

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

January 22, 2013
8:04 a.m.

MEMBERS PRESENT

Representative Bob Lynn, Chair
Representative Lynn Gattis
Representative Shelley Hughes
Representative Doug Isaacson
Representative Wes Keller
Representative Jonathan Kreiss-Tomkins

MEMBERS ABSENT

Representative Charisse Millett

COMMITTEE CALENDAR

OVERVIEW: DEPARTMENT OF ADMINISTRATION

- HEARD

OVERVIEW: ALASKA PUBLIC OFFICES COMMISSION (APOC)

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

BECKY HULTBERG, Commissioner
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Presented an overview of the Department of Administration.

PAUL DAUPHINAIS, Executive Director
Alaska Public Offices Commission (APOC)
Anchorage, Alaska

POSITION STATEMENT: Via teleconference, presented an overview of APOC through a PowerPoint presentation.

ACTION NARRATIVE

[8:04:18 AM](#)

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at 8:04 a.m. Representatives Keller, Gattis, Kreiss-Tomkins, Isaacson, Hughes, and Lynn were present at the call to order.

Overview: Department of Administration

[8:08:37 AM](#)

CHAIR LYNN announced that the first order of business was the overview of the Department of Administration.

[8:09:26 AM](#)

BECKY HULTBERG, Commissioner, Department of Administration, gave a PowerPoint presentation, slide 2 of which shows a map of Alaska. She stated that the department's two primary roles are to provide support services to state agencies and to provide direct services to the public. She said the bulk of the department's staff is in Anchorage and Juneau, but related that the Division of Motor Vehicles (DMV), the Public Defender Agency (PDA), and the Office of Public Advocacy (OPA) have a statewide reach. She said the map shows where those offices are located.

MS. HULTBERG turned attention to slide 3, which shows an organizational chart of the department. She relayed that the department is comprised of approximately 1,100 employees and operates on a budget of about \$300 million. She explained that the entities listed in blue boxes on the chart provide services to state agencies; the entities listed in green boxes provide services to the public; and those in red boxes are department management. Regarding the entities listed in the blue boxes, she said the Office of Administrative Hearings is an independent body that was formed 5-6 years ago by consolidating hearing officers from various departments into a panel; it adjudicates administrative claims. The Division of Finance, she said, puts out a financial report, aggregates the state's financial data, manages state travel, and is currently working to replace the state's accounting and payroll systems. She stated that while each department has its own Internet Technology (IT) shop, DOA's Enterprise Technology (IT) Services provide bandwidth, network services, and telecommunications to the entire state government. She said the Division of Risk Management manages insurance and worker's compensation.

[8:14:29 AM](#)

MS. HULTBERG said the Division of Personnel & Labor Relations is the entity that takes care of human resources issues, with Labor Relations addressing labor bargaining units and labor contracts. The Division of General Services manages statewide procurement, leases, the public building fund, and central mail.

[8:15:20 AM](#)

REPRESENTATIVE ISAACSON asked if Department of Transportation & Public Facilities (DOT&PF) maintains the buildings and then DOA leases those buildings.

MS. HULTBERG responded that the Division of General Services manages a portfolio of buildings within the public building fund. The fund was established a number of years ago to allow the division to charge leases to tenant agencies and use the money for ongoing maintenance. Prior to that, she said, maintenance on those buildings was subject to annual appropriations, and many of the buildings began falling into disrepair. She estimated there are 14-16 buildings included under the fund, including the Atwood Building in Anchorage, the Fairbanks Regional Office Building, and the State Office Building in Juneau. She said the money managed through the leases is approximately \$47 million. She said it can be confusing to determine which buildings are within DOT&PF's portfolio and which are within DOA's and to determine the procurement and construction authority of each. Furthermore, she related that she is not certain why certain buildings were assigned to the public building fund while others were not. In response to a follow-up question, Ms. Hultberg confirmed that the buildings that are in DOA's fund are distinct from those managed by DOT&PF. She added that through a delegation from DOT&PF, DOA manages the construction of its buildings, as well, which includes remodeling and replacement of boilers and roofs.

[8:17:32 AM](#)

REPRESENTATIVE ISAACSON requested a list.

MS. HULTBERG, in response to Representative Isaacson, indicated that the Capitol Building is managed by DOT&PF, while the Court Plaza Building and the State Office Building are managed within DOA's public building fund.

[8:18:42 AM](#)

MS. HULTBERG returned attention to the organization chart, to the entities in the green boxes. She said the Division of Retirement & Benefits (DR&B) serves the public by providing the retirement function for the State of Alaska, as well as by providing retirement services for political subdivisions and school districts. She said it is a complex division, which manages several health plans and addresses the unfunded pension liability. The PDA, she said, is the primary agency that defends the rights of the accused. Ms. Hultberg stated that if the agency has a conflict, the case is "conflicted over" to the OPA, which also provides criminal defense services in addition to providing a public guardian function. The OPA also oversees the Guardian Ad Litem program and the court appointed special advocate (CASA) program. The Violent Crimes Compensation Commission, she relayed, has a small staff and board, which provide compensation through a fund to victims of violent crimes.

MS. HULTBERG said the Alaska Oil & Gas Conservation Commission is an important regulatory body for the state's oil and gas resources, and is administratively housed within DOA. The commission is an independent body, with three commissioners who provide management responsibility and regulatory guidance. She said the Alaska Public Offices Commission (APOC) is also administratively housed within DOA, but management authority for the commission resides within its board. The same applies to the Alaska Public Broadcasting Commission (APBC), for which DOA serves primarily as a conduit to the public budget the commission uses. The last public serving entity shown on the chart, she noted, is the DMV. Ms. Hultberg stressed the importance of customer service in that division, and remarked upon the good leadership that has run it in the past and currently, with a new director on board.

[8:22:35 AM](#)

CHAIR LYNN shared that his experience with the DMV in Alaska has been positive.

MS. HULTBERG stated the department's intent to continue providing good customer service through the DMV. She said the division is complex, with a significant level of intergovernmental coordination.

[8:23:29 AM](#)

MS. HULTBERG moved on to slide 4, which highlights the department's strategic plan. She stated the following goals of the department: service excellence, spending growth reduction, effective and efficient delivery of services, and employee development and support. She showed slide 5, which relates to spending growth reduction and has a graph depicting DOA expenditures. She said the department does not think a 5 percent rate of growth is sustainable over the long term, so a goal of the department is to figure out how to "bend that cost curve down" to be more in line with general inflation. She noted that the graph shows that the department has been successful in the last couple years in slowing down the rate of [spending] growth.

[8:25:16 AM](#)

MS. HULTBERG directed attention to slide 6, regarding services to the public. She said the services that DOA provides drive the cost of state government and the operating budget. Regarding the DMV, she said driver's license and identity (ID) card security is an ongoing issue. She indicated that Alaska's statute prevents the state from complying with the Real ID Act; however, she said the state can ensure that the driver's licenses and ID cards of its residents are secure. In response to the chair, she reviewed that the Real ID Act had been passed in the wake of the September eleventh terrorist attacks in an effort to make identifications more secure nationally. Under the Act, states must send their data to a national database, a requirement which raised legitimate concerns about whether or not the Real ID Act was the first step toward creation of a national ID card. She explained that the State of Alaska passed a law, which prohibits the DMV from spending state money for the sole purpose of implementing the Real ID Act provisions. She further explained that the deadline for compliance with the Real ID Act has been extended several times, most recently from January to September 2013. She said there is concern whether an Alaska driver's license could be used at a federal facility if the Department of Homeland Security implements the Act and requires compliance. Ms. Hultberg said there are many other states, like Alaska, whose statutes do not allow compliance with the Real ID Act, and the ongoing issue is whether or not there will be another extension. She stated that the focus of the DMV has been to determine how to use best practices to secure an ID rather than to comply with the Real ID Act.

[8:28:32 AM](#)

MS. HULTBERG, in response to a request from the chair for clarification on the meaning of best practices, said she could provide a list of the "18 or more" aspects of the Act which require compliance. For example, she said the state will not spend money to link up to a national database, because to do so would be for the sole purpose of complying with the Act. However, she stated that a best practice the state could engage in is to provide central, secure issuance of IDs, rather than having people come to various offices to get them. She offered her understanding that facial recognition may be an aspect of that. She offered to supply the committee with "a summary of the major provisions ... where we're implementing best practices and the major provisions where we're not going to be able to comply."

CHAIR LYNN suggested that some of the best practices of the state may overlap with requirements of the Real ID Act.

MS. HULTBERG responded that is correct.

[8:30:37 AM](#)

REPRESENTATIVE KELLER asked Ms. Hultberg to watch for any requirements from the federal government that Alaska needs to be aware of in order to protect the privacy of Alaskans.

MS. HULTBERG suggested that the committee might like to hear directly from the Director of the DMV regarding the security of identifications.

[8:31:52 AM](#)

REPRESENTATIVE HUGHES asked who determines best practices versus what would be solely compliance with the Act.

MS. HULTBERG said the decision is made at the division level to enhance the security of Alaskans' IDs.

[8:33:39 AM](#)

MS. HULTBERG returned to discussion of slide 6. She said both the OPA and the PDA have experienced significant growth in their budgets primarily related to caseload. She stated, "We are not, at this point, anticipating a supplemental for the Public Defender Agency or the Office of Public Advocacy."

REPRESENTATIVE ISAACSON asked what factors predict a supplemental will not be necessary.

MS. HULTBERG stated that there are always pressures on agencies that provide social services, but emphasized the importance of managing within the legislative appropriations, which - even with some exceptions - has resulted in positive outcome. In response to a follow-up question, she clarified that the department believes it has an obligation to manage within the current budget, but that does not mean it will not consider negotiating for more money in fiscal year 2014 (FY/14) to accommodate caseload growth.

[8:37:49 AM](#)

REPRESENTATIVE KELLER expressed gratitude for Ms. Hultberg's stance regarding "the supplemental," and he said he hopes more commissioners will adopt her view as the budget diminishes.

MS. HULTBERG clarified that she is not "declaring victory," but is relating that there has been some positive outcome and the department will continue to be diligent in managing its numbers.

[8:38:25 AM](#)

MS. HULTBERG moved on to slide 7, regarding services to state agencies. She said the department, through the Division of Personnel, Division of Finance, and the Division of Retirement & Benefits, pays wages and benefits for people to perform tasks and pays people to perform certain business processes. The department, through Enterprise Technology Services, provides IT services with which employees are able to do their jobs, and, through the Division of General Services, provides commodities, furniture, and offices in which to work. Finally, the department's Division of Risk Management provides protection against injury and loss.

[8:40:01 AM](#)

MS. HULTBERG, looking at slide 8, offered further details regarding wages and personal services. She said the personal services line on a budget contains health insurance and retirement benefits; the former tends to grow each year, while the latter is relatively "flat." She named two components to wages: the negotiated cost of living adjustment (COLA); and both negotiated and statutory merit increases and pay increments. Ms. Hultberg relayed that employees hired at an A

through F step receive a 3.5 percent merit increase each year. She questioned the term "merit," explaining that employees automatically receive the step increases unless there is "a very significant performance issue." Once above the F step, the system changes to pay increments, which are 3.75 percent increases annually in perpetuity, with no cap. The wage component is negotiated for those employees under the bargaining agreement and statutory for "non-covered" employees. She opined that with both the pay increase and COLA, employees have a "decent-sized, built-in annual increase every year." Ms. Hultberg reported that the personal services line has increased by an average of 5.45 percent a year since 2006, primarily because of COLA, merit increase, and increases in employer-paid health insurance.

MS. HULTBERG indicated that the department is addressing the increase in personal line services in the following ways: by good representative management at the bargaining table and recognition that large changes in contracts are difficult to achieve; and by looking at its current classification system over the 12-18 months to determine whether it needs to be modernized. Bringing attention to slide 9, she noted that the list on the right side shows all the bargaining units the state has and the number of employees in each unit. She said in 2013, the department is negotiating with the general government unit (GGU) and the supervisory unit (SU) - two of the largest units in terms of members. She said the monetary terms are not included in the governor's budget; the department has until March 15 to bring those terms to the legislature.

[8:44:06 AM](#)

REPRESENTATIVE HUGHES asked Ms. Hultberg for the total number of employees in all bargaining units combined, as well as the total number of state employees.

[8:44:14 AM](#)

MS. HULTBERG offered to find out, but estimated there are 16-17,000 employees. She said the answer depends on whether Representative Hughes wants the total to include various factors, such as part-time, full-time, and long-term employees. In response to a follow-up question, she offered her understanding that the numbers provided do not include employees in the court system.

[8:45:08 AM](#)

MS. HULTBERG directed attention to slide 10, which shows the State of Alaska contributions to active employee health plans. She said the state pays 100 percent of the base of the premium for a basic health plan, called an "economy" plan, and the cost to the state is steadily increasing. The driver of the inflation is the increase in health care within the state. She noted that the state does not cover all state employees through the Alaska Care health plan that is managed through the DR&B. The state funds a number of union health trusts, and the state's contribution to those trusts is dependent upon the economy plan premium for "our health plan." She said there are four primary union health trusts, two of which have a significant population: the Alaska State Employees Association (ASEA) Health Trust, which covers approximately 8,200 employees; and the Labor Trades and Crafts [51 Health Trust].

[8:46:44 AM](#)

REPRESENTATIVE ISAACSON talked about his experience with health care costs as mayor of his community and the ability to negotiate what seems to be better health care coverage for lower rates. He questioned whether the state truly is being competitive or whether it is constrained by contracts in some of its health care plans.

MS. HULTBERG said the issue of health care is one of her highest priorities. She said the state is self-insured; it does not go out and purchase insurance in a commercial market. Timing in terms of service could create disparate rates. She agreed that the state has not obtained the best value for the health care dollars it spends on behalf of its state employees. She reiterated that it is a high priority of the department to look at the plans to determine how to do a better job and explain to the provider that the state can no longer sustain 9 and 10 percent annual cost increases. She said she would be happy to discuss health care further.

REPRESENTATIVE ISAACSON said he would appreciate more information on the health care issue, and he said he is glad to hear it is a priority for the department. He ventured that with a larger population being covered, the state could get a lot more value on the dollar when providing health benefits.

MS. HULTBERG offered to set up time with Representative Isaacson's office to discuss the matter further.

[8:49:46 AM](#)

MS. HULTBERG, in response to questions from Representative Kreiss-Tomkins, relayed that prior to FY 11 the department was averaging a 9 percent annual rate of growth related to employee health benefits. She said although FY 11 was a good year, with the rate down to about 7 percent, history has shown that years with low rates are often followed by double digit increases; therefore, she stressed the importance of actively managing health care expenses. Nationally, Alaska is one of only seven states, which continues to fund a basic health insurance plan premium for a family at 100 percent. An average is an 80-20 premium share, where the employee would be paying the 20 percent, and Ms. Hultberg said "we don't have that right now." The department currently has a request for proposals (RFP) out for a third-party administrator, a pharmacy benefit manager, a wellness vendor, and a dental network. She said the RFP process is complicated, fraught with peril, and has resulted in litigation numerous times in the past. She emphasized the department's focus on ensuring a good RFP process.

[8:52:38 AM](#)

REPRESENTATIVE HUGHES asked if Ms. Hultberg has delegated anyone in the department to sit in on the meetings conducted by the Alaska Health Care Commission. She said she thinks some applicable strategies to save money may have resulted from those meetings.

MS. HULTBERG said last fall Jim Puckett, the director of the DR&B, was appointed to the commission. Further, she said she has spoken before the commission. She said the department is linked with the commission, and she stated that she agrees the work of the commission is important and should be elevated.

[8:54:28 AM](#)

MS. HULTBERG directed attention to slide 11, which lists the following strategies taken by the department to reduce the rate of cost growth: implementation of an employee wellness program; improved consumerism and appropriate utilization of services by members; plan design changes to support the above; contracting strategies; and procurement of the third-party administrator. She said currently the incentives for employee, provider, and payer are not aligned, and the department needs to help educate health care benefit recipients to be more "price sensitive."

[8:55:54 AM](#)

MS. HULTBERG turned to slide 12, which shows a graph of benefits payments that the department will be making to its Public Employee Retirement System (PERS) and Teachers Retirement System (TRS) recipients. The graph shows the increase in payments following 2012, which Ms. Hultberg said is a result of Baby Boomers retiring. She said there are operational challenges for the department in dealing with this influx of retirees. She related that the current PERS/TRS account balance is \$16.8 billion, and when the Alaska Retirement Management (ARM) Board adopts the newest valuation, the unfunded liability will be approximately \$12 billion. She said retirement benefits are an important obligation for the state to uphold.

[8:57:57 AM](#)

REPRESENTATIVE ISAACSON, regarding the state's obligation to pay, suggested there is a "perfect storm" wherein "we're trading the payments that a worker today has for the retirement someone else is having." He asked Ms. Hultberg for her recommendation how to pay down the unfunded liability.

[8:59:41 AM](#)

MS. HULTBERG recommended Deputy Commissioner Mike Barnhill as someone who could offer remarks on this issue in more depth. Notwithstanding that, she said the unfunded liability may not impact the state adversely today, but the state must make required payments to maintain the system, and those payments are growing and consuming an increasing amount of the operating budget. She said there are philosophical arguments as to whether this is a hard or soft liability, but irrespective of the answer, it is important that the payments be made. She said actuaries look at numerous variables when evaluating the unfunded liability, including market performance and life expectancy. She emphasized the difficulty in predicting how much money will be needed to meet future obligations, but it is important to have a system that is financially solvent in order to meet them.

[9:01:48 AM](#)

MS. HULTBERG stated that the retiree health plan does not cover preventative care and is covered by the diminishment clause in the constitution. She stated that health plans tend to evolve with both the science and the market place of medicine; however,

the retiree plan does not evolve, because the court has interpreted the plan such that any benefits are added in perpetuity and any diminishment - such as adjusting co-pay or deductibles - means having to add a comparable enhancement to the plan. Over time, the value to the plan to the retiree has grown because of inflation. She said what was an 80-20 plan is now a 95-5 plan; therefore, she emphasized that she is hesitant to add any benefit into that plan because to do so would obligate the state to a current and future cost that it may not be able to manage.

MS. HULTBERG offered two solutions: to go to court and litigate, as has been done in the past; or to develop a plan with elements retirees want, while including cost containment measures that will help the department better manage the plan. She directed attention to slide 14, which shows what the plan would look like. She then pointed to boxes on slide 15, which show what savings opportunities there would be under a new plan, under which are boxes listing the benefits to retirees under that plan. She said the state has asked its actuary to figure out how many retirees they think would need to move over into the new plan to justify creating it. She said the department agrees that preventative care is important and the state needs to find a way to provide it to its employees; however, she stated that with an unfunded liability - \$4 billion of which is health care related - the state cannot add costs into the plan without adding in the ability to better manage it.

[9:05:00 AM](#)

CHAIR LYNN mentioned a bill he introduced before the House Labor & Commerce Standing Committee last year, which addressed preventative colonoscopies and generic prescription drugs for retirees. He asked for an update on that issue.

MS HULTBERG stated that under the new plan, colonoscopies would be covered under "free wellness," while the state would move away from a fixed co-pay in terms of prescriptions and adopt a co-insurance with a deductible.

CHAIR LYNN offered his understanding that currently retirees can demand a brand name prescription drug over a generic, and he said the cost difference is astounding.

MS. HULTBERG responded that Chair Lynn is correct. She said the current plan is "an artifact of 30 years ago" and does not "reflect today's reality of delivering health care."

Furthermore, there is standard coverage in modern health plans that the current plan does not provide. She said retirees have a legitimate reason to be concerned about their health care coverage. The department is trying to address cost containment and enhancement of coverage for retirees, without ending up in litigation, but that may be unavoidable.

CHAIR LYNN asked Ms. Hultberg to keep the committee up to date on the issue.

[9:07:06 AM](#)

MS. HULTBERG, in response to a request for clarification regarding the term "diminishment clause," explained that the Constitution of the State of Alaska specifically protects public employee retirement benefits, and the court has interpreted health care as a protected benefit under the constitution. Therefore, to increase costs of the plan to a retiree is to diminish the benefit. Furthermore, to penalize a retiree for choosing one provider over another is considered a diminishment, which Ms. Hultberg opined is crazy, because contracting is essential to a modern health plan.

MS. HULTBERG, in response to follow-up questions from Representative Isaacson, said she does not know the specific statute, but can find out. She reiterated that the department hopes to provide an alternate plan without litigation, but may have to go to court over this issue.

[9:09:28 AM](#)

MS. HULTBERG directed attention to slide 16, which shows the increase in lease costs within General Services [from 2003 through 2012]. She said leases tend to go up and increased space needs to be provided, but even with those reasons Ms. Hultberg described the increase as "pretty alarming." She related that state-owned space is more economical than leased space. She said the state is adopting new universal space standards, as illustrated on slide 17, the benefits from which include: fitting more people into a smaller space, improving airflow by using dividers rather than walls, using fewer desktop printers and appliances. She said [using universal space standards] is common in the private sector. The state has looked at BP's facility in Anchorage as a model, where 40 percent more people have been brought into the building. She stated the department's belief that [these standards] will provide "nicer space for the employees and will save the state

money." She said this plan is not without controversy, because people tend to take changes to their work spaces personally. She said, "We're going to be implementing this on buildings where we have a positive return on investment."

9:12:08 AM

MS. HULTBERG directed attention to slide 18, which she said gives an indication of how much money the state saves by having enterprise agreements and shows the kind of enterprise agreements that the state negotiates through purchasing. Slide 19, she noted, illustrates the project timeline for the Integrated Resource Information System (IRIS), which is the replacement of two core business systems for the state: AKPAY, the state's payroll system; and the Alaska Statewide Accounting System (AKSAS). She said the 20- and 25-year-old systems are nearing the end of their useful lives. Ms. Hultberg said the state is implementing an enterprise resource planning (ERP) system, which will provide accounting payroll functionality, a centralized platform for procurement, and a human resources system, as well. She said this is a large, significantly complex IT project, which essentially focuses on current business processes to redesign them more efficiently.

MS. HULTBERG said slide 20 lists IT services, including bandwidth. Slide 21 addresses risk management, the costs for which continue to climb. She said the department will be seeking additional authorization for \$4 million, because its expenditures are exceeding its current authorization. She explained there is a fund called a "catastrophic reserve fund," which the department accesses when needed; however, she indicated that the fund was depleted in 2012 because of worker's compensation medical costs, which she said are "killing us just like they're killing every other large employer." She relayed that the department manages worker's compensation from the point of the employer - not from a policy standpoint. She listed worker's compensation, medical, and property insurance, and mentioned events like a tsunami, which tend to raise insurance premiums for [property insurance]. She said some [cost increases] are due to factors outside the control of the department.

9:15:20 AM

MS. HULTBERG said she would follow-up on issues raised by committee.

CHAIR LYNN thanked Ms. Hultberg for her overview of the department.

Overview: Alaska Public Offices Commission (APOC)

[9:16:00 AM](#)

CHAIR LYNN announced that committee would hear the overview from the Alaska Public Offices Commission (APOC).

[9:16:13 AM](#)

PAUL DAUPHINAIS, Executive Director, Alaska Public Offices Commission (APOC), via teleconference, presented an overview of APOC through a PowerPoint presentation. He explained that a slide showing a soccer ball with many hands on it is an illustration of a glitch that occurred in APOC's filing system on October 30, [2012], when many people were filing on line - many hands on the ball - and then leaving the system - hands removed from the ball - but the system "did not know that they had left" and "froze because it saw all its portals taken up." He said that was the first and only time the glitch has been observed in APOC's electronic filing application; other applications were running on the same server and functioning as normal. He said someone noted the problem and restarted the system. Mr. Dauphinais relayed that APOC has done the following to ensure this does not happen again: split the application in two, so that one application cannot see when people are leaving the other application; added the "Insight" system to the state monitoring system called, "Big Brother"; added regular checks of its system with reports sent to IT if errors occur; updated error of logging software with regular checks with notification to APOC staff if there are errors; instigated monitoring of e-mail, logs, and "Big Brother status" to preempt any unplanned outages; looked into caching solutions, which enable error checking to occur faster.

MR. DAUPHINAIS, in response to a question from the chair, estimated that at the time of the system failure, about half the candidates running were actively trying to file. He said filers are not penalized for being late if the reason for the tardiness is because of a technical problem.

[9:21:26 AM](#)

REPRESENTATIVE HUGHES said she was one of the candidates affected by the system glitch, and she posited that it would

have been helpful had APOC sent an e-mail to candidates that day explaining that they would not be penalized, rather than waiting until the next day to do so.

9:22:02 AM

MR. DAUPHINAIS said as a result of that incident, APOC has modified its operations. For example, it keeps staff after hours and automatically notifies staff when something like this occurs. He expressed appreciation for Representative Hughes' recommendation.

9:22:26 AM

MR. DAUPHINAIS, for the benefit of the new legislators on the committee, stated that APOC's mission is "to encourage the public's confidence in their elected and appointed officials by administering Alaska's disclosure statutes." He named APOC's four core services: to disclose information to the public, to interpret laws and assist filers, to administer laws, and to examine laws and compare reports. He said APOC has 14 staff members; 11 in Anchorage and 3 in Juneau. He directed attention to a slide of a graph showing the visits to the APOC web site by month for the years 2010-2012; the blue lines reflect the visits in 2012. He stated that clearly the more information posted leads to more web visits. He said the visits shown are "normal" visits, not "spiders," which he said are automated programs that "go out and touch databases" to check for any changes. With the spider visits, he said, the numbers for 2012 would be approximately double what is shown. He said the public inspects the information "very carefully and often."

MR. DAUPHINAIS directed attention to a slide related to interpreting laws and assisting filers. He said in 2012, APOC began a significant program of training and outreach. The training was intended to directly assist filers, and it took place in Fairbanks, Anchorage, Juneau, Wasilla, and the Lake & Peninsula Borough. Outreach was more focused on the public and how to use the electronic filing system, and APOC reached a number of people from Homer to Fairbanks. He explained that next to the name of each community named on the slide there are two numbers in parentheses: the first number refers to the number of activities in a particular community; the second number reflects the number of attendees. He stated, "We think this has paid big dividends in a number of different ways." Mr. Dauphinais referred to the next slide, showing advisory opinions and complaint activity by year, from 2009-2012. He said 2010

was a gubernatorial year, 2011 had no state election, and 2012 was a year with redistricting. He suggested one would think that 2012 would be as busy as 2010, but that clearly was not the case. He said APOC thinks the reason is that its outreach has helped keep down the number of complaints, while the other part of it is attributed to the electronic filing system, which does the math for the filer and does not allow the filer to move on in the form until each part is done correctly. He stated a goal of APOC is to become much more educational and much less punitive.

[9:27:48 AM](#)

MR. DAUPHINAIS directed attention to the next slide, which addresses civil penalties assessed from 2011-2012. He said civil penalties are those assessed based on late or incomplete reports; they are not complaint-related. He said the slide shows that electronic filing has helped APOC to decrease [penalties] in some areas, but has led to increases in others. Lobbying shows a decrease in the number of civil penalties for late and incomplete reports, and Mr. Dauphinais said APOC believes that is because the lobbying module was the first to go on line and the employers of lobbyists are a bit more experienced. He indicated the reason for the decrease in civil penalties assessed related to candidate disclosure is because of the emphasis that APOC has put on that issue. Group disclosure penalties have increased, possibly because of the higher profile groups now have after the Citizens United decision made by the United States Supreme Court. He said the electronic filing system has really helped APOC staff to know who to expect reports from and when they are due, so unfortunately APOC has had to deal with more civil penalties for financial disclosure. He stated that APOC's goal overall is to help filers submit information on time by having contact with filers twice before the filing due date.

CHAIR LYNN asked if there were any other impacts of Citizens United.

MR. DAUPHINAIS said he thinks that because groups had different laws applied to them under Citizens United, it brought a focus to groups during the campaign, and APOC paid more attention to groups as a result. Further, he suggested that people may not have fully understood what Citizens United enabled groups to do and still kept groups from doing. He said APOC hopes to provide more education regarding groups to bring down the number of civil penalties for groups. In response to the chair, he said

he would like to confer with the commission and some groups before giving input to the legislature regarding what may or may not make life easier for groups to work within the rules. He said APOC believes that if the process is made clearer for filers, then that will make APOC's job easier.

[9:31:48 AM](#)

MR. DAUPHINAIS directed attention to a slide related to examining and comparing computer reports. He said APOC's goal is to have better and more timely auditing, which enables staff to contact filers and notify them of errors early enough for the filer to amend his/her filing and avoid a complaint or a civil penalty assessment. He said the more interest the public has in a particular type of filer, the more APOC works to have a large number of audits. He related that the public is extremely interested in legislative financial disclosure reports, as well as candidate financial disclosure reports. He said APOC can check with the filer of the complaint to make any needed amendments and answer questions from the public to avoid complaints. He clarified that APOC brings less than 20 percent of the complaints, while most are filed by members of the public; therefore, if APOC can educate the public, then it can avoid unnecessary complaints. He reported that as of today APOC has 40-50 public official financial disclosure statements and legislative disclosure statements, has audited every one of them, has contacted the filers regarding potential errors, and most filers have remedied any issues. The number of candidate disclosures is low, in terms of those audited. He said APOC typically receives candidate disclosures between 7 p.m. and 11 p.m. on the day they are due, which slows down the process.

[9:34:38 AM](#)

MR. DAUPHINAIS, in response to Chair Lynn, said a complaint is made public as soon as it is provided to APOC staff. He added that it is not APOC's practice to go to the media, but often the filer of the complaint will tell others.

CHAIR LYNN said some complaints filed during an election cycle are valid, while others are filed "just to make trouble for a candidate and to change the results of the election." He asked if it possible to hold the complaint until after the election and then hear it.

MR. DAUPHINAIS responded that he wants to confer with the Department of Law (DOL) before answering that question, but

stated that all of APOC's documents are public. He said APOC has a process for expediting a complaint in a situation where someone bringing a complaint thinks that immediate harm is being done that will affect the outcome of an election. In that situation the complaint gets brought to the attention of APOC within 48 hours, and the commission decides if it will hear the complaint on an expedited basis, which means it would have a hearing within another 48 hours, or whether it will be heard on a regular timeline, which is a 30-day window from acceptance of the complaint to filing of a staff report.

CHAIR LYNN remarked that even when a case is heard within 48 hours, it takes time away from the candidate's campaign and there is stress involved.

[9:37:33 AM](#)

MR. DAUPHINAIS, in response to Representative Keller, recapped the process taken in the case of an expedited complaint. He said this year there were four expedited complaints filed, but "none of them passed the expedited test," so they were referred back to the regular process. In response to a follow-up question, he said that in the next few days he would provide the committee with more details regarding the standard APOC sets for expediting criteria.

[9:40:35 AM](#)

REPRESENTATIVE KREISS-TOMKINS asked Mr. Dauphinais to talk about staff turnover.

[9:41:34 AM](#)

MR. DAUPHINAIS said he has held his current position since February 2011. He said for the most part the turnover has been in associated attorneys, with some turnover in paralegal positions. He reported that since 2008, ten people have passed through two associate attorney positions. He said there are those that object to the term "associated attorney," citing that only those who have qualified as attorneys can use the term "attorney" in their job titles. Mr. Dauphinais said the title of associate attorney is used throughout state service, including in DOL, APOC, the Office of the Public Defender, and the Office of Public Advocacy. He relayed that many of those who have lasted the least amount of time in associate attorney positions have actually been licensed attorneys, because they appear to expect "attorney-like" work. He explained that

associate attorneys in state service are well-experienced paralegals.

MR. DAUPHINAIS said in 2011 there was a turnover in paralegals. In two cases it was due to spouses leaving the state for job opportunities, and in one case a family emergency took the person away. He said APOC has reviewed its position descriptions and worked with personnel regarding the associate attorney classification, revising the position description to more aptly fit the duties of the job. He noted that many positions have changed dramatically because of the advent of electronic filing. He said APOC is being upfront with candidates to let them know what to expect if they are hired and work with people so that "what they have to deal with is reasonable." He said APOC is not the most popular state agency and is in a no-win situation, because when people have a complaint filed against them, they think the commission is out to get them, whereas those who file the complaints don't think APOC does enough. He said that situation is difficult for some employees to deal with for long.

[9:46:10 AM](#)

MR. DAUPHINAIS, in response to Representative Gattis, said a complaint is considered by APOC to be valid if it meets a bar wherein the allegation, if true, would constitute a violation of statute or regulation. He said APOC sends out notification to both the complainant and the respondent, and often immediately thereafter that notification the media gets involved. He estimated that APOC has dismissed three to five complaints. In response to a follow-up question, he stated that if a complaint is not accepted, APOC sends out a notification letter to both the respondent and complainant explaining why it was rejected. In response to the chair, he said that would be a public document, open for public inspection, but APOC would not alert the media.

CHAIR LYNN stated that at some point he would like to return to the idea of holding complaints until after the election cycle.

[9:49:12 AM](#)

REPRESENTATIVE ISAACSON relayed his overall experience with APOC has been good, and he has found the commission to be helpful. He stated that the amount and onerous and intrusive nature of the information required from candidates may discourage people from participating in politics. He mentioned 2007 financial

disclosure and conflict of interest forms for local government. He said the requirement that a candidate must disclose what his/her children make is a deterrent to running for office, and he asked if there is a way to address that issue in order to protect the privacy of minors.

9:51:43 AM

MR. DAUPHINAIS said the commission, in 2011, worked to lessen the intrusive nature of filing requirements by allowing filers to report an income range, rather than an exact amount of income. Regarding minors, he said he would need to review the related statutes before offering a definitive answer; however, he indicated that the law applies to adult children living with the candidate rather than children under the age of majority.

9:53:40 AM

CHAIR LYNN asked why it is necessary to release the name of the person asking the question when the question itself, as it applies to everyone, is "the only thing that we really care about."

MR. DAUPHINAIS said he does not know, but will find out.

CHAIR LYNN clarified that he thinks the information requested would apply to all candidates; therefore, it would be irrelevant which candidate asked the question.

MR. DAUPHINAIS responded that an advisory opinion is specific to the situation, the context, and the facts presented by the requestor. He said Chair Lynn's statement in general is true; however, a small nuance in the facts or the situation could change the outcome of an advisory opinion. The commission states in its advisory opinion that "this advisory opinion is specific to this request," although he said it can be used for guidance in other areas. He said if someone wants to do something that has been described in a previously approved advisory opinion, APOC requests that the person call to ensure that the situation is very similar.

CHAIR LYNN commented on the complicated nature of looking for information on APOC's web site, and he opined that the process used to be simpler. He requested that APOC's software developers consider the matter.

MR. DAUPHINAIS said that has been brought to APOC's attention and the matter is being considered. He related that APOC staff will be in Juneau in February to offer two brown-bag luncheon presentations and would be available to visit legislators in their offices to answer questions.

[9:59:29 AM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:59 a.m.