

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

January 20, 2017

3:16 p.m.

MEMBERS PRESENT

Representative Sam Kito, Chair
Representative Adam Wool, Vice Chair
Representative Andy Josephson
Representative Louise Stutes
Representative Chris Birch
Representative Gary Knopp
Representative Colleen Sullivan-Leonard

MEMBERS ABSENT

Representative Bryce Edgmon (alternate)

COMMITTEE CALENDAR

ORGANIZATIONAL MEETING

APPROVAL OF DRAFTING REQUESTS FOR POTENTIAL COMMITTEE
LEGISLATION BY REQUEST OF THE DEPARTMENT OF LABOR & WORKFORCE
DEVELOPMENT

APPROVAL OF DRAFTING REQUESTS FOR POTENTIAL COMMITTEE
LEGISLATION BY REQUEST OF THE DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT ORGANIZATIONAL MEETING

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

HEIDI DRYGAS, Commissioner
Department of Labor & Workforce Development (DLWD)
Juneau, Alaska

POSITION STATEMENT: Requested drafting of legislation.

DEBORAH KELLY, Director
Division of Labor Standards & Safety
Department of Labor & Workforce Development (DWLD)
Juneau, Alaska

POSITION STATEMENT: Provided details for proposals for legislation.

LORI WING-HEIER, Director
Division of Insurance
Department of Commerce, Community, and Economic Development
(DCCED)
Anchorage, Alaska

POSITION STATEMENT: Requested drafting of legislation.

KEVIN ANSELM, Director
Division of Banking & Securities
Department of Commerce, Community and Economic Development
(DCCED)
Juneau, Alaska

POSITION STATEMENT: Addressed the need to update the Alaska Securities Act.

ACTION NARRATIVE

[3:16:48 PM](#)

CHAIR SAM KITO called the House Labor and Commerce Standing Committee meeting to order at 3:16 p.m. Representatives Wool, Josephson, Stutes, Birch, Knopp, Sullivan-Leonard, and Kito were present at the call to order.

ORGANIZATIONAL MEETING

[3:17:39 PM](#)

CHAIR KITO announced that the first order of business would be a committee organizational discussion.

CHAIR KITO discussed committee meeting protocol, including that staff should be utilized for passing notes and electronic devices are permitted and encouraged for documents. He also mentioned protocol for committee members, including written committee request forms, and that amendments for bills drafted by Legislative Legal and Research Services should be submitted to his office 24 hours ahead of time in order to be included in the bill packet.

APPROVAL OF DRAFTING REQUESTS FOR POTENTIAL COMMITTEE LEGISLATION BY REQUEST OF THE DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT

3:20:35 PM

CHAIR KITO announced that the second order of business would be drafting requests for potential committee legislation by request of the Department of Labor & Workforce Development.

3:21:03 PM

HEIDI DRYGAS, Commissioner, Department of Labor & Workforce Development (DLWD), introduced proposals for legislation. The first proposal would bring DLWD into compliance with federal occupational safety and health penalty standards, which were enacted in 2015. She informed that as of January 1, 2017, the department is not in compliance with federal law. The second proposal pertains to the reporting of inspections of boiler and pressure devices, would institute a small fee for the manual data entry of private inspector reports by department staff, and would reduce the report submission timeframe from 30 days to 10 days due to the advent of electronic filing.

3:22:20 PM

DEBORAH KELLY, Director, Division of Labor Standards & Safety, Department of Labor & Workforce Development (DLWD), introduced a proposal regarding Alaska Occupational Safety and Health (AKOSH). She stated that Occupational Safety and Health Administration (OSHA) gives states the option of adopting a state plan. She stated Alaska Occupational Safety and Health (AKOSH) is Alaska's state plan. She remarked:

What this means is AKOSH receives federal grants and is responsible for the safety and health standards that protect almost all Alaskan workers. One of the major requirements of the state plans is it must be at least as effective as federal OSHA. Alaska's program may develop and implement safety and health standards that fit Alaska's unique environment using input from Alaskan industries, employers, employees, and the public. So quite a bit more responsive than federal OSHA standard rule making.

MS. KELLY related that AKOSH may inspect most private or public employers in Alaska, with a few federal exceptions, and if during the course of an inspection an employer is found to be violating a safety or health standard, AKOSH issues a citation which comes with a monetary penalty. Ms. Kelly continued as follows:

Now, the maximum penalties and one minimum that AKOSH is allowed to assess is encompassed in Alaska statute. And I'd just like to clarify quickly before getting to the proposal that these are maximums. The actual penalties that employers pay are adjusted based on a lot of factors: the size of the business, the gravity of the violation, and good faith efforts or other mitigating factors.

MS. KELLY related that in 2015, Congress passed a law requiring a lot of federal agencies to adjust their penalties for inflation going back to 1990. She said OSHA complied with the law in July of last year, and AKOSH has 6 months to adopt federal changes; as of January 1, 2017, Alaska was out of compliance with the federal requirement.

MS. KELLY stated that the proposal is to authorize the department to: increase the penalties to federal levels; adjust to future yearly consumer price index changes as required by the federal act; adopt the maximum penalty amounts by regulation; and limit the maximum penalties set by regulation to the corresponding federal penalties. She clarified that the proposal would, in effect, allow the department to set the current federal amount in regulation - no more, no less - and allow AKOSH to come into compliance with federal law and to stay in compliance.

[3:25:53 PM](#)

REPRESENTATIVE BIRCH asked why anyone would oppose this proposal and whether the department could set an automatic enrollment of AKOSH into future federal standards changes.

[3:26:26 PM](#)

MS. DRYGAS responded that she agrees with Representative Birch, and the department has given the commissioner of the department the ability to make the penalty adjustments in regulation up to but not greater than the federal amount. She stated the department could continue to change it for Consumer Price Index (CPI) as the federal rates change.

[3:26:55 PM](#)

REPRESENTATIVE BIRCH asked if this would show up again as a requirement or if it could be handled administratively.

3:27:00 PM

MS. DRYGAS responded that if the legislature adopts the proposal through legislation the division could oversee its requirements.

3:27:06 PM

CHAIR KITO clarified that the committee would see the language when the bill is drafted.

3:27:26 PM

REPRESENTATIVE WOOL moved that the committee authorize the chair to draft a bill, on behalf of the House Labor and Commerce Standing Committee, which brings the state of Alaska into Compliance with the Federal Occupational Safety and Health requirements. There being no objection, it was so ordered.

3:28:02 PM

MS. KELLY explained boiler and pressure vessel inspections. She remarked:

Boilers around Alaska are routinely inspected as a safety measure to prevent catastrophic failures. Inspections are done by the State of Alaska or private inspectors employed by insurance companies or the device owners themselves. The Mechanical Inspection section of [the Division of] Labor Standards & Safety administers these inspections. Besides inspecting, we also collect and review the inspections and ensure that the boiler owners stay in compliance with Alaska law. So, mechanical inspection uses jurisdiction online, which is a software that allows the inspectors in the field to enter their data directly into our database. It also allows inspectors to access information in the field. The majority of inspectors are using this system.

Some reports, though, are still submitted by emailing electronic documents which require Mechanical Inspection to manually enter that data into the database. Mechanical Inspection estimates 350 to 400 hours a year are spent on this data entry on behalf of these companies who don't want to use jurisdiction online. Our proposal is to charge a small fee for

each report submitted not using that online system. This would compensate mechanical submission for doing this data entry on behalf of the companies who choose not to use this system.

MS. KELLY stated the proposal reduces the time allowed from 30 days to 10 days. Currently inspectors have 30 days after the inspection to submit a report to Mechanical Inspection. The limit was set when written reports on carbon copies were necessary, but now they are all submitted electronically. The department believes 10 days is an adequate amount of time, which will allow device owners to comply with the law faster.

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REPRESENTATIVE KNOPP stated he is okay with the fee, but asked what part of the process is time sensitive and what the time frame is of the inspections for the devices.

[3:32:47 PM](#)

MS. KELLY responded the reason for the time frame is to reduce the time [device owners] are out of compliance. The time period does vary between two to five years based on the type of device.

[3:31:47 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked what a "small fee" to the companies not in compliance with the system is considered.

MS. KELLY responded that the proposed starting point for the fee is \$10 per report.

MS. DRYGAS, in response to a follow-up question, said the amount a company would pay in a year depends on how many inspections or reports a particular inspector is filing.

[3:33:36 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked to see a fiscal note.

[3:33:51 PM](#)

MS. KELLY responded that about 3,200 inspection reports come in per year from inspectors not using the online system; therefore the \$10 fee would result in about \$32,000 per year.

[3:34:22 PM](#)

REPRESENTATIVE WOOL moved that the committee authorize the chair to draft a bill, on behalf of the House Labor and Commerce Standing Committee, which modifies filing requirements for boiler inspections. There being no objection, it was so ordered.

[3:34:42 PM](#)

The committee took an at-ease from 3:35 p.m. to 3:36 p.m.

**APPROVAL OF DRAFTING REQUESTS FOR POTENTIAL COMMITTEE
LEGISLATION BY REQUEST OF THE DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT**

[3:36:48 PM](#)

CHAIR KITO announced the final order of business would be drafting requests for potential committee legislation by request of the Department of Commerce, Community, and Economic Development.

[3:37:13 PM](#)

LORI WING-HEIER, Director, Division of Insurance, Department of Commerce, Community, and Economic Development (DCCED), stated that Alaska is a member of the National Association of Insurance Commissioners (NAIC), which acts like the Senate and House in that model bills move from task force to work group and are vetted by the public, industries, and regulatory agencies. Then they are in a plenary [meeting], where they are voted on to determine if the bill should become a model law that all states should adopt. She asked for support for the Alaska Life and Health Insurance Guarantee Association (ALHGA), a non-profit entity created by state law under Title 21, Chapter 79, of Alaska Statute. She said ALHGA protects consumers when an insurance company is insolvent. The member insurers, those other insurers doing business in the State of Alaska are "assessed ... to pay" the claims of the policy holders. Policy holders may not be made whole in some instances due to limits dictated in statute. The proposed bill would increase some limits and bring the state into compliance with the most recent model of NAIC/ALHGA bills. The current bill was adopted in 2009, and Alaska's law has not been changed to comply with what other states are doing.

MS. WING-HEIER denoted the other proposed change would include hospital and medical service corporations within the definition of an insured member of the association. She said 20 states now include hospital and medical service corporations in their definitions. These entities are insurance companies, but their organizational structure is a hospital or medical service corporation. In Alaska, one such entity controls over 50 percent of the market in the medical area and is currently exempt from assessments from ALHGA. Without the participation of hospital and medical service corporations in the assessment, the division cannot make policy holders whole. Ms. Wing-Heier asked that the hospital and medical service corporations be included as a member of the association, so they can also be assessed the 2 percent in the event of an insolvency to make policy holders whole under medical life policies, annuity contracts, and long-term care policies covered within this chapter.

[3:41:38 PM](#)

REPRESENTATIVE BIRCH inquires as to the source from which the 2 percent is derived.

MS. WING-HEIER responded the 2 percent is from the annual premium, and in some cases multi-year assessments were needed to reimburse the policy holders.

REPRESENTATIVE BIRCH asked what the magnitude of the receipts approximates.

MS. WING-HEIER stated that in 2016, the premiums that were written totaled close to \$300 million in medical, with a similar amount in life policies. She stated that assessments are only done when a company is insolvent, and they only assess to what is needed to pay the claims of the policy holders at that time.

REPRESENTATIVE BIRCH asked if Providence Alaska Medical Center in Anchorage would take the \$300 million to \$600 million.

[3:43:31 PM](#)

MS. WING-HEIER responded it's not hospitals, it's organizations that have filed under the structure of corporations that are exempt. The only one in Alaska is Premera Blue Cross ("Premera"), which is over 50 percent of the medical market, so the division could not raise enough funds for a large insolvency.

3:44:10 PM

REPRESENTATIVE KNOPP asked how commonly insolvency happens.

3:44:40 PM

MS. WING-HEIER stated it's not common, but "when it happens it's large dollars." The last large insolvency the division had in life and health is Penn Treaty Network America Insurance Company which did not impact Alaska greatly. "Industrial Indemnity Fremont" became insolvent, and its claims are still being paid close to 15 years later.

3:45:30 PM

REPRESENTATIVE KNOPP clarified that this is not a voluntary program, and he asked how it is that Premera is not participating.

MS. WING-HEIER responded it's because of the way the statute is written, exempting them based on their organizational structure.

3:46:06 PM

REPRESENTATIVE STUTES asked if this is commonplace in hospitals and medical associations in other states.

MS. WING-HEIER stated every state has a guarantee association, some operate a little differently. The hospital and medical corporations affected by the proposed change would not include Providence Alaska Medical or Alaska Regional Hospital, but would include insurance companies that have a different organizational structure. To make it equitable when the division does an assessment, and to make sure there is adequate funding, the division must look at "bringing them in".

REPRESENTATIVE STUTES asked whether there is an indication that Premera would reconsider being an insurer in the State of Alaska. She stated "we only have one left, we ... gotta be careful here."

MS. WING-HEIER offered her understanding that Premera would not be surprised by the legislation. She referenced a conversation she had with Premera, during which the corporation said it didn't want to see legislation that was backdated, which would make it accept liability for Penn Treaty and others.

REPRESENTATIVE STUTES asked if Premera is expecting to go forward with business in Alaska.

MS. WING-HEIER explained she does not think Premera would be surprised, because it knows the division, as well as other states, had concerns with it not being included in the guarantee association.

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REPRESENTATIVE WOOL asked whether insolvency is national or if the company can section off state by state.

MS. WING-HEIER responded it would be hard to do, generally the entire company would go into liquidation.

REPRESENTATIVE WOOL asked whether 2 percent of the premiums would go to cover the possibility [of insolvency], and asked if [the collected funds] would be passed onto the insured.

MS. WING-HEIER responded they could.

[3:49:42 PM](#)

REPRESENTATIVE KNOPP asked if the collected funds ever quit or if they accumulate.

MS. WING-HEIER answered that the association does not collect anything, no assessment, until it needs to pay the claims.

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REPRESENTATIVE KNOPP clarified that the association may collect funds to help [policy holders] if other companies, not necessary Premera, were to become insolvent.

[3:51:01 PM](#)

CHAIR KITO clarified that the proposal would allow for the collection of the fee, if required, but would not mandate one. It would open up the door to collect from this kind of corporation that has not been eligible before. The fee would not be collected if there was not a company in insolvency, only if there were claims to pay, otherwise the companies would not be charged.

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MS. WING-HEIER agreed with Chair Kito's statement. She added that the division does not collect and keep money in the bank to pay future claims.

[3:52:03 PM](#)

REPRESENTATIVE WOOL moved that the committee authorize the chair to draft a bill on behalf of the House Labor and Commerce Standing Committee that creates the Alaska Life and Health Insurance Guarantee Association. [No objection was stated, and the committee treated the motion as so ordered.]

[3:52:29 PM](#)

The committee took an at-ease from 3:52 p.m. to 3:54 p.m.

[3:54:16 PM](#)

KEVIN ANSELM, Director, Division of Banking & Securities, Department of Commerce, Community and Economic Development (DCCED), addressed the need to update the Alaska Securities Act, which provides the legal framework for offering or selling securities within Alaska or from outside the state to Alaskans, including the registration of firms and sales persons, filing of securities, and enforcement. The division licenses about 95,000 salespersons and about 1,000 securities firms, most of which are out of state. Ms. Anselm said the Securities Act also regulates the Alaska Native Claims Settlement Act (ANCSA) Corporation and the shareholder proxy provisions. She noted that the securities industry had increased dramatically. She suggested an update to the Alaska Securities Act would simplify and update Alaska's security laws to be similar to provisions in other states. She noted that most current provisions haven't been updated since statehood and are based on an Act from 1956. For example, Alaska law still allows filings by telegraph.

MS. ANSELM said the division also proposes lifting the Alaska Securities Act out of the ANCSA provisions, which would highlight the difference between ANCSA and regular securities activity and would allow the ANCSA constituents to deal more directly with the ANCSA law. She stated that there is currently no provision in the law for restitution for consumers harmed by scams. The department suggests the legislature direct some enforcement funds towards investor and market education for Alaskans.

3:58:33 PM

MS. ANSELM assessed another provision would allow the division to require continuing education for investment professionals, where there currently are not requirements. She mentioned that without updates to the law businesses will not be able to grow and develop economically and keep up, and they face more hurdles here than other states. ANCSA corporations and shareholders are constrained by the provisions, which are only designed for one type of business. There are fewer opportunities for consumer, investor, and marketplace education. One of the biggest issues is the lack of good enforcement provisions in the Alaska Securities Act; there is no restitution allowed for victimized Alaskans, and there's a \$25,000 maximum civil penalty for scammers. She listed recent securities scams in Alaska, including: a scam by Michael Scow, who convinced an elderly Alaskan to invest \$12,000 in building his business and used the money for something else; the Fortune Oil and Gas, LLC scam, which resulted in \$3.1 million in losses to Alaskans; the SOS Disasterplan.com scam, in which \$540,000 of worthless stock was issued, the Global Arena Capital Corp scam, in which the corporation sold junk bonds to an Alaskan fisherman; and a scam by Troy Stafford and Patrick Williams, who sold an Alaskan a \$40,000 investment in a bogus company. Ms. Anselm reiterated that work is needed on the Alaska Securities Act.

4:02:17 PM

REPRESENTATIVE BIRCH asked if an individual could pursue legal action to recover what he/she had lost as a result of a scam.

MS. ANSELM confirmed that is correct, but there are limitations there as well.

4:02:55 PM

REPRESENTATIVE SULLIVAN-LEONARD asked for an example of how enforcement provisions would be enhanced under the proposals requested by the division.

MS. ANSELM answered that some of the provisions allowing the division to order restitution would allow a larger recovery of up to \$100,000 per violation, and allow penalties to be raised in civil court.

REPRESENTATIVE SULLIVAN-LEONARD inquired if increasing staff would be necessary to carry out enforcement.

MS. ANSELM responded that the division is not looking to increase staff. The division brings in about \$13 million through licensing on the securities side, and the division's entire budget is about \$3.2 million.

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REPRESENTATIVE WOOL commented that 95,000 registered entities seems like a lot for a state of 700,000.

MS. ANSELM agreed. She listed reasons for the high ratio including: stock brokers want to be listed in all 50 states for a larger market; and Alaska has the highest per capita income in the country, making Alaskans targets.

REPRESENTATIVE WOOL indicated that increasing the penalty for an out of state scammer does not make it any easier to collect the penalty.

MS. ANSELM agreed, but added that the penalty should be more than "just a little cost of doing business."

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REPRESENTATIVE JOSEPHSON pointed out that last year a similar proposal was a priority of the administration, and this proposal has already undergone some vetting.

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REPRESENTATIVE KNOPP asked, of the examples given by Ms. Anselm, if failed business propositions would be considered differently from true scams.

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MS. ANSELM stated the examples given are cases where the division took action, and the division took 38 enforcement actions in the last year. She expounded that anytime someone takes money from someone else and doesn't do with it what he/she promised, that's a misrepresentation, and if someone expected to get money back, then it is a violation of the Alaska Securities Act, which she described as "very broad."

4:08:30 PM

REPRESENTATIVE WOOL moved that the committee authorize the chair to draft a bill on behalf of the House Labor and Commerce Standing Committee that updates the Alaska Securities Act. There being no objection, it was so ordered.

4:09:32 PM

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:09 p.m.