

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: HB 1002  
 (H) Publish Date: 6/22/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Department: **Labor and Workforce Development**  
 Title: An Act...establishing a Workers' Compensation Appeals Commission RDU: **Work Comp Appeals Comm (new)**  
 Component: **Workers' Compensation Appeals Commission (new)**  
 Sponsor: **Rules Committee** Component Number: new#  
 Requester: **Governor**

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	(553.3)	(553.3)	(553.3)	(553.3)	(553.3)
Travel	0.0	28.0	28.0	28.0	28.0	28.0
Contractual	0.0	918.5	810.4	810.4	810.4	810.4
Supplies	0.0	10.4	10.4	10.4	10.4	10.4
Equipment	0.0	11.6	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>415.2</b>	<b>295.5</b>	<b>295.5</b>	<b>295.5</b>	<b>295.5</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( 1157 )</b>	<b>0.0</b>	<b>18.0</b>	<b>18.0</b>	<b>18.0</b>	<b>18.0</b>	<b>18.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1157 Workers Safety Account		415.2	295.5	295.5	295.5	295.5
<b>TOTAL</b>	<b>0.0</b>	<b>415.2</b>	<b>295.5</b>	<b>295.5</b>	<b>295.5</b>	<b>295.5</b>

Estimate of any current year (FY2004) cost: None

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time		-5	-5	-5	-5	-5
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

See attached.

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 Division: Workers' Compensation Division  
 Approved by: Greg O'Claray, Commissioner  
 Agency: Department of Labor and Workforce Development

Phone: 465-2790  
 Date/Time: 6/21/04 3:39 PM  
 Date: 6/21/2004

**FISCAL NOTE #4**

**STATE OF ALASKA  
2004 LEGISLATIVE SESSION**

**BILL VERSION: HB 1002**

**ANALYSIS: (continued)**

This legislation establishes a Workers' Compensation Appeals Commission and replaces the Alaska Workers' Compensation Board effective July 1, 2005. It also transfers a number of functions from the Division of Workers' Compensation and the former Workers' Compensation Board to the new Commission (all within the Department of Labor and Workforce Development) and the Office of Administrative Hearings (in the Department of Administration). The fiscal note displays the net change in costs within the Department of Labor and Workforce Development associated with these changes. Changes include:

	Existing WC Division	New WC Appeals	Net Change
Personal Services	(809.2)	255.9	(553.3)
Travel	(36.8)	64.8	28.0
Contractual	(70.7)	989.2	918.5
Supplies	(8.6)	19.0	10.4
Equipment		11.6	11.6
Total	(925.3)	1,340.5	415.2

**New Workers' Compensation Appeals Commission budget component:**

**Operating Expenditures:**

Personal Services: The Appeals Commission is comprised of 4 new positions and 4 volunteer members:

	<u>Range</u>
Commission, Chair	27 A
Commission, Member	-
Commission, Member	-
Commission, Member	-
Commission, Member	-
Admin. Services Mgr./ Commission Clerk	19 A
Admin. Clerk III	10 A/B
Admin. Clerk II	8 A/B

The personal services costs of \$255.9 are associated with the above positions. An administrative manager position is included to assist the chair in fulfilling the diverse "court clerk," budget/fiscal, and organizational administration functions assigned under the bill.

Travel: Appeals Commission travel costs of \$64.8 have been minimized by basing the Commission and holding all its appeals hearings in Anchorage. Commission administrative staff are also located in Anchorage. Planned travel includes 3 trips to Juneau for the Commission chair and Commission Clerk/Administrative Manager. Commission travel also includes both actual travel costs associated with the four citizen Commission members attending appeals proceedings and a \$200/day stipend payable for each day spent on Commission business.

Contractual: Under the bill the Commission will request Administrative Law Judges employed by the Office of Administrative Hearings to conduct the initial hearings previously done by Workers' Compensation Board hearing panels and Workers' Compensation Hearing Officers. The Commission is expected to incur \$826.5 in contractual costs for Administrative Law Judge services. Those costs are based upon ranges and advanced steps for Administrative Law Judges in order to cover the basic Administrative Law Judge qualifications as well as the level of workers' compensation experience mandated by the bill.

**ANALYSIS: (continued)**

A reduction in the total numbers of hearing officers (currently eight authorized Workers' Compensation Hearing Officers versus expected six Administrative Law Judges) is based upon a reasonably expected increase in productivity. That increase would result from 1) the increased experience and qualifications justifying Range 24 and advanced step pay and 2) a lessening of turnover associated with upgrading the positions. Also, a reduction is supported by one substantive change in the bill that removes the need for review of Compromise & Release agreements involving injured workers represented by an attorney licensed to practice in the State of Alaska.

The bill also requires that Appeals Commission offices be "physically separate" from those of the Workers' Compensation Division. The Commission's contractual budget includes one-time costs of achieving the mandated physical separation of \$52.5 for its Anchorage offices. Those costs include demolition, construction, staff relocation, and voice and data line wiring.

Supplies and Equipment: A budget of \$10.4 for general office supplies and \$11.6 for equipment is necessary to operate the Appeals Commission.

**New Fees/Fines:**

The bill authorizes the Appeals Commission to charge a \$100.00 fee for the filing of an appeal. This is expected to amount to a yearly total of approximately \$6,000.00 payable to the Workers' Safety and Compensation Administration Account.

The bill also allows the Appeals Commission to order the parties to an appeal to pay for its costs of preparing the appeal file. At \$200.00 per appeal that could be expected to total \$12,000.00 per year payable to the Workers' Safety Account.

The bill also authorizes the Division of Workers' Compensation to seek the imposition of civil penalties against employers that violate the statutory requirement to insure or properly self-insure for their employees' workers' compensation benefits. Appeals Commission hearing examiners would be authorized to award penalties up to a maximum of \$100.00 per day per employee. Based upon FY 2003 statistics penalties totaling \$217,900.00 could have been assessed for each day the 189 identified, uninsured employers failed to insure the workers' compensation benefits of their 2,179 employees. It is unclear whether these penalties under AS 23.30.080 were intended to be considered as penalties under "this section" (AS 23.05.067). Due to the speculative nature of these penalties, and the uncertainty of their collectability and qualification for inclusion, no adjustment to the Workers' Safety and Compensation Administration Account is currently included.

**Existing Workers' Compensation budget component:**

**Operating Expenditures:**

Personal Services: The Workers' Compensation Division and the Workers' Compensation Board would delete the following positions:

	Range
Chief of Adjudication	23 B
Workers' Compensation Hearing Officer	21 M
Workers' Compensation Hearing Officer	21 K
Workers' Compensation Hearing Officer	21 F
Workers' Compensation Hearing Officer	21 B/C
Workers' Compensation Hearing Officer	21 B/C
Workers' Compensation Hearing Officer	21 B/C
Workers' Compensation Hearing Officer	21 A
Workers' Compensation Officer II	18 K
14 Workers' Compensation Board Members -----	

**FISCAL NOTE #4**

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**BILL VERSION: HB 1004**

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**ANALYSIS: (continued)**

Many responsibilities previously lodged in the AWCB have been reassigned to the Division Director. While some will be absorbed by the remaining Workers' Compensation Officers, others require more advanced legal and administrative hearing skills. Reflecting the increased responsibilities the bill places upon the Division Director, and the loss of the Chief of Adjudication, the Division will retain one Workers' Compensation Hearing Officer or equivalent (Range 21) position.

This position will allow the Director to delegate some of the duties for making investigations and determinations to the incumbent.

The bill shifts to the Office of Administrative Hearings Administrative Law Judges the requirement to hold any prehearing conferences needed to plan hearings and to resolve discovery disputes. In Anchorage, where there are currently three WCO II's and two technicians, this reduction and shifting other work will require one less Workers' Compensation Officer II.

Travel: Travel costs are reduced by (\$36.8) to reflect transfer of travel and Board member stipends (currently \$50.00 per day) to the Appeals Commission.

Contractual and Supplies: Reflects reductions in fixed costs, space lease in Anchorage and Fairbanks, and other contractual costs totaling (\$70.7). And also reflects transferring (\$8.6) for supplies to the Appeals Commission.

**Funding**

Funding for the net cost increase resulting from this legislation will be from the Workers' Safety and Compensation Administration Account and reserves. This assumes passage of legislation to reverse the sweep of the reserve balance. Failure to reverse the sweep may force a reliance on General Funds for some of these costs as most recurring WSCA Account revenue is accounted for in the Governor's FY 2005 budget.