

AMENDMENT # |

OFFERED IN THE SENATE
TO: CSSB 311(JUD)

BY SENATOR FRENCH

1 Page 1, lines 9 - 10:

2 Delete "**Workers' Compensation Appeals Commission**"

3 Insert "**workers' compensation hearings office**"

4

5 Page 1, line 11:

6 Delete "**Workers' Compensation Appeals Commission**"

7 Insert "**workers' compensation hearings office**"

8

9 Page 2, lines 4 - 6:

10 Delete "**providing for supreme court jurisdiction of appeals from the Workers'**
11 **Compensation Appeals Commission;**"

12

13 Page 4, line 27:

14 Delete "**Workers' Compensation Appeals Commission**"

15 Insert "**workers' compensation hearings office**"

16

17 Page 4, lines 29 - 30:

18 Delete "**Workers' Compensation Appeals Commission**"

19 Insert "**workers' compensation hearings office**"

20

21 Page 5, line 6:

22 Delete "**Workers' Compensation Appeals Commission**"

23 Insert "**workers' compensation hearings office**"

1

2 Page 6, lines 20 - 21:

3 Delete "Workers' Compensation Appeals Commission"

4 Insert "workers' compensation hearings office"

5

6 Page 7, line 14:

7 Delete "chair of the commission"

8 Insert "chief hearing officer"

9

10 Page 8, line 16, through page 11, line 30:

11 Delete all material and insert:

12 **"Sec. 23.30.007. Workers' compensation hearings office.** (a) There is
13 established in the Department of Labor and Workforce Development a workers'
14 compensation hearings office. The hearing examiners and hearing panels hear original
15 petitions when a claim is filed under this chapter and have jurisdiction to hear appeals
16 from decisions and orders of the director.

17 (b) The commissioner shall appoint a chief hearing officer and hearing
18 examiners.

19 (c) The chief hearing officer may

20 (1) employ and supervise hearing office staff, hearing examiners, and
21 hearing panels and appoint a hearings office clerk;

22 (2) establish and implement a time management system for the
23 hearings office, staff, and hearing examiners;

24 (3) assign the work of the hearing examiners, hearing panels, and staff
25 so that hearings and appeals are resolved as expeditiously and competently as possible,
26 including designating hearing examiners to hear preliminary matters; and

27 (4) prepare an annual budget of the hearings office and hearing panels.

28 (d) The hearings office, in its administrative capacity, shall maintain, index,
29 and make available for public inspection the final administrative decisions and orders
30 of the hearing examiners and hearing panels. To promote consistency among legal
31 determinations, the chief hearing officer may review and circulate among the other

1 hearing examiners the drafts of formal decisions, decisions upon reconsideration, and
 2 other legal opinions of the other hearing examiners of the hearings office. The drafts
 3 are confidential documents and are not subject to disclosure.

4 (e) The hearings office, in its administrative capacity, may adopt regulations
 5 implementing its authority and duties under this chapter, including rules of procedure
 6 and evidence for proceedings before hearing examiners and hearing panels in workers'
 7 compensation proceedings under AS 23.30.090 and 23.30.110 and for the adjudication
 8 of all claims and petitions under this chapter. The provisions of AS 44.62
 9 (Administrative Procedure Act) apply to the adoption of regulations by the hearings
 10 office.

11 (f) The hearings office, in its administrative capacity, may adopt and alter an
 12 official seal and do all things necessary, convenient, or desirable to carry out the
 13 powers expressly granted or necessarily implied in this chapter."
 14

15 Page 14, line 6:

16 Delete "with the office of the commission [BY"

17 Insert "by a hearing examiner or hearing panel ["

19 Page 15, line 6:

20 Delete "commission"

21 Insert "hearings office"

23 Page 30, line 23:

24 Delete "commission"

25 Insert "hearings office"

27 Page 30, lines 25 - 26:

28 Delete "office of the commission"

29 Insert "hearings office"

31 Page 31, line 1:

1 Delete "hearing panel, or commission"

2 Insert "or hearing panel"

3

4 Page 31, line 13:

5 Delete "commission, and the commission clerk "

6 Insert "hearings office, and the hearings office"

7

8 Page 32, line 3, following "defense.", through line 16:

9 Delete all material.

10 Insert "[IF A DISCOVERY DISPUTE COMES BEFORE THE BOARD FOR
11 REVIEW OF A DETERMINATION BY THE BOARD'S DESIGNEE, THE BOARD MAY
12 NOT CONSIDER ANY EVIDENCE OR ARGUMENT THAT WAS NOT PRESENTED TO
13 THE BOARD'S DESIGNEE, BUT SHALL DETERMINE THE ISSUE SOLELY ON THE
14 BASIS OF THE WRITTEN RECORD. THE DECISION BY THE BOARD ON A
15 DISCOVERY DISPUTE SHALL BE MADE WITHIN 30 DAYS. THE BOARD SHALL
16 UPHOLD THE DESIGNEE'S DECISION EXCEPT WHEN THE BOARD'S DESIGNEE'S
17 DETERMINATION IS AN ABUSE OF DISCRETION.]"

18

19 Page 32, line 31:

20 Delete "office of the commission"

21 Insert "hearings office"

22

23 Page 33, line 9:

24 Delete "commission clerk"

25 Insert "chief hearing officer"

26

27 Page 34, line 1:

28 Delete "commission"

29 Insert "director"

30

31 Page 35, line 11:

- 1 Delete "commission"
- 2 Insert "hearings office"
- 3
- 4 Page 35, line 16:
 - 5 Delete ", but is not a public employee for purposes of AS 23.40"
 - 6
- 7 Page 36, line 3:
 - 8 Delete "commission"
 - 9 Insert "hearings office"
 - 10
- 11 Page 36, line 10:
 - 12 Delete "commission"
 - 13 Insert "hearings office"
 - 14
- 15 Page 37, lines 8 - 9:
 - 16 Delete "the commission, a hearing panel, or a hearing examiner ["
 - 17 Insert "a hearing panel or hearing examiner [THE"
 - 18
- 19 Page 37, lines 14 - 15:
 - 20 Delete "the commission, a hearing panel, or a hearing examiners ["
 - 21 Insert "a hearing panel or hearing examiner [THE"
 - 22
- 23 Page 37, line 17:
 - 24 Delete "commission clerk"
 - 25 Insert "chief hearing officer"
 - 26
- 27 Page 37, line 19:
 - 28 Delete "commission"
 - 29 Insert "chief hearing officer"
 - 30
- 31 Page 38, line 3:

1 Delete "office of the commission"

2 Insert "hearings office"

3

4 Page 38, line 6:

5 Delete "office of the commission"

6 Insert "hearings office"

7

8 Page 38, line 12:

9 Delete "commission"

10 Insert "hearings office"

11

12 Page 38, line 14, through page 43, line 1:

13 Delete all material and insert:

14 **"* Sec. 63.** AS 23.30.125(a) is amended to read:

15 (a) A compensation order becomes effective when filed **with the director** [IN
16 THE OFFICE OF THE BOARD] as provided in AS 23.30.110, and, unless
17 proceedings to suspend it or set it aside are instituted as provided in (c) of this section,
18 it becomes final on the 31st day after it is filed.

19 *** Sec. 64.** AS 23.30.125(c) is amended to read:

20 (c) If not in accordance with law, a compensation order **filed by a hearing**
21 **examiner or hearing panel as provided in (a) of this section** may be suspended or
22 set aside, in whole or in part, through injunction proceedings in the superior court
23 brought by a party in interest against the **division** [BOARD] and all other parties to the
24 proceedings [BEFORE THE BOARD]. The payment of the amounts required by an
25 award may not be stayed pending final decision in the proceeding unless upon
26 application for an interlocutory injunction the court on hearing, after not less than
27 three days' notice to the parties in interest and the **director** [BOARD], allows the stay
28 of payment, in whole or in part, where irreparable damage would otherwise ensue to
29 the employer. The order of the court allowing a stay **must** [SHALL] contain a
30 specific finding, based upon evidence submitted to the court and identified by
31 reference to it, that irreparable damage would result to the employer, and specifying

1 the nature of the damage.

2 * **Sec. 65.** AS 23.30.125(d) is amended to read:

3 (d) If an employer fails to comply with a compensation order making an
4 award that has become final, a beneficiary of the award or the **director** [BOARD] may
5 apply for the enforcement of the order to the superior court. If the court determines
6 that the order was made and served in accordance with law, and that the employer or
7 the officers or agents of the employer have failed to comply with it, the court shall
8 enforce obedience to the order by writ of injunction or by other proper process to
9 enjoin upon the employer and the officers and agents of the employer compliance with
10 the order.

11 * **Sec. 66.** AS 23.30.125(f) is amended to read:

12 (f) Subject to an employer's or employee's burden of proof, a finding of fact
13 made by the **hearing examiner or hearing panel** [BOARD] as a part of a
14 compensation order is conclusive unless the court specifically finds that a reasonable
15 person could not have reached the conclusion made by the **hearing examiner or**
16 **hearing panel** [BOARD]."

17

18 Renumber the following bill sections accordingly.

19

20 Page 47, lines 13 - 20:

21 Delete all material.

22

23 Renumber the following bill sections accordingly.

24

25 Page 57, line 2:

26 Delete "**the commission**,"

27

28 Page 57, lines 20 - 21:

29 Delete all material.

30

31 Renumber the following paragraphs accordingly.

1

2 Page 58, lines 8 - 9:

3 Delete "Appeals Commission (AS 23.30.007) and Workers' Compensation"

4

5 Page 58, line 17:

6 Delete "sec. 85"

7 Insert "sec. 86"

8

9 Page 58, line 18:

10 Delete "sec. 85"

11 Insert "sec. 86"

12

13 Page 59, lines 24 - 25:

14 Delete: "WORKERS' COMPENSATION APPEALS COMMISSION AND"

15

16 Page 59, line 26, following "BOARD.", through line 30, following the first occurrence of
17 "(b)":

18 Delete all material.

19

20 Page 60, line 16:

21 Delete "chair of the commission"

22 Insert "chief hearing officer"

23

24 Delete "commission"

25 Insert "hearings office"

26

27 Page 60, line 17:

28 Delete "commission"

29 Insert "hearings office"

30

31 Page 60, line 18:

- 1 Delete "commission"
- 2 Insert "hearings office"
- 3
- 4 Page 60, lines 26 - 27:
- 5 Delete all material.
- 6
- 7 Renumber the following paragraphs accordingly.
- 8
- 9 Page 61, line 17:
- 10 Delete "sec. 108"
- 11 Insert "sec. 109"
- 12
- 13 Page 61, line 29:
- 14 Delete "Workers' Compensation Appeals Commission"
- 15 Insert "workers' compensation hearings office"
- 16
- 17 Page 61, line 30:
- 18 Delete "under AS 23.30.008, enacted by sec. 10 of this Act"
- 19
- 20 Page 62, line 2:
- 21 Delete "Section 113(a)"
- 22 Insert "Section 114(a)"
- 23
- 24 Page 62, line 3:
- 25 Delete "sec. 114"
- 26 Insert "sec. 115"