

ALASKA STATE LEGISLATURE

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SENATOR BILL WIELECHOWSKI

Amendment A.2 to SB 66

Repeal Workers' Compensation Appeals Commission Sectional Analysis

New Section 9 establishes that the Workers' Compensation Board (Board) shall maintain records of the repealed Workers' Compensation Appeals Commission (Commission). It also establishes that Commission decisions remain as legal precedent unless overturned or modified by the courts.

New Section 11 removes references to the Commission.

New Section 12 removes a reference to the Commission.

New Section 13 removes a reference to the Commission.

New Section 14 creates a new AS 23.30.126 governing appeals of Workers' Compensation Board decisions.

Subsection (a) establishes that Board decisions and orders become effective when filed, that these decisions and orders can be modified or reconsidered, and that a party may appeal a decision or order to the superior court.

Subsection (b) establishes that Board decisions and orders are not automatically stayed pending judicial review and establishes the criteria for when a court may issue a stay.

Subsection (c) establishes that factual findings made by the Board shall be conclusive if supported by substantial evidence and that AS 44.62.570 governing administrative appeals shall apply to the appeals of Board decisions.

Subsection (d) allows the director of the Division of Workers' Compensation to intervene in appeals and to file appeals if a party is not represented by an attorney and the case presents an unsettled question of law.

New Section 15 is a conforming amendment to reflect the changes made by the new Section 14.

New Section 21 removes a reference to the Commission.

New Section 22 repeals the court rules related to the Commission.

New Section 23 is Section 15 from the original bill with the addition of repealing the statutes related to the Commission.

New Section 24 contains indirect court rule amendments to reflect the changes made by Section 5.

New Section 25 establishes which procedures apply to appeals pending before the Commission between June 1 and December 1, 2019.

Subsection (a) establishes that the Commission shall continue to handle cases through December 1, 2019 and that the Commission shall continue all cases pending on December 1, 2019.

Subsection (b) establishes that the new procedure in Section 5 does not apply to cases before December 1, 2019.

Subsection (c) establishes that the old statutes apply for appeals of final decisions made by the commission and issued by December 1st.

New Section 26 establishes transitional provisions.

Subsection (a) establishes that starting June 1, 2019 all new appeals of Board decisions shall be filed with the Superior Court under Section 5.

Subsection (b) establishes that appeals of Commission rulings issued by December 1, 2019 shall be filed with the Supreme Court.

Subsection (c) ends the Commission's ability to order reconsideration of cases on December 2, 2019. All outstanding requests for reconsideration pending on that date would be automatically rejected, and any party whose request was denied may appeal their case to the Supreme Court.

Subsection (d) requires the Commission to transfer the files for all pending cases to the Superior Court on December 2, 2019 and to provide the parties 30 days' notice of the transfer of jurisdiction. If the court finds that the records do not meet the requirements of the Rules of Appellate Procedure, it may order the Commission to make necessary changes and resubmit them.

New Section 27 ends the terms of all Commission members on December 31, 2019.

New Section 28 includes the transitional provision of Section 16 of the original bill with conforming changes to reflect the repeal of the Commission.

New Section 29 makes the provisions added by this amendment only take effect if the court rule changes in Sections 8 and 10 are adopted.

New Section 31 provides a June 1, 2019 effective date for the provisions added by this amendment.

Cases Before the Alaska Workers' Compensation Appeals Commission, 2005-2018								
Calendar Year	Cased Filed	Published Decisions ⁱ	Appeals to Alaska Supreme Court ⁱⁱ	Outcomes of Appeals to Alaska Supreme Court ⁱⁱⁱ				
				Dismissed/ Remanded/ Vacated/ Denied	Affirmed	Reversed	Affirmed/ Reversed in Part	Pending
2005	9	0	0					
2006	42	22	5	4	0	1	0	0
2007	49	42	9	4	0	4	1	0
2008	38	30	8	6	1	0	1	0
2009	33	31	6	3	3	0	0	0
2010	34	18	9	6	1	2	0	0
2011	21	13	13	7	4	1	1	0
2012	29	16	15	7	5	2	1	0
2013	26	17	11	6	3	2	0	0
2014	30	15	12	9	1	2	0	0
2015	31	15	9	4	2	1	2	0
2016	20	10	3	0	2	1	0	0
2017	26	10	4	1	1	1	0	1
2018	26	14	11	0	0	0	0	11
				Outcome of Appeals as a Percent of All Appeals				
TOTALS	414	253	115	49.6%	20.0%	14.8%	5.2%	10.4%
ANNUAL AVERAGES (Excludes 2005)	32	19	9					
<p>Notes: i) Includes published final decisions on appeal, decisions on petition for review, and decisions on non-final orders (e.g., attorney's fees, motion for stay).</p> <p>ii) Includes appeals and petitions for review from both published and unpublished decisions and orders issued in the calendar year listed.</p> <p>Source: 2005-2016 http://www.akleg.gov/basis/get_documents.asp?session=30&docid=889; Updated outcome data for 2016-2017 and data for 2018 obtained from Kathy Morrison, Alaska Worker's Compensation Appeals Commission, Telephone (907) 269-6738, email:awcac.clerk@alaska.gov</p>								