

Fiscal Note

State of Alaska
2018 Legislative Session

Bill Version: SB 112
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SSSB112-DOA-OAH-01-29-18
Title: WORKERS COMPENSATION;DRUG DATABASE
& TEST
Sponsor: GIESSEL
Requester: S L&C

Department: Department of Administration
Appropriation: Centralized Administrative Services
Allocation: Office of Administrative Hearings
OMB Component Number: 2771

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2019 Appropriation Requested	Included in Governor's FY2019 Request	Out-Year Cost Estimates					
			FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
OPERATING EXPENDITURES								
Personal Services	1,962.0		2,802.9	2,802.9	2,802.9	2,802.9	2,802.9	2,802.9
Travel	62.0		20.0	20.0	20.0	20.0	20.0	20.0
Services	1,005.0		815.0	815.0	815.0	815.0	815.0	815.0
Commodities	100.0		50.0	50.0	50.0	50.0	50.0	50.0
Capital Outlay	60.0							
Grants & Benefits								
Miscellaneous								
Total Operating	3,189.0	0.0	3,687.9	3,687.9	3,687.9	3,687.9	3,687.9	3,687.9

Fund Source (Operating Only)

1004 Gen Fund (UGF)				3,687.9	3,687.9	3,687.9	3,687.9
1157 Wrkrs Safe (DGF)	3,189.0		3,687.9				
Total	3,189.0	0.0	3,687.9	3,687.9	3,687.9	3,687.9	3,687.9

Positions

Full-time	24.0		24.0	24.0	24.0	24.0	24.0
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0						

Estimated SUPPLEMENTAL (FY2018) cost: 30.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2019) cost: 60.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 8/15/18

Why this fiscal note differs from previous version/comments:

Not applicable, initial version.

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Division:	Office of Administrative Hearings	Date:	01/27/2018 04:00 PM
Approved By:	Leslie Ridle, Commissioner	Date:	01/29/18
Agency:	Department of Administration		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2018 LEGISLATIVE SESSION

BILL NO. SSSB 112

Analysis

SSSB 112 would divest the Workers' Compensation Board of its jurisdiction to adjudicate all or nearly all workers' compensation claims (the bill is not internally consistent regarding a few small categories of adjudications). Jurisdiction over these claims would pass to the Office of Administrative Hearings (OAH).

OAH is a "central panel," an independent hearing agency set up to improve the fairness and efficiency of administrative adjudication across state government. It is a purely adjudicatory body that handles appeals from the majority of state agencies, boards, and commissions, as well as voluntarily-referred appeals from municipalities and school districts. In most cases, OAH hears these matters on behalf of a different executive branch final decision-maker, to whom OAH makes a recommended decision. However, OAH makes the final executive branch decision in some types of cases, such as oil & gas tax appeals. SSSB 112 follows a third model, making OAH the final trier of fact on workers' compensation claims, but leaving another executive branch body (the Workers' Compensation Appeals Commission) as a final executive branch decisionmaker with limited review authority.

Under SSSB 112, each workers' compensation adjudication would be heard by a single OAH ALJ rather than by a hearing panel. With no delayed effective date, SSSB 112 mandates a very rapid transition, so that OAH would need to be ready to absorb the new caseload early in fiscal year 2019.

SSSB 112 makes a number of significant changes to substantive law and standards of proof for workers' compensation claims. These have no fiscal impact on OAH and will not be reviewed here.

SSSB 112 confers limited non-adjudicatory roles on OAH, such as a report-collection role in connection with controlled substance prescriptions. OAH believes these regulatory assignments may be drafting errors. As a purely adjudicatory agency, OAH is unable to project costs for them.

Implementation Cost

At present, OAH is funded almost entirely by inter-agency receipts, generated by hourly billings to agencies that refer appeals. This model would be difficult to adapt to the absorption of the workers' compensation function. Accordingly, OAH would expect to revert to the funding model that was used until recently to fund tax appeals at OAH, using general fund appropriations to support the workers' compensation component of OAH's work and maintaining accounting controls to prevent cross-subsidization between the billable and non-billable work.

OAH currently has 11 authorized administrative law judge (ALJ) positions between ranges 24 and 27, consisting of a chief, a deputy chief, two tax-qualified ALJs (one vacant and in active recruitment), and seven regular ALJs. OAH also has five nonprofessional staff members in the classified service.

The Workers' Compensation Board has a larger professional tribunal staff than OAH, with 17 professionals consisting of a chief at range 24, eight hearing officers at ranges 21-22, seven case management officers at ranges 16-18, and one administrative officer at range 19. The amount of nonprofessional staff devoted to supporting the tribunal function appears to be about nine. With the exception of the chief, all of the professional staff are in the classified service. To comply with both SSSB 112 and existing law, OAH would need to use ALJs in the partially exempt service to perform the work of the hearing officers and case management officers. This would require OAH to expand its complement of range 24 ALJs by approximately 14. The work of the Board's support staff would be performed by a combination of newly-recruited law office assistants and clerical staff transferred from the Board.

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2018 LEGISLATIVE SESSION

BILL NO. SSSB 112

Analysis

OAH projects the following additional positions to handle the workers' compensation case load:

ALJs (range 24):	14
Admin. Officer (range 19)	1
Law Office Asst. II (range 13)	2
Law Office Asst. I (range 11)	3
Office Asst. I (range 8)	4

All but two of these positions (one ALJ, one LOA II) would located in Anchorage. As the bill is presently written, about half of these positions would need to be filled by early to mid-August of 2018, with the remainder filled by midway through the fiscal year.

There would be significant startup training costs. The FY2019 services component includes services of contractual trainers and National Judicial College tuition for new hires. Other services and commodities have been projected based on the experience of the Workers' Compensation Board.

Supplemental FY18 funding has been included to pay for a contractor to work full-time on regulations, recruitment, and planning in the months of May and June, 2018.

A capital outlay would be needed in FY2019 to ensure a functional case management system that can accommodate both caseloads. OAH's present system (a customized ProLaw product) would require extensive modifications or a complete redesign, requiring negotiation of a special contract with Thomson Reuters. The cost projection for this IT work is an educated guess, based on a prior contract with that company.

The funding source is projected to be the Workers' Safety and Compensation Administrative Account (WSCA) in FY2019 and FY2020, as envisioned by Sec. 3 of the bill. OAH is informed that the WSCA is currently projected to have inadequate funds beginning in FY2021. Accordingly, UGF funding has been projected in later years.