

HOUSE FINANCE COMMITTEE

April 18, 2017

1:34 p.m.

[1:34:58 PM](#)

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 1:34 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair  
Representative Paul Seaton, Co-Chair  
Representative Les Gara, Vice-Chair  
Representative Jason Grenn  
Representative David Guttenberg  
Representative Scott Kawasaki  
Representative Dan Ortiz  
Representative Lance Pruitt  
Representative Steve Thompson  
Representative Cathy Tilton  
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Representative Geran Tarr, Sponsor; Konrad Jackson, Staff, Senator Natasha von Imhof; Janey Hovenden, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development; Representative Andy Josephson, Sponsor; Paul Kelly, Staff, Representative Andy Josephson; Marie Marx, Director, Workers' Compensation Division, Department of Labor and Workforce Development; Sheri Gray, Risk Manager, Division of Risk Management, Department of Administration; Heidi Drygas, Commissioner, Department of Labor and Workforce Development; Paloma Harbour, Director, Division of Administrative Services, Department of Labor and Workforce Development; Nancy Meade, General Counsel, Alaska Court System; Paul Grossi, Lobbyist, Alaska State Pipe Trades and Iron Workers.

PRESENT VIA TELECONFERENCE

Trevor Storrs, Alaska Children's Trust, Anchorage; Teresa Beck, Alaska Board of Veterinary Examiners, Palmer; Marianne Burke, Mother of Abigail Caudle, Anchorage; Betty Caudle, Aunt of Abigail Caudle, Anchorage; Jeffrey Caudle, Brother of Abigail Caudle, Anchorage; Ron Ross, Grandfather of Abigail Caudle, Anchorage; Kevin Dougherty, General Counsel, Alaska Laborers, Eagle River; Angelee Wood, Self, Anchorage; Eric Croft, Self, Anchorage; Steve Constantino, Self, Anchorage; Vicki Paddock, Self, Anchorage.

SUMMARY

HB 38           WORKERS' COMPENSATION: DEATH BENEFITS

HB 38 was HEARD and HELD in committee for further consideration.

HB 69           REPEAL WORKERS' COMP APPEALS COMMISSION

CSHB 69(JUD) was REPORTED out of committee with a "do pass" recommendation and with two previously published fiscal notes: FN2 (AJS) and FN3 (LWF).

HCR 3           APRIL 2017: CHILD ABUSE PREVENTION MONTH

CSHCR 3(FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published zero fiscal note: FN1 (HHSS Committee).

CSSB 51(FIN)

EXTEND BOARD OF VETERINARY EXAMINERS

CSSB 51(FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (CED).

Co-Chair Foster reviewed the meeting agenda.

#hcr3

HOUSE CONCURRENT RESOLUTION NO. 3

Proclaiming April 2017 as Child Abuse Prevention Month; and proclaiming April 7, 2017, as Go Blue Friday.

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REPRESENTATIVE GERAN TARR, SPONSOR, explained the bill:

Child abuse in Alaska is a chronic and devastating problem. In 2014, the Office of Children's Services statistics showed that there were 40,000 allegations of child maltreatment, meaning abuse or neglect of a person under 18 years of age.

Children subject to abuse are more likely to become abusers themselves. They are also 9 times more likely to engage in criminal and other anti-social behavior than children who do not experience neglect. Emotionally and physically, abuse has long-term effects including improper brain formation, an inability to trust, low self-esteem, and an increased vulnerability to posttraumatic stress disorder, sexually transmitted diseases, heart disease, cancer, and depression.

Every child deserves a loving family, a safe home, and the opportunity to grow into an upstanding and responsible member of society. We have to work together to support our children.

This resolution proclaims April 2017 as Child Abuse Prevention Month in an effort to raise awareness of child abuse nationally and in-state. In 1983, the U.S. Legislature proclaimed April the first National Child Abuse Prevention Month to show a commitment to identifying and implementing solutions to end child abuse. As a result, child abuse and neglect awareness activities are promoted across the country during April of each year. Many governors also issue proclamations to encourage initiatives and events in their respective states.

The high rates of child abuse in Alaska must stop, and recognition and an open discussion are ways to assist in breaking this painful cycle. I invite all citizens in Alaska to join me on April 10th, 2017 to wear blue as a symbolic gesture that child abuse will not be tolerated and we stand together in putting an end to the abuse.

Vice-Chair Gara thanked the bill sponsor. He wondered whether the bill was permanent or make it an annual basis.

Representative Tarr replied there was an amendment that had been distributed to deal with the issue. She stated that the issues were important to address annually. She remarked that the amendment would name the 2018 dates.

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TREVOR STORRS, ALASKA CHILDREN'S TRUST, ANCHORAGE (via teleconference), spoke in support of the legislation. He wanted to reduce the deficit and pass the bill which was about engaging the community at all levels to actively prevent child abuse and neglect.

Co-Chair Foster CLOSED public testimony.

Co-Chair Foster MOVED to ADOPT Amendment 1, 30-LS0280\A.1 (Glover, 4/18/17) (copy on file).

Representative Wilson OBJECTED for discussion.

Representative Tarr explained the amendment that would name April of 2018 as the "go blue" Friday.

There being NO OBJECTION, it was so ordered.

Vice-Chair Gara explained the zero fiscal note.

Representative Wilson MOVED to REPORT CSHCR 3(FIN) out of committee with individual recommendations and the accompanying fiscal note.

There being NO OBJECTION, it was so ordered. CSHCR 3(FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published zero fiscal note: FN1 (HHSS Committee).

#sb51

CS FOR SENATE BILL NO. 51(FIN)

"An Act extending the termination date of the Board of Veterinary Examiners; and providing for an effective date."

[1:46:01 PM](#)

KONRAD JACKSON, STAFF, SENATOR NATASHA VON IMHOF, introduced the legislation.

Representative Wilson asked //

TERESA BECK, ALASKA BOARD OF VETERINARY EXAMINERS, PALMER (via teleconference), asked for clarification on the question.

Representative Wilson clarified // the challenges in rural areas.

Ms. Beck answered // the veterinarians in that area had a very unique role //

Representative Wilson wanted to ensure it was on record that she had received quite a few comments from the public //

Co-Chair Foster spoke to a lack of availability of veterinarians in rural Alaska. // the highest quality of veterinary service in the areas. He asked for detail.

Ms. Beck answered that the board had discussed the issue. She elaborated that highly qualified veterinarians were needed to do the work. She characterized the work as "in the trenches" and it was necessary to have qualified individuals to provide the services. It was not prudent to have someone visit a community and leave right away.

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Representative Guttenberg referred to the audit recommendation asking the chair to be more diligent in the annual audit //. He asked for detail.

Ms. Beck believed it pertained to a clerical error. She explained detail about the situation. The recommendation was for the board chair to review the document thoroughly.

Representative Guttenberg asked if Ms. Beck was satisfied that the documents she received for review were aligned.

Ms. Beck answered in the affirmative. She detailed // the licensing office had the secretary // it was easy for clerical errors to occur. She was satisfied.

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Co-Chair Foster OPENED and CLOSED public testimony.

Vice-Chair Gara addressed the fiscal note from the Department of Commerce, Community and Economic Development.

Representative Wilson pointed to page 2 of the fiscal note. She asked who paid for staff.

JANEY HOVENDEN, DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, replied that the program absorbed the cost. The program paid for the other incidentals. The cost was directly associated with the cost of the board.

Representative Wilson understood the cost was related to travel and services. She wondered why the costs would be put out. She thought it seemed all or none would be listed.

Ms. Hovenden answered // board related costs.

Representative Wilson stated // would be a reduction of staff. // She provided a scenario with four boards in a year // the board was paying for time. //

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Vice-Chair Gara asked if the funding for the receipt authority was in the operating budget.

Ms. Hovenden replied in the affirmative.

Representative Wilson MOVED to REPORT CSSB 51(FIN) out of committee with individual recommendations and the accompanying fiscal note.

There being NO OBJECTION, CSSB 51(FIN) was REPORTED out of committee with a "do pass" recommendation and with one previously published fiscal impact note: FN1 (CED).

#hb38

HOUSE BILL NO. 38

"An Act relating to the calculation and payment of workers' compensation benefits in the case of permanent partial impairment; relating to the calculation and payment of workers' compensation death benefits payable to a child of an employee where there is no surviving spouse; relating to the calculation and payment of workers' compensation death benefits for an employee without a surviving spouse or child; relating to notice of workers' compensation death benefits; and providing for an effective date."

[2:01:17 PM](#)

Vice-Chair Gara MOVED to ADOPT the proposed committee substitute for HB 38, Work Draft 30-LS0160\R (Wallace, 4/11/17).

Representative Wilson OBJECTED for discussion.

REPRESENTATIVE ANDY JOSEPHSON, SPONSOR, explained the bill. House Bill 38 addressed an injustice that came to light when Abigail Caudle, a twenty-six year-old electrical worker, was killed on the job in 2011. Because Ms. Caudle was unmarried and had no dependents, the workers' compensation system paid only for her funeral expenses. HB 38 directs that when a worker dies without a spouse or minor children, then either relatives who depended on that worker for support, or the worker's estate, will receive a respectful amount of compensation. HB 38 also solves the problem of inadequate financial support of children after their single parent dies on the job. Currently, teenagers may receive only a few months of financial assistance before their support is cut off when they turn eighteen. The bill continued payment of the death benefit for five years after the child reaches legal adulthood. Finally, HB 38 would bring more equitable compensation to workers for permanent injuries, such as loss of an arm. One-time payments for permanent, partial disability had not increased since 2000, and their value had been eroded by inflation. The bill increased the payments to off-set past inflation, and provided an annual adjustment based on the Anchorage Consumer Price Index.

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Vice-Chair Gara surmised that a worker's compensation claim was often much less.

Representative Josephson replied it was generally true.

Vice-Chair Gara wondered whether there would be the same compensation should a person lose one arm versus both arms.

Representative Josephson replied that he felt that the compensation would increase, so the scheduled weekly wage equivalent would increase.

PAUL KELLY, STAFF, REPRESENTATIVE ANDY JOSEPHSON, furthered that the schedule was determined by the American Medical Association guides, so that would determine the percentage of permanent partial impairment that the worker would receive.

Representative Wilson WITHDREW her OBJECTION. There being NO OBJECTION, Work Draft 30-LS0160\R was ADOPTED.

Representative Guttenberg noted that there was an elevator analogy where the worker received compensation, but wondered whether the customer would receive compensation.

Representative Josephson responded that the customer would not receive worker's compensation. He stated that there would generally be no compensation, unless the customer filed a claim or a lawsuit.

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Representative Guttenberg stressed that worker's compensation was created to get the worker back to work, and not only to create a "right or wrong." He wondered whether there was a similar law.

Representative Josephson replied that he did not know the answer.

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Representative Kawasaki referred to Representative Josephson's statement related to family and friends.

Representative Josephson replied he had meant the statement almost in a spiritual sense.

Representative Kawasaki asked how far the benefit extended.

Representative Josephson replied that the benefit ended at the parents; if there were no parents it went to the estate.

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Representative Kawasaki spoke about a person who was a beneficiary of the estate. He asked for verification the money could go to someone who was not a family member.

Representative Josephson supposed there could be a best friend named in the will who would get the benefit.

Representative Kawasaki asked if the \$100,000 was an admission that it was the current status with inflation.

Representative Josephson replied that his staff had done some research and the number may be as high as \$140,000.

Representative Wilson pointed to agency receipts in the fiscal note. She wondered if employers would be paying more into workers' compensation to cover the increase.

Representative Josephson answered that the number was \$512,000, which came principally from an increase in the PPI [personal property insurance]; it was a fiscal note increase that would have to be collected in the event of death. The problem was if the situation was not upgraded they were stuck at 2000 indefinitely.

Representative Wilson did not understand where the money was coming from. She asked for detail.

[2:24:54 PM](#)

Representative Josephson answered risk management was funded by interagency receipts.

MARIE MARX, DIRECTOR, WORKERS' COMPENSATION DIVISION, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, introduced herself.

SHERI GRAY, RISK MANAGER, DIVISION OF RISK MANAGEMENT, DEPARTMENT OF ADMINISTRATION, answered that the dissemination to the agencies was through the cost of risk agencies who were under the state's self-insurance plan for

worker's compensation. She explained that it involved the number of full-time employees and a formula of experience of actual worker's compensation claims and the expectation of additional claims. She remarked that there was a complex process, and she could not fully explain the process.

Representative Wilson surmised that the interagency receipts were paid into the funds to pay for the possible occurrence.

Ms. Gray answered that she did not know.

Representative Wilson stated the money had to be coming from somewhere. She was trying to determine the fiscal impact. She asked the department to follow up. She understood the note was indeterminate.

Ms. Gray answered that the allocations to the agencies were done on an annual basis and were based on 80 percent of prior five years claims and 20 percent of expected claims. The process it was spread out through agencies, so they were not taking the full brunt.

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Representative Wilson asked if there was a specific fund where the money was collected into.

Ms. Gray replied in the affirmative.

Representative Wilson asked how it was done.

Ms. Gray would follow up.

Vice-Chair Gara stated there was an annual contribution by agencies, and remarked in some years where there was not enough money there would have to be an additional appropriation.

Ms. Gray agreed to follow up with additional information.

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MARIANNE BURKE, MOTHER OF ABIGAIL CAUDLE, ANCHORAGE (via teleconference), testified that she was the mother of Abigail Caudle. Her daughter had been up on a ladder working and inadvertently touched a live wire. She had not

been revived. It had been very difficult to understand that there was no liability to the employer. Abigail had been given nothing for her life. She continued to explain the situation. She was frustrated there had been no justice. She could not go to civil court, and could only pursue workers' compensation. She asked the committee members to consider the value of their children's lives. She thought \$20,000 was an insult to the value of life. She wondered what was wrong with Alaska being number one in recognizing human life. She stressed that the accident had not been her daughter's fault. She urged the committee to pass the bill.

[2:37:50 PM](#)

Vice-Chair Gara expressed his sympathy.

Ms. Burke looked at Chapter 25 of Alaska State Statute, which was the "Defective Machinery Act." She stressed that in that statute, the employer was liable, but she had received no recognition of that statute.

[Co-Chair Seaton joined the meeting]

Co-Chair Foster indicated that Mr. Kelly had a short presentation.

[2:39:58 PM](#)

Mr. Kelly provided a PowerPoint presentation titled "HB 38: Abigail Caudle Act" (copy on file):

The estate of a single worker with no dependents who dies on the job has no remedy Cannot sue  
Cannot collect worker's compensation  
There's no legal incentive for the employer to protect these employees

PPI

Under 23.30.190(a) the PPI rating is \$177,000 The PPI rating is multiplied by the percentage of disability, or how much a worker's injury impacts the worker's ability to perform their job. Deceased Workers

Under 23.30.215(a)

The widow / widower and/or children get \$15,000 plus as much as 100% of the decedent's spendable weekly wages

If no widow / widower or children, but there are other dependent family, then they get \$10,000 plus up to \$20,000

No provision for compensating the parents or the estate if no surviving widow(er) or dependents

How do we fix it?

Under 23.30.190(a) the PPI rating is adjusted for inflation to \$255,506

Under 23.30.215(a)

The widow / widower and/or children get \$15,000 plus as much as 100% of the decedent's spendable weekly wages. If no widow / widower or children, but there are other dependent family, then they get \$10,000 plus up to \$100,000. If no widow, widower, or dependents, the parents get funeral expenses plus a \$70,000 lump sum. If no surviving parents, then the estate collects the lump sum.

[2:43:53 PM](#)

Representative Wilson wondered why the state would determine the price of a life, versus allowing the individuals to sue because of violations.

Representative Josephson stated that the concern was about the issue of no dependents. He stated that there would be concern about the purpose of worker's compensation.

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BETTY CAUDLE, AUNT OF ABIGAIL CAUDLE, ANCHORAGE (via teleconference), testified in support of the bill. She shared that she was the aunt of Abigail Caudle. She detailed that her niece had been living with her at the time of her death. She provided details about Abigail's life. Tragedy had struck, and Abigail had lost her life at work. She wanted there to be lessons learned from the tragedy to possibly help someone in the future. A single person would be compensated for injuries. She stated the amount of money was not the issue, but the message that there was value to human life. She asked the committee to support the legislation.

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JEFFREY CAUDLE, BROTHER OF ABIGAIL CAUDLE, ANCHORAGE (via teleconference), testified in favor of the bill. He spoke to risk reduction and prevention. He stated that the cost of Abigail's safety had not been worth it to the company because it had not cost anything.

2:54:19 PM

RON ROSS, GRANDFATHER OF ABIGAIL CAUDLE, ANCHORAGE (via teleconference), provided details about his life. He shared that he had become interested in eternal life. He referred to bible verses that included God's speech. He had learned that it was necessary to do the research himself. He believed that Abigail had been murdered. He believed the company was responsible for her death. He stressed that the law was failing. He asked the legislature to wake up.

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KEVIN DOUGHERTY, GENERAL COUNSEL, ALASKA LABORERS, EAGLE RIVER (via teleconference), spoke in support of the legislation. He believed the legislature had a full responsibility to address the gaping hole in statute. He discussed that 1915 had been the enactment of the Alaska Workers' Compensation Act. He shared detail. there were other people who had been in the horrific situation. He provided the names of some of the individuals who had died on the job. He believed the bill reflected fundamental human rights the state should be respecting. He shared history about the workers' compensation laws in the state. In the past 12 years - 9 of the years there had been decreases. He believed it was also the ethical action to take.

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Representative Guttenberg thanked Mr. Dougherty for his testimony.

ANGELEE WOOD, SELF, ANCHORAGE (via teleconference), had a brain injury from an accident at work. She had worked for the Department of Corrections and had been attacked by an inmate. She stuttered due to her brain injury. She listed other negative impacts resulting from the attack. She had a caregiver and could not take care of her children. Her husband had to leave work early to help care for her. She did not function like she used to due to the attack. She

was approaching the two year mark since the attack and the doctor was not clear on what her future would hold. She did not receive the medical retirement - the on the job injury had caused a major financial hardship for her family. She spoke in support of the bill. She thanked the committee for the opportunity to speak.

[3:10:01 PM](#)

ERIC CROFT, SELF, ANCHORAGE (via teleconference), testified in support of the bill. He was helping the Caudle family with legal work. He relayed his daughter was in college and nearing a time when she would enter the workforce. There was a huge gap in compensation law. She urged the committee to recognize that workers' lives were valuable.

Vice-Chair Gara spoke to the concept of permanent/partial impairment. He spoke to inflation proofing of \$200,000. He asked if it was the maximum allowable.

Mr. Croft replied in the affirmative.

[3:16:05 PM](#)

Vice-Chair Gara asked about permanent total impairment and permanent partial impairment. He asked if there were lost wages if a person was paid a lower amount.

Mr. Croft answered there was nothing, and shared that 70 percent of what a person was making before was considered good enough.

Representative Thompson shared that he had been on a board with Mr. Croft's father on workers' compensation. He appreciated Mr. Croft's testimony.

Co-Chair Foster CLOSED public testimony.

Representative Wilson asked about the liability issue. She wondered why the bill was the better idea versus having something more happen to a company that could have prevented an incident.

HEIDI DRYGAS, COMMISSIONER, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, deferred the question to her colleague.

MARIE MARX, DIRECTOR, WORKERS' COMPENSATION DIVISION, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, stated her understanding of the question.

Representative Wilson clarified that it seemed there were things going wrong in a workplace. She did not believe the bill rectified the problems.

[3:21:52 PM](#)

Commissioner Drygas answered that no workplace was free from workplace hazards. The department did do random safety inspections for different employers through its occupational health division. She felt that changing the system would be problematic because the workers' compensation system was a no-fault system - the worker gave up their right to sue the employer to receive compensation. She shared that when the department heard about cases like Abigail Caudle's almost always a safety officer went to do an inspection of the location to determine the safety issues.

Representative Wilson relayed she would go back to look at HB 303 to get more detail. She believed the bill represented a huge policy.

[3:24:48 PM](#)

Vice-Chair Gara hoped that the bill would allow for periodic adjustments to inflation.

Representative Josephson replied that Section 3 addressed the issue.

Co-Chair Foster reopened public testimony.

Ms. Burke shared that it had been almost six years since her daughter had died. She was aiming to set up some precedent where there was some liability to an employer. She stressed it was very frustrating and very unfair. She stated that based on the constitution, her daughter had not been given due process. There could be consequences for negligent employers that were not protecting their employees. The employer was responsible for training, the environment, and other. She believed the system was not fair. She hoped the bill passed. She hoped a later bill would be created, in order to receive justice.

Co-Chair Foster reclosed public testimony. Amendments to the bill were due by 5 pm, Thursday, April 20.

HB 38 was HEARD and HELD in committee for further consideration.

#hb69

HOUSE BILL NO. 69

"An Act repealing the Workers' Compensation Appeals Commission; relating to decisions and orders of the Workers' Compensation Appeals Commission; relating to superior court jurisdiction over appeals from Alaska Workers' Compensation Board decisions; repealing Rules 201.1, 401.1, and 501.1, Alaska Rules of Appellate Procedure, and amending Rules 202(a), 204(a) - (c), 210(e), 601(b), and 603(a), Alaska Rules of Appellate Procedure; and providing for an effective date."

[3:30:12 PM](#)

HEIDI DRYGAS, COMMISSIONER, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, introduced the legislation. She handed the presentation over to her colleague for further detail.

MARIE MARX, DIRECTOR, WORKERS' COMPENSATION DIVISION, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, reviewed the sectional analysis of the legislation. She read from the sectional analysis (copy on file):

Section 1 amends AS 23.30.005, by adding a new subsection, clarifying that unless reversed or modified by a court, decisions of the former commission have the force of legal precedent.

Section 2 amends AS 23.30.107(b), by removing reference to the commission.

Section 3 amends AS 23.30.108(d), by removing reference to the commission.

Section 4 amends AS 23.30.108(e), by removing reverence to the commission.

Section 5 amends AS 23.30, by adding a new section, clarifying when a board order becomes effective and is final, when it may be stayed, and clarifying when the board's findings are conclusive and binding on a reviewing court, and when the director may intervene in an appeal or petition for review.

Section 6 amends AS 23.30.155, by adding a new subsection changing a statutory reference from the commission to the superior court.

Section 7 amends AS 39.50.200(b)(31), by removing reference to the commission.

Section 8 amends the uncodified law of the State of Alaska, by amending Rule 204(c)(2) Alaska Rules of Appellate Procedure, to address bonds for appeal purposes.

Section 9 repeals Rules 201.1, 401.1, and 501.1, Alaska Rules of Appellate Procedure.

Section 10 repeals AS 23.20.007, 23.30.008, 23.30.009, 23.30.125, 23.30.127, 23.30.128, 23.30.129, 23.30.155(f), 23.30.395(10); AS 39.23.110(40); AS 44.64.020(a)(12), and 44.64.020(a)(13).

Section 11 amends to uncodified law of the State of Alaska, by adding a new section relating to indirect court rule amendments.

Section 12 amends the uncodified law of the State of Alaska, by adding conditional effect language that the Act takes effect only if secs. 8, 9, and 11 receive the two-thirds majority vote of each house required by art. IV, sec. 15 of the Alaska Constitution.

Section 14 amends the uncodified law of the State of Alaska, by adding transitional language clarifying proceedings seeking review of a board decision and order that have not yet been filed before the Commission, must be filed in the superior court on or after June 1, 2017. Any appeals not completed by the Commission on or before December 1, 2017 will be transferred to the superior court on December 2, 2017, and clarifying procedures for requests for reconsideration during the transition period.

Section 15 amends the uncodified law of the State of Alaska, by adding transitional language.

Section 16 clarifies when the Act takes effect.

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Representative Kawasaki queried the reason for the creation of the Appeals Commission 2005.

Commissioner Drygas replied that there was the Defense Bar of Workers Compensation Practitioners felt that the Superior Court decisions were not thorough, and were time consuming. She stressed that the value of a separate Workers Compensation Appeals Commission was that the decisions had precedential value on the Workers Compensation Board's decisions. She explained that the panel on the Worker's Compensation Board made the decision, and an unsatisfied worker or employer could appeal to the Worker's Compensation Appeals Commission, and then would be submitted to the Superior Court.

[3:40:06 PM](#)

Representative Kawasaki queried the average length of time in the Superior Court process.

Commissioner Drygas replied that average time frame for appeals in 2016 was approximately 11 months. She stated that the intent of creating the commission was to speed up the appeals process, but there was not an acceleration in the process. She stated that the time varied in the Superior Court, and she deferred to other testifier to explain how long a case would move through Superior Court. She stated that she was correct with the \$43,300 fiscal note.

Representative Wilson wondered whether the money would be collected, or would there be savings.

Commissioner Drygas deferred the question to a colleague.

PALOMA HARBOUR, DIRECTOR, DIVISION OF ADMINISTRATIVE SERVICES, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, answered that the legislation would cut the state's expenses by over \$400,000 per year, and would be the

expenditures in line with actual revenue generated into the fund. She stated that, on average, the Workers Safety and Compensation Administration Account generated approximately \$7.2 million per year. She stated that currently, the expenditures that were built against the fund were approximately \$9.1 million. She announced that the legislation was intended "close that gap" between the annual expenses and the actual generated revenue, to avoid an eventual shortfall.

Representative Wilson surmised that the funding would be utilized by the department in other areas.

Ms. Harbour replied that the funding was currently utilized by the department to cover the workers compensation and the workers safety program costs. She stated that the program would eliminate some of those costs.

Representative Guttenberg replied that he did not feel that the commission did not accelerate the appeals process.

Commissioner Drygas answered she had never practiced before the workers' compensation appeals commission.

[3:46:09 PM](#)

Representative Thompson shared that he had served on the Workers' Compensation Board under the governor several administrations back. He stated they had trouble getting people to serve on the board - he wondered if that was the current problem.

Commissioner Drygas replied the state was always looking for qualified applicants to serve on boards. The members heard many difficult cases and were responsible for rendering decisions - it was one of the most important boards in the state.

Representative Thompson asked if the situation had ever been changed.

Commissioner Drygas knew there was still a disparity. She deferred the question.

[3:50:47 PM](#)

Representative Kawasaki wondered whether the commission made it easier to interact than it would in the court.

Ms. Marx replied that litigants were always provided leeway and assistance. The commission provided the assistance to unrepresented litigants. She referred to a spreadsheet in documents showing the caseload [titled "Alaska Workers' Compensation Appeals Commission (12/30/16" (copy on file).]

[3:54:04 PM](#)

Representative Pruitt agreed with the challenges. He referred to a document related to concern with the bill.

Commissioner Drygas detailed that the superior court heard the type of cases routinely. There were many stakeholders who wanted the appeals to remain in superior court. She believed the OAH was an ill fit.

[3:57:44 PM](#)

Ms. Harbour elaborated that one of the key points was the bill would result in a cost savings.

NANCY MEADE, GENERAL COUNSEL, ALASKA COURT SYSTEM, elaborated on Commissioner Drygas's testimony. The reason the cases had been moved to the appeals commission - there had been a sense the court was too slow - superior court decisions did not set precedent, but decided the law of the land. She shared the court system was neutral on the legislation. It had submitted a zero fiscal note, which was not an indication of support or opposition. The system would have the ability to absorb the cases if it received them.

Representative Kawasaki noted that a typical ruling in the Appeals Commission took approximately 11 months. He queried the time of a typical ruling in Superior Court.

[4:01:32 PM](#)

Ms. Meade replied that a Superior Court ruling would take longer than 11 months. She relayed that 60 percent of administrative agency appeals were resolved within 365 days, many of which were easy appeals. The majority that took longer than a year were most likely workers' compensation cases - up to 14 months.

Representative Kawasaki referred to the zero fiscal note. He asked if another superior court judge would not make the system faster.

Ms. Meade replied that additional work did not necessarily require a need for an additional judge.

Representative Kawasaki wondered if the courts or executive branch had considered a specialty court for workers' compensation.

Ms. Meade replied there were not really any specialty courts. The superior court judges were judges of general jurisdiction.

[4:06:12 PM](#)

Representative Pruitt remarked that judges were not the only cogs in the machine.

Ms. Meade replied that she had studied the bill to determine whether they could justify an additional staff.

Representative Pruitt asked if the court system was able to speak to the impact the bill would have on personal finances.

Ms. Meade replied that often many of the workers remained self-represented. The individuals would end up preparing the brief for the judge, but needed to do additional research, which was one of the reasons the cases were difficult. The individuals could still be represented at the court level.

[4:10:31 PM](#)

Representative Pruitt asked about the potential for an individual to recognize they had a better ability to self-represent, and whether the individual's ability to find success would be diminished by sending the case to the superior court.

Ms. Meade replied it was a policy call that other people in the room may want to address. The court remained neutral.

[4:11:45 PM](#)

PAUL GROSSI, LOBBYIST, ALASKA STATE PIPE TRADES AND IRON WORKERS, referred to talk about cutting the budget and that the best way to do that was cutting a program. He supported the legislation.

[4:15:40 PM](#)

STEVE CONSTANTINO, SELF, ANCHORAGE (via teleconference), testified in support of the bill. He shared information about his professional background. He referred the committee to statistics provided in earlier testimony. He felt that a 50 percent reversal rate was not the type of precedent that assisted the community with consistency.

[4:19:45 PM](#)

ERIC CROFT, SELF, ANCHORAGE (via teleconference), spoke in favor of the legislation. The commission did not do much very work in comparison to other courts and not much bang was received for the cost. He felt that the board ruled in favor of the injured worker about half the time, whereas the commission ruled in favor of the workplace 80 percent of the time.

[4:26:57 PM](#)

VICKI PADDOCK, SELF, ANCHORAGE (via teleconference), testified against the bill. She could not tell the precise issues she had worked on due to confidentiality, but stated that workers' compensation was a very unique body of law. The superior court process did not resolve any issue about the perceived inconsistency between commission panels.

[4:32:30 PM](#)

Co-Chair Foster CLOSED public testimony.

Co-Chair Seaton asked if the provision was the same basic procedure the that already existed within the commission.

Ms. Meade answered perhaps there were two things going on. She stated that one judge did not bind another judge in a court. She stated that Section 5 was the meat of the bill that addressed how the superior court would handle the cases. The superior court merely had to see if there was substantial evidence for the fact.

Co-Chair Seaton asked if the synopsis of the bill was that the board's findings should be precedential on future findings.

Ms. Meade replied that the board would not bind the board. Findings of fact were one thing and conclusions of law were another. The findings of fact were adhered to unless they were not supported by substantial evidence.

Co-Chair Seaton surmised that the precedent would be decided by the court.

Ms. Meade replied in the affirmative.

Representative Guttenberg wondered whether the process was correct and there were not mistakes in law. He was trying to determine where the definitions were made. He asked what the Supreme Court was moving on.

Ms. Meade answered that they could still appeal again to the Supreme Court, which would start all over.

[4:42:05 PM](#)

Representative Pruitt stressed that there was an attempt to understand the key changes in the bill.

Ms. Meade replied that in no area of law did a superior court judge's decision bind another judge's. It would not be any different in the case of the bill. The same result could happen in any area of the law.

[4:45:13 PM](#)

Representative Pruitt asked if it would be more difficult for people at the initial stage (beginning with the board) for people to understand where to go in their research to determine how to be more successful.

Ms. Meade replied that he was speaking exactly to the reason the panel had been established. She thought it was a policy factor the legislature would have to weigh.

Representative Pruitt commented it was interesting and had been a 12-year experiment that may not have worked. The issue was not solved.

Representative Wilson thanked the department. She believed the issue had been vetted well by the department and should move forward. She believed the courts were looking at the issue in the right way.

Co-Chair Foster asked if she was suggesting the bill move.

Vice-Chair Gara addressed the two fiscal notes.

Representative Wilson MOVED to REPORT CSHB 69(JUD) out of committee with individual recommendations and the accompanying fiscal notes.

Co-Chair Seaton OBJECTED for discussion. He appreciated the work. He WITHDREW his OBJECTION.

Vice-Chair Gara OBJECTED for discussion. He WITHDREW his OBJECTION.

CSHB 69(JUD) was REPORTED out of committee with a "do pass" recommendation and with two previously published fiscal notes: FN2 (AJS) and FN3 (LWF).

Co-Chair Foster reviewed the schedule for the following day. He recessed to the call of the chair [note: the meeting never reconvened].

#  
ADJOURNMENT

[4:52:36 PM](#)

The meeting was adjourned at 4:52 p.m.