

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

January 31, 2006

3:32 p.m.

MEMBERS PRESENT

Senator Gene Therriault, Chair
Senator Thomas Wagoner, Vice Chair
Senator Charlie Huggins
Senator Bettye Davis
Senator Kim Elton

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

Confirmation: William A. Corbus - Lieutenant Governor Designee
CONFIRMATION ADVANCED

Office of Administrative Hearing Annual Report and Overview

CS FOR HOUSE BILL NO. 83(FIN)

"An Act relating to the Alaska Seismic Hazards Safety
Commission; and providing for an effective date."

MOVED SCS CSHB83(STA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 83

SHORT TITLE: SEISMIC HAZARDS SAFETY COMMISSION

SPONSOR(S): REPRESENTATIVE(S) LEDOUX

01/19/05	(H)	READ THE FIRST TIME - REFERRALS
01/19/05	(H)	MLV, STA, FIN
02/03/05	(H)	MLV AT 1:00 PM CAPITOL 124
02/03/05	(H)	Moved CSHB 83(MLV) Out of Committee
02/03/05	(H)	MINUTE(MLV)
02/04/05	(H)	MLV RPT CS(MLV) NT 6DP
02/04/05	(H)	DP: MCGUIRE, CISSNA, ELKINS, DAHLSTROM, GRUENBERG, LYNN
03/08/05	(H)	STA AT 8:00 AM CAPITOL 106
03/08/05	(H)	Moved CSHB 83(MLV) Out of Committee
03/08/05	(H)	MINUTE(STA)
03/09/05	(H)	STA RPT CS(MLV) NT 7DP

03/09/05 (H) DP: GARDNER, LYNN, GATTO, ELKINS,
GRUENBERG, RAMRAS, SEATON
03/29/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
03/29/05 (H) -- Meeting Canceled --
04/01/05 (H) FIN AT 9:00 AM HOUSE FINANCE 519
04/01/05 (H) Heard & Held
04/01/05 (H) MINUTE(FIN)
04/07/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
04/07/05 (H) Moved CSHB 83(FIN) Out of Committee
04/07/05 (H) MINUTE(FIN)
04/08/05 (H) FIN RPT CS(FIN) NT 6DP 4NR
04/08/05 (H) DP: CROFT, FOSTER, MOSES, WEYHRAUCH,
MEYER, CHENAULT;
04/08/05 (H) NR: HAWKER, HOLM, STOLTZE, KELLY
04/13/05 (H) TRANSMITTED TO (S)
04/13/05 (H) VERSION: CSHB 83(FIN)
04/14/05 (S) READ THE FIRST TIME - REFERRALS
04/14/05 (S) STA, FIN
01/24/06 (S) STA AT 3:30 PM BELTZ 211
01/24/06 (S) Heard & Held
01/24/06 (S) MINUTE(STA)

WITNESS REGISTER

William Corbus, Commissioner
Department of Revenue
PO Box 110400
Juneau, AK 99811-0400
POSITION STATEMENT: Lieutenant Governor Designee

Terry Thurbon, Chief Administrative Law Judge
Office of Administrative Hearings
Department of Administration
PO Box 110200
Juneau, AK 99811-0200
POSITION STATEMENT: Presented the Administrative Hearings
Annual Report

Heather Brakes, Staff
Senate State Affairs Committee
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Explained changes in SCS CSHB 83

Melanie Lesh, Legislative Liaison
Department of Natural Resources
400 Willoughby Ave.

Juneau, AK 99801-1724

POSITION STATEMENT: Introduced John Aho

John Aho, Ph.D., Chair
Alaska Seismic Hazards Safety Commission
2015 Shepherdia Drive
Anchorage, AK 99508

POSITION STATEMENT: Commented on SCS CSHB 83(STA)

ACTION NARRATIVE

CHAIR GENE THERRIAULT called the Senate State Affairs Standing Committee meeting to order at [3:32:45 PM](#). Present were Senators Kim Elton, Thomas Wagoner, Betty Davis and Chair Therriault. Senator Charlie Huggins arrived momentarily.

Confirmation: William A. Corbus - Lieutenant Governor Designee

[3:33:15 PM](#)

CHAIR GENE THERRIAULT announced the confirmation of William A. Corbus as Lieutenant Governor Designee to be the first order of business.

WILLIAM A. CORBUS, Commissioner of Revenue, outlined his professional and civic experience since arriving in Juneau in 1970. In 2002 Governor Murkowski asked him to become Commissioner of Revenue.

He stated that he is willing to accept the contingent responsibility as the successor to the lieutenant governor under AS 44.19.040.

CHAIR THERRIAULT noted the constitutional language to designate the next in line to serve as lieutenant governor and asked committee members if they had any questions.

[3:37:03 PM](#)

SENATOR KIM ELTON remarked he couldn't think of a better person to be the lieutenant governor designee.

SENATOR THOMAS WAGONER referenced the Commissioner's heavy involvement with pipeline negotiations and asked whether he could immediately divest himself of any involvement if he were to become lieutenant governor.

COMMISSIONER CORBUS replied he would find it difficult to divorce himself completely from gas line issues if he were to

become lieutenant governor he would hope that that he could maintain some contact with the gas line.

There were no further questions or comments.

CHAIR THERRIAULT asked for a motion to report the name to the full Legislature for confirmation.

SENATOR WAGONER motioned to forward the name of William A. Corbus to the full body for confirmation as lieutenant governor-designee.

CHAIR THERRIAULT announced that without objection, the name would be reported.

CHAIR THERRIAULT called a brief recess at 3:40:00 PM.

Second Annual Report to the Governor of Alaska and the Alaska Legislature from the Office of Administrative Hearings[3:41:19 PM](#).

CHAIR THERRIAULT reconvened the meeting and announced the next order of business to be a presentation by the Chief Administrative Law Judge, Terry Thurbon.

He expressed interest in the caseload and whether or not the various agencies have embraced the change regarding how administrative hearings are handled

TERRY THURBON, Chief Administrative Law Judge, Office of Administrative Hearings (OAH), Department of Administration, reminded members that the office was created in 2004 under SB 203. The office has had full jurisdiction since the beginning of FY06 so the year has been non-typical, but a benchmark for where activity go in the future.

She reviewed the annual report dated January 31, 2006 spending particular time on the pages titled "OAH Case Resolution Data for 2005" and "Pattern of Case Referrals to OAH 2005."

MS. THURBON distributed a spreadsheet titled "OAH FY06 Billable Hours by Department" that isn't included in the annual report and explained that she prepared the information for the Office of Management and Budget so they could get a sense of where the most time is being spent and who is paying the bill.

[3:59:45 PM](#)

SENATOR WAGONER questioned whether it's more efficient for agencies that have just a few appeals to go thru OAH rather than handling them on a case-by-case basis.

MS. THURBON explained that her understanding is that the cases referred to OAH are cases that had been previously been contracted out. She acknowledged there might be a different category of medical cancellation cases that still go back to the commission, but she is unaware of any.

SENATOR WAGONER said he would follow up with the commission.

MS. THURBON informed members that OAH asked for budgetary authority to add an administrative law judge if the increased caseload warranted the addition. She projected that on casework alone, the administrative law judges will invest over 9,000 hours in hearings for FY06. The initial hourly fee they established was quite high and the judges did more work than initially projected. The result is that OAH has already billed over 70 percent of its budget for the year so the hourly rate for the balance of the year will be reduced. Hopefully we'll come up with an hourly rate that is reasonable and doesn't put us at risk of over collecting, she concluded.

SENATOR WAGONER reviewed the FY06 data and remarked it looks as though OAH will need another full time position.

MS. THURBON responded the projected number of hours for the last half of FY06 accounts for the fact that the additional position was filled.

[4:08:40 PM](#)

SENATOR KIM ELTON reviewed the billable hours for the first half of FY06 and asked what percentage was voluntary.

MS. THURBON estimated that it was no more than 10 percent of the 4,000 hours.

SENATOR ELTON asked if OAH views the volunteer work as a cushion.

MS. THURBON agreed that in terms of case management strategy OAH could turn away voluntary referrals, but those cases also provide a financial cushion. If OAH is able to absorb those cases and charge the time to the various agencies then rates should drop for everyone, she said.

SENATOR ELTON asked if voluntary referrals are agency decisions.

MS. THURBON replied so far they've been agency decisions, but there might be cases in which the agency would have to get consent from the party.

CHAIR THERRIAULT reflected on a key reason for making the change, which was to encourage better regulation writing so there would be fewer adjudications and questioned whether the bill-back is immediate enough for agencies to be mindful of the number of cases they are triggering and the workload they are creating.

MS. THURBON replied agencies have acknowledged that the hearing function takes more hours than was appreciated, but the hourly bill-back makes it quite clear. Indications are that agencies want to work harder to minimize the cases going to OAH, she said and the ones that feed OAH the most work are receiving help to learn how to resolve cases and/or to fairly issue a notice of denial of the hearing request.

[4:17:10 PM](#)

CHAIR THERRIAULT said he hopes that feedback is available and that the various departments know what's going on and take steps to correct problems.

MS. THURBON added that the training mandate also provides opportunity to correct problems. The people doing hearing related functions learn to effectively deal with the issues and resolve the cases that are meritorious and to let the close calls go on the OAH to be heard.

[4:18:51 PM](#)

CHAIR THERRIAULT asked if the Department of Environmental Conservation (DEC) is a willing participant.

MS. THURBON replied she believes that DEC is comfortable that adjudicatory hearings for environmental permitting issues fits within the scheme envisioned by SB 203.

CHAIR THERRIAULT asked about the reporting mentioned in Appendix A.

MS. THURBON explained that the survey function was part of SB 203. Within OAH the protocol is to survey all hearing participants in the low volume cases and to randomly survey every third high volume case. Protocol isn't established on how

to survey the agencies that aren't required to send hearings to OAH, but that is part of the overall monitoring.

CHAIR THERRIAULT said he is looking for the public sentiment regarding the adjudicator being at arms length from the department because it's important that the public feels good about the process regardless of the outcome of the proceeding.

MS. THURBON said the message that OAH isn't part of a particular agency has been well received by hearing participants.

[4:24:04 PM](#)

CHAIR THERRIAULT asked about the new Worker's Compensation Appeals Commission.

MS. THURBON answered the commission is recently appointed and was a result of the process of inviting applications, screening them and forwarding the 14 names to the governor. It's one of her duties that will be recurring since the positions are staggered on an annual basis. Another designated function she has is to find a pro-tem to serve in the event that the commission chair is absent.

CHAIR THERRIAULT noted there were no further questions and thanked Ms. Thurbon for the report

CSHB 83(FIN)-SEISMIC HAZARDS SAFETY COMMISSION

[4:26:01 PM](#)

CHAIR THERRIAULT announced HB 83 to be up for consideration and noted that his staff would review the \S version, Senate committee substitute (CS).

HEATHER BRAKES, Staff to Senator Therriault and the Senate State Affairs Committee reviewed the proposed changes.

Section 1: Page 1, line 6 remove "A member holds office until a successor is appointed." Section 5 allows staggered terms. It also allows appointed members to continue on the board and it allows board members to be reappointed.

Section 2: Page 1, line 12 insert "in a separate seismically active region of the state;" She explained that the bill that passed the House adds two additional local government representatives and the proposed CS follows the auditor's recommendation that members come from different seismic regions of the state.

Section 3: Defines "seismic hazard" to address the stated concern that by specifically listing "tsunami" other geologic conditions might be excluded.

Section 4: Extends the commission until 2012. That year was selected because no boards and commissions come up for renewal in that year.

MS. BRAKES referenced page 2, line 12 and informed members that the department suggested inserting ", landslide" after "earthquake" and deleting "undersea" to address concerns related to volcanic eruptions.

[4:30:37 PM](#)

CHAIR THERRIAULT asked for a motion to adopt the \S version.

SENATOR THOMAS WAGONER motioned to adopt work draft version 24-LS0372\S as the working document.

CHAIR THERRIAULT reiterated the suggested amendment to insert ", landslide" after "earthquake" and to delete "undersea" on page 2, line 12 and asked for a motion.

SENATOR CHARLIE HUGGINS moved Amendment 1.

CHAIR THERRIAULT noted that without objection Amendment 1 was adopted.

[4:32:19 PM](#)

SENATOR KIM ELTON referenced page 2, line 28 and asked if it means that a commission member could only serve two terms.

MS. BRAKES replied she didn't believe so; it simply provides for the transition.

CHAIR THERRIAULT asked if his question hinges on whether "a term" specifically means just one term.

SENATOR ELTON said he's concerned that it could be restrictive.

CHAIR THERRIAULT said he didn't believe it's limited, but he would check with the drafter.

MS. BRAKES informed the committee that statute currently provides that six members of a nine member commission constitutes a quorum.

CHAIR THERRIAULT asked whether someone from the department was available to speak.

MELANIE LESH, Legislative Liaison, Department of Natural Resources, stated that board member Dr. John Aho could speak to the issue.

JOHN AHO, Ph.D., Chair, Alaska Seismic Hazards Safety Commission, testified via teleconference. He stated that a quorum consisting of a simple majority wasn't a problem in his view.

CHAIR THERRIAULT remarked the previous requirement was a super majority and asked if it's been problematic so far.

DR. AHO answered there's been 100 percent involvement to date and he doesn't anticipate a problem in any event.

CHAIR THERRIAULT expressed comfort with a simple majority and noted that the bill has a Finance Committee referral so the fiscal note would come under scrutiny there.

Finding no further discussion, he asked for the will of the committee.

[4:36:26 PM](#)

SENATOR ELTON motioned to report the amended \S version SCS CSHB 83(STA) from committee with individual recommendations and attached fiscal notes.

CHAIR THERRIAULT announced that without objection, SCS CSHB 83(STA) moved from committee.

There being no further business to come before the committee, Chair Therriault adjourned the meeting at [4:36:42 PM](#).