

**ALASKA STATE LEGISLATURE  
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

January 27, 2003

3:15 p.m.

**MEMBERS PRESENT**

Representative Tom Anderson, Chair  
Representative Bob Lynn, Vice Chair  
Representative Nancy Dahlstrom  
Representative Carl Gatto  
Representative Norman Rokeberg  
Representative Harry Crawford  
Representative David Guttenberg

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

**CONFIRMATION HEARING**

Commissioner, Department of Labor & Workforce Development

Greg O'Claray - Juneau

- CONFIRMATION(S) ADVANCED

**PREVIOUS ACTION**

No previous action to record

**WITNESS REGISTER**

GREG O'CLARAY, Commissioner  
Department of Labor & Workforce Development  
Juneau, Alaska

POSITION STATEMENT: Testified as appointed commissioner of the  
Department of Labor & Workforce Development.

**ACTION NARRATIVE**

**TAPE 03-2, SIDE A**

Number 0001

**CHAIR TOM ANDERSON** called the House Labor and Commerce Standing Committee meeting to order at 3:15 p.m. Representatives Anderson, Lynn, Gatto, Crawford, and Guttenberg were present at the call to order. Representatives Rokeberg and Dahlstrom arrived as the meeting was in progress.

HB 4 - EXPAND PUBLIC CORRECTIONAL FACILITIES

Number 0068

CHAIR ANDERSON briefly called the committee's attention to House Bill NO. 4, "An Act relating to publicly owned correctional facilities." He explained that Representative Crawford's bill is not relevant to this committee, so it will probably be referred to the House State Affairs Standing Committee and the House Finance Committee.

CHAIR ANDERSON announced that HB 4 will be waived from the committee. This action will be formally announced at the next House session on Wednesday, January 29. [End of discussion of HB 4.]

CONFIRMATION HEARING

Commissioner, Department of Labor & Workforce Development

CHAIR ANDERSON announced that the committee would consider the confirmation of the appointment of Greg O'Claray as commissioner of the Department of Labor & Workforce Development.

Number 0278

GREG O'CLARAY, Commissioner, Department of Labor & Workforce Development, explained that he was born in Portland, Oregon, and came to Juneau in 1950. He has lived in the state except when working on ships, attending school, and lobbying for Alaskan issues in Washington, D.C. He has spent most of his life, since age 14, doing work involving the ocean. Most recently he has represented the seafaring unions of organized labor and lobbied for various clients before the Alaska State Legislature, the State of Alaska administration, and the U.S. Congress.

COMMISSIONER O'CLARAY explained that Governor Frank Murkowski has set the agenda for the Department of Labor & Workforce Development by appointing him, a representative of organized labor, as commissioner, and Ed Fisher, who has a long background in management, as deputy commissioner. Commissioner O'Claray

noted that the charge of the department has expanded. In addition to offering the required core services that protect workers' health and safety, fair wages and hours of work, the department is also required to partner with management to train the workforce for the 21st century. An administrative order [No. 205, dated January 20, 2003] authorized the creation of a new division, the Division of Business Partnerships. The division will assume some responsibilities formerly handled by the Division of Employment Security and the Alaska Workforce Investment Board. Commissioner O'Claray explained that the new division's charge is to train the state's human resources to fill the jobs in future natural resource development projects. The department must act as the economic engine to make sure that construction dollars paid to workers stay in our economy and don't go south, as they did with laborers imported to work on the trans-Alaska pipeline.

Number 0589

CHAIR ANDERSON quoted Governor Murkowski's December 9, 2002, press release announcing the appointment of Commissioner O'Claray to the Department of Labor & Workforce Development. The release described the department as "moribund, highly politicized." He asked Commissioner O'Claray to respond.

Number 0620

COMMISSIONER O'CLARAY explained that the governor's statements reflected information gleaned during the campaign and during the transition to his administration. Interviews with large and small employers revealed that the department was not friendly to employers. Commissioner O'Claray said his charge is to change that image. Department staff are quickly reaching out to employers and the business community. He said that without businesses, there are no jobs, and without jobs, there's no need for federal dollars to train workers. Commissioner O'Claray said the department's job is larger than handing out unemployment checks.

REPRESENTATIVE LYNN asked Commissioner O'Claray to identify his top three priorities and how he plans to work with the public school systems to promote labor-and-commerce education. He also asked him to comment on training workers for in-state private prisons.

COMMISSIONER O'CLARAY responded that one challenge is to change the image of the department. The second is to make sure the

core services offered - a safe workplace and enforcement of wage and hour laws - are delivered in a helpful rather than punitive manner. He said there will be times the department will need to use the teeth in its laws to bring employers into compliance. But he noted that the department's style will have to change. He listed his third priority as efficiency and being accountable to the public on how general fund and federal dollars are spent.

Number 0935

COMMISSIONER O'CLARAY referenced the governor's concern about the outmigration of Alaskan college students and the need to provide good jobs so they can return to the state to work. He mentioned the example of a vocational education program used in Florida elementary schools. He said the department is also considering summer internships for high school students in the seafood industry, where there's a high percentage of nonresident workers. He said the department has a large fund of workforce investment dollars for grantees to provide vocational training.

COMMISSIONER O'CLARAY cautioned that the legislature will deal with the policy issue of private prisons. But, he added, the department will train correctional officers, and he is working with the commissioner of the Department of Corrections to fund this training.

Number 1117

REPRESENTATIVE GUTTENBERG asked Commissioner O'Claray how the department intends to work more closely with business while still helping workers redress their issues with employers. He also invited him to comment on how the department's mission statement will change.

COMMISSIONER O'CLARAY clarified that the prime objective of the Department of Labor & Workforce Development is to advocate for workers. He said that Governor Murkowski has instructed him to maintain close ties with organized labor because it is a major player in improving the state's economy. The governor supports organized labor's training programs and their provision of competent journeymen for the crafts. It is also the department's responsibility to make sure that good jobs are developed for Alaskans. And part of that task is to foster a healthy business environment while still making sure that workers' rights, safety, and health are safeguarded. He described this dual responsibility as a teeter-totter that must be kept in balance. Regarding the department's mission

statement, he opined that it will expand to include workforce training.

Number 1344

REPRESENTATIVE GATTO asked the commissioner how his strong union-oriented history squares up with right-to-work laws and project labor agreements.

COMMISSIONER O'CLARAY said he is personally opposed to right-to-work laws, but as commissioner, he will articulate the governor's position on labor issues. He believes project labor agreements have their place, for example, the Trans-Alaska Pipeline construction project. He said that while it was not the most efficient way to build this massive project, it kept labor disputes to a minimum. Commissioner O'Claray said Alaska is a union state in the construction trades, but he added there are "double-breasted operations" [in which a union shop company and an open-shop company are owned by the same parent company].

Number 1540

REPRESENTATIVE DAHLSTROM noted that she's been employed under a workforce development grant and has witnessed discrepancies among various grantees in evaluating clients. She asked the commissioner if he has checks and balances for these programs.

COMMISSIONER O'CLARAY said he hopes to improve the department's ability to track grantees' expenditures and accomplishments. He said the measures used to evaluate clients must be fair and consistent.

Number 1654

REPRESENTATIVE CRAWFORD noted that in his 28 years in the Alaskan construction industry, he has seen numerous friends injured and several killed. Protecting workers is a main part of the department's mission, he said, and he's concerned about the reduction in safety inspections in recent years.

COMMISSIONER O'CLARAY agreed that accidents and worker safety are major concerns for him personally and for the department. He said he is looking closely at the management of the Division of Labor Standards and Safety. He believes the division should be doing more courtesy inspections.

Number 1856

REPRESENTATIVE GUTTENBERG described the lack of housing and sanitation facilities at remote highway construction sites on the Dalton Highway and in the Paxson area. The contractors are not required to house construction workers, and people are living in tents and pickup trucks. Organized labor has been trying for years to get camps written into these large, multi-year highway contracts.

COMMISSIONER O'CLARAY said the department has not looked into the lack of remote site camps, but organized labor has contacted him to discuss it. With the governor's initiative to build more roads, this becomes an important issue. Commissioner O'Claray said he would be in contact with the Department of Transportation [& Public Facilities, the contracting authority].

Number 2037

REPRESENTATIVE GATTO quoted several lines from Governor Murkowski's press release announcing Commissioner O'Claray's appointment. He asked Commissioner O'Claray whether the current department needs to be "rescued."

COMMISSIONER O'CLARAY responded that the department has an image problem, but that it's not a bad department. He said there are many hardworking people in the department who, given the opportunity to perform to a higher standard, will do so.

Number 2130

REPRESENTATIVE ROKEBERG opined that part of the department's image problem is caused by a failure to serve non-union employees. He asked if the commissioner has looked into proposed non-union apprenticeship programs since the committee's meeting last week.

COMMISSIONER O'CLARAY said he has not examined this issue in depth, but said he has spoken with the president of the AGC [Associated General Contractors], who favors a double-breasted operation. Commissioner O'Claray said he doesn't prefer union to nonunion training programs, and that requests for department training money would be evaluated using the same standards.

Number 2225

REPRESENTATIVE ROKEBERG asked Commissioner O'Claray about his past practice of working as a union official and as a registered

lobbyist simultaneously. He also asked how he avoided a conflict of interest when he represented the Avondale Shipyard Corporation.

COMMISSIONER O'CLARAY answered that in order to avoid any conflict of interest, he consulted with his union employer before taking clients. He described his contract with Kennecott Greens Creek Mine, in which the company wanted its employees to work at the face of the mine for ten hours instead of eight hours a day. He coordinated with organized labor to find a compromise for this much-needed change in the law. With all his clients, he said, he has tried to find common ground among the various interests.

COMMISSIONER O'CLARAY said that in the maritime field, if there's no economic development, there is no movement of cargo by workers. His unions support economic development, and he chaired the Juneau Economic Development Council for nine years.

**TAPE 03-2, SIDE B**

Number 2320

COMMISSIONER O'CLARAY recalled that his contract with the Avondale Shipyard Corporation involved acquainting the company with Alaska procurement laws; corporation officials were interested in bidding on the construction of the [M/V] Kennicott. He said this contract posed no conflict with the marine engineers union because he wasn't advocating for union staffing on the vessel.

Number 2300

REPRESENTATIVE GUTTENBERG asked about Commissioner O'Claray's contract with Fairbanks Gold Mining, Inc. ("Fairbanks Gold"). He said this issue involved, for some people, the defense of the eight-hour workday.

COMMISSIONER O'CLARAY explained that the employees of Fairbanks Gold wanted to work a flexible schedule, with longer days, so they could spend more time off with their families. He recalled that a group of employees came to Juneau with company officials and asked for a waiver to permit them to work the longer hours. Commissioner O'Claray noted the irony of the situation, because if Fairbanks Gold workers had had a union contract, their union could have negotiated a flexible schedule. His role was to try to get a compromise between the parties.

Number 2215

REPRESENTATIVE ROKEBERG asked how the commissioner would handle Fairbanks Gold's request for an exemption if he received it today.

Number 2160

COMMISSIONER O'CLARAY said that in weighing circumstances similar to Fairbanks Gold's case, he would address the core question of who would benefit, the workers or the employer. He added that he would have recommended that the former commissioner consider an exemption. The legislature did pass the 10-hours-at-the-face law, a compromise that worked for both industry and labor, he said.

Number 2073

REPRESENTATIVE GATTO asked Commissioner O'Claray what test he would use to determine that the department has become more accountable.

COMMISSIONER O'CLARAY said he's communicating now with the department's critics. He said he's also looking to department employees who can suggest improvements. He'll ask these same questions in six months and then again in another six months. He'll also be asking the public, the governor, and the legislature for feedback. He invited Representative Gatto to suggest ways to measure the department's performance.

Number 1841

REPRESENTATIVE CRAWFORD asked about the status of department positions that are vacant because of budget cuts. He asked whether the commissioner will request more funds to hire more workers.

COMMISSIONER O'CLARAY said he can't answer that question yet, but that the Murkowski Administration is looking at funding the department at 90 or 95 percent of this year's budget. He said he is evaluating the assignments of current staff. He said the department may have to shift positions to shore up any weak sections.

Number 1770

REPRESENTATIVE DAHLSTROM asked whether the commissioner believes the workers' compensation law is fair to both employers and injured workers.

COMMISSIONER O'CLARAY said he is not totally satisfied with the current workers' compensation system. He said it is always important to improve workers' benefits, but it's necessary to take into account the cost to employers. He said improvements depend on a tax-driven system. He proposed going back to an ad hoc committee of organized labor and employers to see what changes they support.

COMMISSIONER O'CLARAY responded to a question from Representative Crawford about whether he favored a bill in last year's legislative session that would have made independent contractors liable for workers' compensation. Commissioner O'Claray indicated that he was not familiar with last year's legislation but would research it and get back with him.

Number 1649

REPRESENTATIVE GUTTENBERG asked whether Commissioner O'Claray will continue to be an officer of the Juneau Central Labor Council.

COMMISSIONER O'CLARAY replied that he would not.

Number 1621

REPRESENTATIVE GATTO asked Commissioner O'Claray whether his past activities of advocating for a cruise ship passenger head tax and the steamship wharf project in Juneau would negatively affect his ability to work with the cruise ship industry.

COMMISSIONER O'CLARAY reviewed his actions to fund and improve Juneau's cruise ship facilities. He said he didn't believe this advocacy would impact his job. He added that he would not be involved in Juneau politics or state politics.

Number 1470

COMMISSIONER O'CLARAY responded to a question from Representative Guttenberg about Alaska's weekly unemployment benefit that is ranked among the lowest payments in the country. The commissioner said he favors raising the unemployment benefit, but is mindful of how such a raise would impact employers. Other states' funds are threatened with insolvency

because of the extended time that out-of-work employees are drawing unemployment. Commissioner O'Claray said he is trying to get labor and management together to work out compromise legislation to raise benefits. He has not had the opportunity to brief the governor on this subject, so there is no official position yet, but he's working on it.

COMMISSIONER O'CLARAY, in response to Representative Rokeberg, said he will provide more detailed information on Alaska's national ranking on unemployment benefits.

Number 1302

REPRESENTATIVE ROKEBERG asked for the status of the youth training program [HB 128 - Approval for Employment of Minors], passed in 2002, which expedited the hiring process.

COMMISSIONER O'CLARAY responded that he has signed the regulations and that the Department of Law is doing the final review.

Number 1225

The committee took an at-ease from 4:32 p.m. to 4:35 p.m.

REPRESENTATIVE ROKEBERG turned attention to the committee report for confirmations. He said he takes exception to the revised format of the report that is used to advance confirmations from committee. The revised form requires a vote of "confirm," "do not confirm," or "no recommendation." He said this form needs to be reviewed by the House's new leadership. He suggested reverting back to the historic method of handling this report, checking off either "refer [the nomination] to joint session" or "do not refer to joint session." He said the committee should continue this system until there's a decision by this year's leadership.

Number 1151

REPRESENTATIVE ROKEBERG moved to amend the confirmation committee report to indicate that the committee is reporting the individual recommendations in a form of "refer to the joint session" or "do not refer to joint session".

Number 1190

REPRESENTATIVE CRAWFORD objected for discussion purposes. He asked whether this current form has been used by other committees in the past for reporting confirmations out of committee.

REPRESENTATIVE ROKEBERG explained that historically, confirmation forms have never used the choices of "confirm" or "do not confirm". It is not appropriate to put committee members on the spot as to how they're going to vote at the joint session, he said.

Number 1055

REPRESENTATIVE CRAWFORD withdrew his objection.

Number 1017

CHAIR ANDERSON, hearing no further objections to the motion to revise the confirmation committee report, announced that it was so ordered.

CHAIR ANDERSON reminded committee members to sign the [revised] confirmation committee report [on Commissioner O'Claray's confirmation] before leaving the meeting.

[Although no motion was made, the House Labor and Commerce Standing Committee advanced the nomination of Greg O'Claray as commissioner of the Department of Labor & Workforce Development.]

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:40 p.m.