs).
- Allows the parties to a CBA to establish an exclusive list of medical treatment providers.
- Allows the parties to a CBA to use a specified list of medical evaluators as the exclusive source of all medical evaluations.
- Allows the parties to a CBA to establish a joint labor-management safety committee to improve safety performance.

⁴ <http://www.ucwcp.com/documents/UCWCP%20F.%20Legislative%20Auditor's%20Report.pdf>

⁵ <http://www.ucwcp.com/documents/UCWCP%20B.%20ADR%20System%20Results.pdf>

⁶ http://www.sccaweb.org/workers_comp.htm

- Allows the parties to a CBA to establish light-duty programs and employment imposed by a physician or chiropractor.
- Allows the parties to a CBA to establish a program for vocational rehabilitation utilizing an exclusive list of providers.