



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Labor and
Workforce Development

Office of the Commissioner

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March 17, 2017

The Honorable Matt Claman
House Judiciary Chair
State Capitol, Room 118
Juneau, AK 99801

Dear Chair Claman:

Thank you for the opportunity to provide testimony in support of HB 69 on March 10, 2017. In response to some of the questions raised by the committee, I would like to provide the following information to demonstrate why Alaska Workers' Compensation Board appeals should be sent to the Superior Court and not the Office of Administrative Hearings (OAH).

- **The Department would forgo almost half a million dollars each year in savings proposed by HB 69.**

The Legislature has asked the Department of Labor and Workforce Development to examine our statutes and regulations to find cost savings. The Alaska Workers' Compensation Appeals Commission costs the Department almost half a million dollars each a year with outcomes that have not significantly improved the system. Returning Alaska Workers' Compensation Board appeals to the Superior Court, as occurred prior to 2005, would save the Department \$443,300 per year and would cost the court system \$0 per year, per the fiscal notes attached to HB 69. This is a smart way to cut state spending without negatively impacting employers or injured workers.

Sending Alaska Workers' Compensation Board appeals to OAH would preclude this cost savings. OAH has to cover its costs by charging billable hours for its administrative judges' work. The Department would have to pay OAH for administrative judges' time spent on Alaska Workers' Compensation Board appeals, because these costs cannot be charged to other state agencies and OAH does not have general funds to cover the cost as the Superior Court does. It cost the Department over \$13,000 just to have OAH work on the *recruitment* of the current Workers' Compensation Appeals Commission Chair.

- **Alaska Workers' Compensation Board decisions should be appealed to the superior court.**

OAH conducts mandatory administrative hearings on behalf of certain administrative agencies. These case types can be found in AS 44.64.030(a). In addition to OAH, many other agencies conduct mandatory formal hearings and make final agency decisions. For example, formal hearings and final agency determinations are made by the Alaska Labor Relations Agency, Regulatory Commission of Alaska, Commercial Fisheries Entry Commission, and Division of Motor Vehicles. These final agency decisions may be appealed to the Superior Court and then to the Alaska Supreme

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Court. OAH does not hear any matters today in which there is a direct appeal to the Alaska Supreme Court from OAH, and yet this is the unusual route Workers' Compensation Board appeals would take.

Like OAH and similar adjudicatory agency branches, the Alaska Workers' Compensation Board conducts mandatory administrative hearings and makes the final agency decision in workers' compensation proceedings. However, unlike other adjudicatory agency branches, Alaska Workers' Compensation Board decisions are currently appealed to the Alaska Workers' Compensation Appeals Commission instead of the Superior Court. The Appeals Commission's decision may then be appealed directly to the Alaska Supreme Court.

The Alaska Workers' Compensation Board should be treated the same as OAH and other similar adjudicatory agencies that conduct mandatory formal administrative hearings and make final agency determinations. Final agency decisions, whether from OAH or from another adjudicatory agency, may be appealed to the Superior Court by any party, and then may be appealed to the Alaska Supreme Court. Similarly, Alaska Workers' Compensation Board decisions should be appealed to the Superior Court.

Please don't hesitate to contact me if you have additional questions.

Sincerely,



Heidi Drygas
Commissioner