

**ALASKA STATE LEGISLATURE  
SENATE JUDICIARY STANDING COMMITTEE**

March 29, 2017

1:33 p.m.

**MEMBERS PRESENT**

Senator John Coghill, Chair  
Senator Mia Costello  
Senator Kevin Meyer  
Senator Pete Kelly

**MEMBERS ABSENT**

Senator Bill Wielechowski

**COMMITTEE CALENDAR**

**SENATE BILL NO. 5**

"An Act prohibiting groups controlled by a legislator from soliciting and accepting contributions or from making certain contributions and expenditures during a regular or special legislative session; and prohibiting some lobbyists from making campaign contributions to certain groups."

- MOVED CSSB 5(JUD) OUT OF COMMITTEE

**CONFIRMATION HEARINGS**

Commission on Judicial Conduct

Donald William McClintock  
Jeannine Jabaay  
Melanie Rose Bahnke

- CONFIRMATIONS ADVANCED

**SENATE BILL NO. 29**

"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."

- HEARD & HELD

SENATE BILL NO. 15

"An Act relating to possession of an electronic smoking product or a product containing nicotine by a minor and to selling or giving an electronic smoking product to a minor; relating to business license endorsements to sell cigarettes, cigars, tobacco, products containing tobacco, electronic smoking products, or products containing nicotine; and relating to citations for certain offenses concerning tobacco or nicotine products."

- BILL HEARING CANCELED

**PREVIOUS COMMITTEE ACTION**

BILL: SB 5

SHORT TITLE: POLITICAL CONTRIBUTION LIMITS/PROHIBITION

SPONSOR(s): MEYER

01/09/17	(S)	PREFILE RELEASED 1/9/17
01/18/17	(S)	READ THE FIRST TIME - REFERRALS
01/18/17	(S)	STA, JUD
01/31/17	(S)	STA AT 3:30 PM BUTROVICH 205
01/31/17	(S)	Heard & Held
01/31/17	(S)	MINUTE(STA)
02/09/17	(S)	STA AT 3:30 PM BUTROVICH 205
02/09/17	(S)	Moved CSSB 5(STA) Out of Committee
02/09/17	(S)	MINUTE(STA)
02/10/17	(S)	STA RPT CS 3DP 2NR SAME TITLE
02/10/17	(S)	DP: EGAN, COGHILL, GIESSEL
02/10/17	(S)	NR: DUNLEAVY, WILSON
02/15/17	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)
02/15/17	(S)	Heard & Held
02/15/17	(S)	MINUTE(JUD)
03/29/17	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 29

SHORT TITLE: REPEAL WORKERS' COMP APPEALS COMMISSION

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/20/17	(S)	READ THE FIRST TIME - REFERRALS
01/20/17	(S)	L&C, JUD, FIN
02/14/17	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

02/14/17	(S)	Heard & Held
02/14/17	(S)	MINUTE(L&C)
02/28/17	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/28/17	(S)	Heard & Held
02/28/17	(S)	MINUTE(L&C)
03/02/17	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/02/17	(S)	Moved SB 29 Out of Committee
03/02/17	(S)	MINUTE(L&C)
03/03/17	(S)	L&C RPT 1DP 3NR
03/03/17	(S)	NR: COSTELLO, HUGHES, MEYER
03/03/17	(S)	DP: GARDNER
03/29/17	(S)	JUD AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

EDRA MORLEDGE, Staff  
 Senator Kevin Meyer  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** Provided an explanation of Amendment 1 to SB 5 on behalf of the sponsor.

HEATHER HEBDON, Executive Director  
 Alaska Public Offices Commission  
 Department of Administration (DOA)  
 Anchorage, Alaska

**POSITION STATEMENT:** Commented on Amendment 1 to SB 5.

ALPHEUS BULLARD, Attorney  
 Legislative Legal Services  
 Legislative Affairs Agency  
 Alaska State Legislature

**POSITION STATEMENT:** Provided information and answered questions regarding the language in Amendment 1 to SB 5.

DONALD WILLIAM MCCLINTOCK, Appointee  
 Commission on Judicial Conduct  
 Anchorage, Alaska

**POSITION STATEMENT:** Testified as an appointee to the Commission on Judicial Conduct.

JEANNINE JABAAY, Appointee  
 Judicial Conduct Council  
 Hope, Alaska

**POSITION STATEMENT:** Testified as an appointee to the Commission on Judicial Conduct.

MELANIE BAHNKE, Appointee  
Commission on Judicial Conduct  
Nome, Alaska

**POSITION STATEMENT:** Testified as an appointee to the Commission on Judicial Conduct.

HEIDI DRYGAS, Commissioner  
Department of Labor and Workforce Development (DOLWD)  
Juneau, Alaska

**POSITION STATEMENT:** Introduced SB 29 on behalf of the administration.

MARIE MARX, Director  
Division of Workers' Compensation  
Department of Labor and Workforce Development (DOLWD)  
Juneau, Alaska

**POSITION STATEMENT:** Delivered a sectional analysis for SB 29.

KIMBER RODGERS, Assistant Attorney General  
Civil Division  
Labor and State Affairs Section  
Department of Law  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions related to SB 29.

NANCY MEADE, General Counsel;  
Deputy Administrative Director  
Administrative Services  
Alaska Court System  
Anchorage, Alaska

**POSITION STATEMENT:** Provided the Court System perspective of SB 29.

#### **ACTION NARRATIVE**

[1:33:26 PM](#)

**CHAIR JOHN COGHILL** called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Costello, Meyer, Kelly, and Chair Coghill. He reviewed the agenda.

#### **SB 5-POLITICAL CONTRIBUTION LIMITS/PROHIBITION**

[1:34:27 PM](#)

CHAIR COGHILL announced the consideration of CSSB 5(STA). He noted that this is the second hearing and there is a proposed amendment from Senator Meyer.

[1:34:49 PM](#)

SENATOR MEYER moved Amendment 1, labeled 30-LS0112\U.2, for SB 5].

CHAIR COGHILL objected for an explanation.

[1:35:15 PM](#)

EDRA MORLEDGE, Staff, Senator Kevin Meyer, Alaska State Legislature, explained that Amendment 1 for SB 5 addresses the concern that the Alaska Public Offices Commission did not have sufficient direction to determine when a political action group is controlled by a legislator. She read the following amendment to highlight where the changes appear:

30-LS0112\U.2  
Bullard  
3/29/17

**AMENDMENT 1**

OFFERED IN THE SENATE  
TO: CSSB 5(STA)

BY SENATOR MEYER

Page 1, line 1:

Delete "**groups controlled by a legislator**"  
Insert "**certain groups**"

Page 1, line 7:

Delete "controlled by"  
Insert "that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a person who is"

Page 2, line 1, following "that":

Insert "makes expenditures or receives contributions"

Page 2, line 2:

Delete "is controlled by"

Insert "with the authorization or consent, express or implied, or under the control, direct or indirect, of"

Page 2, line 6:

Delete "makes expenditures or receives contributions"

Page 2, line 24:

Delete "controlled by"

Insert "that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a person who is"

[1:37:40 PM](#)

CHAIR COGHILL listed the individuals available to answer questions.

SENATOR MEYER requested Ms. Hebdon comment on the amendment.

[1:38:35 PM](#)

HEATHER HEBDON, Executive Director, Alaska Public Offices Commission, Department of Administration (DOA), Anchorage, Alaska, said she had not seen the amendment but the language appears to come directly from the definition of a candidate under AS 15.13.400. She said the only concern is that the commission has previously interpreted that specific provision in a way that would conflict with what appears to be the intent of SB 5. "I think this bill would most likely make that clear to exactly what 'controlled by' means, but that's our only concern."

SENATOR MEYER asked if the definition helps or is in conflict.

MS. HEBDON replied the commission has considered matters of a "controlled group" regarding when contribution limits and restrictions apply to a group that is controlled by a candidate. The most recent interpretation is that a group that makes expenditures or receives contributions in support of the candidate's election should be considered synonymous with the candidate when restrictions or prohibitions apply. She added, "It seems the intent of the bill is in conflict with that interpretation, but I don't know that this language makes that explicitly clear."

MS. MORLEDGE suggested the drafter comment on why he used that language.

[1:41:12 PM](#)

ALPHEUS BULLARD, Attorney, Legislative Legal Services, Legislative Affairs Agency, Alaska State Legislature, agreed with Ms. Hebdon that the new language in amendment U.2 mirrors the language in the definition of candidate in AS 15.13.400. It also appears in the definition in relation to groups in AS 15.13.400(8). He explained that the legal interpretation that Ms. Hebdon is talking about has to do with the interpretation of that provision as it relates to groups controlled by a candidate. SB 5 does not relate to groups controlled by a candidate unless they are a candidate for the legislature or they are a legislator. He said that interpretation will in no way control or relate to how that language is interpreted in the context of this bill.

CHAIR COGHILL said that helps.

SENATOR MEYER agreed.

SENATOR COSTELLO asked how this language would affect a legislator who is a member of an organization such as the National Education Association or the National Rifle Association, both of which get involved in campaigns and endorse candidates.

MR. BULLARD advised that the legislator would need to authorize or consent or control the group otherwise their membership would not bring them within the reach of this legislation.

SENATOR COSTELLO summarized that a person who is the head of the Alaska chapter of the NEA would not be able to run for office without violating this statute.

MR. BULLARD clarified that the bill does not do that. Rather, if a legislator were to control a group such as the NEA, for example, that group could not solicit or accept a contribution while the legislature is sitting in regular or special session. Nor would a lobbyist be allowed to give to that group.

[1:45:17 PM](#)

CHAIR COGHILL removed his objection; finding no further objection, Amendment 1 was adopted. He found no public testimony and asked Senator Meyer if he had any closing comments.

SENATOR MEYER recapped that he introduced the bill to close a loophole in the 1996 campaign finance reforms. It was an oversight that no one anticipated a legislator having their own political action committee (PAC) and using it to influence other elections. This updates the law to address that situation.

CHAIR COGHILL solicited a motion.

[1:46:21 PM](#)

SENATOR MEYER moved to report SB 5, version \U as amended, from committee with individual recommendations and attached fiscal note(s).

[1:46:57 PM](#)

CHAIR COGHILL announced that without objection, CSSB 5(JUD) moves from the Senate Judiciary Standing Committee.

[1:47:22 PM](#)

At ease

**CONFIRMATION HEARINGS**  
**Commission on Judicial Conduct**

[1:48:55 PM](#)

CHAIR COGHILL reconvened the meeting and announced the next order of business would be three confirmation hearings for positions on the Commission on Judicial Conduct.

He asked Mr. McClintock to tell the committee about his interest in serving in the bar seat on the Commission on Judicial Conduct.

[1:49:38 PM](#)

DONALD WILLIAM MCCLINTOCK, Appointee, Commission on Judicial Conduct, Anchorage, Alaska, said he submitted his application as an opportunity to serve the state and do a small part in ensuring the integrity of the judicial branch of government. He opined that he has benefited over the years from practicing in front of what he considers to be one of the best judicial systems in the country. The commission plays an important role in ensuring the integrity of the system and the public perception is that it is not shaped by any bias or favoritism. The commission plays an important part in ensuring that judges adhere to the code of judicial conduct and comport themselves at the highest level both within the courtroom and in their personal lives. The commission also plays an important role as a resource for judges and tends to disciplinary matters. He said

he looks forward to lending his skills in this important endeavor.

[1:53:52 PM](#)

SENATOR MEYER stated support for Mr. McClintock who has always been very fair and professional.

CHAIR COGHILL articulated his belief that politics is not absent in Alaska's judicial system. He asked his perspective on whether politics plays into the discussion regarding judicial conduct or if the judicial code more demonstrable.

MR. MCCLINTOCK said he believes the code of judicial conduct has clear rules and a high bar so there isn't a large gray area that would be influenced by political views. He said one of the canons of the code is that the administration of judicial justice is not to be swayed by personal bias. That could include a strong political belief that is outside the requirements of the statutes or constitution.

CHAIR COGHILL said it appears that the candidates today would maintain public confidence and personal integrity.

SENATOR COSTELLO highlighted the importance of appointees' community affiliations. She noted that Mr. McClintock is a project volunteer for Camp Fire Alaska, is involved with the Blood Bank, and has been involved with the Mental Health Land Trust. It's a pattern of giving back to your community. She asked him to comment on the Oberman Writing Award he received while he was in law school.

MR. MCCLINTOCK explained that it is a legacy grant that allows the faculty to select the most distinguished legal paper written during the third year of law school. Ironically, he wrote the paper on financing health care.

CHAIR COGHILL asked if he had attended any commission meetings.

MR. MCCLINTOCK replied he had not had the opportunity.

CHAIR COGHILL requested that he keep his eyes open looking for ways to do things better.

[2:00:17 PM](#)

CHAIR COGHILL asked Jeannine Jabaay to tell the committee about herself and her interest in serving in the public seat of the Judicial Conduct Commission.

2:00:45 PM

JEANNINE JABAAY, Appointee, Judicial Conduct Council, Hope, Alaska, said she is a fourth generation Alaskan with six children, owns two businesses, is involved in foster care and foster adoption, and has served four years as a public member on the Board of Barbers and Hairdressers. When she was asked to apply for this position, she reviewed the complaints the commission addressed the last few years and became knowledgeable about the legal process and the Code of Judicial Conduct. She acknowledged that she has no professional background in law and limited experience in the courts. The latter included a contested adoption that went before the Alaska Supreme Court and two contractual issues regarding her construction company. She said she is objective and is not afraid to make tough decisions and ask hard questions. She is honored to have been appointed and looks forward to serving and being an active participant.

CHAIR COGHILL opined that being a business owner and a mom is eminent qualification to be a good judge of character. He asked if she had attended any meetings.

MS. JABAAY answered no; there hasn't been a meeting since she was appointed.

CHAIR COGHILL asked if she could accept the explanations of the judicial conduct code and remain objective under any pressure from the Alaska Bar Association.

MS. JABAAY said she believes she could be objective; she isn't easily intimidated.

CHAIR COGHILL asked if she found any surprises when she studied the methodology of the Commission on Judicial Conduct.

MS. JABAAY said she didn't realize that judges are held to such a high standard of conduct. It is impressive. She was pleased to see that the commission recommendations she reviewed - going back eight years - were all upheld by the Alaska Supreme Court. She was interested in a recent case in Nome where a judge was repeatedly before the commission and ultimately stepped down. "Overall, I think this is going to be a great opportunity for me to get involved in a totally different part of Alaska."

SENATOR COSTELLO highlighted that Ms. Jabaay held the Mrs. Alaska title in 2007. She is another appointee with a lot of community volunteer experience.

CHAIR COGHILL asked Ms. Bahnke to tell the committee about herself and her interest in serving on the Commission on Judicial Conduct.

[2:07:22 PM](#)

MELANIE BAHNKE, Appointee, Commission on Judicial Conduct, Nome, said she is a lifelong rural Alaskan, the mother of three, and wife to Kevin Bahnke. She has a master's degree in rural development, is the President and CEO of Kawerak, Inc., a board member of the Alaska Federation of Natives and the Alaska Children's Trust, and she serves on the governor's Tribal Advisory Council.

She became interested in the judiciary through the process of facilitating the strategic plan for the Alaska Rural Justice and Law Enforcement Commission. She became aware of the Alaska Commission on Judicial Conduct after a judge from Nome went before the commission on more than one occasion and ultimately stepped down. Prior to that, the late Judge Ben Esch served with distinction for many years. His service sparked her interest in providing public service. Alaska Natives are overrepresented in the correction system but underrepresented in other areas which helped her decide to put her name forward. She believes she can serve without bias and be a proactive participant. She said she attended the February meeting and feels she made the right choice.

CHAIR COGHILL expressed appreciation for the work she has done. He asked if she has found the Code of Judicial Conduct fairly easy to understand.

MS. BAHNKE said she won't claim to be an expert but she does her homework and is a good study. She voiced her commitment to do her best. She does not take the appointment lightly.

CHAIR COGHILL thanked Ms. Bahnke for being willing to serve.

CHAIR COGHILL stated that the names of all appointees would be forwarded in one batch.

**SB 29-REPEAL WORKERS' COMP APPEALS COMMISSION**

[2:14:07 PM](#)

CHAIR COGHILL announced the consideration of SB 29. He welcomed Commissioner Drygas and Director Marx.

HEIDI DRYGAS, Commissioner, Department of Labor and Workforce Development (DOLWD), Juneau, Alaska, stated that SB 29 will repeal the Workers' Compensation Appeals Commission and return the appeals process to the courts. She explained that the commission was created to streamline the appeals process and provide expertise in handling workers' compensation cases. However, since the commission was created in 2005, 50 percent of its decisions on the merits have been reversed by the Alaska Supreme Court. This high reversal rate emphasizes the fact that the commission is ineffective. The commission is essentially an appellate court, but it is not composed of a panel of lawyers. Rather, the lay commissioners have no legal training, so it falls to the commission's chair to resolve the legal issues and write the commission's decisions. Therefore, the commission's decisions are the work of just one person, not the work of a panel with legal expertise in workers' compensation. This is a further departure from the intent of the original legislation. Also, the chair is either a former member of the plaintiff's bar or the defense bar, which raises concerns of bias from both sides.

COMMISSIONER DRYGAS reported that eliminating the Workers' Compensation Appeals Commission is anticipated to save the department over \$220,000 for the remainder of FY18, and over \$440,000 in subsequent years. She emphasized that the impact on the public will be minimal. The Court System, which regularly hears administrative appeals, will see an increase of about 20-30 cases a year. She understands that the Court System can absorb the volume, which is reflected in the zero fiscal note. She concluded, "The commission is a specialty tribunal we can no longer afford in this state's fiscal climate."

[2:17:46 PM](#)

MARIE MARX, Director, Workers' Compensation Division, Department of Labor and Workforce Development (DOLWD) Juneau, Alaska, reviewed the following sectional analysis for SB 29:

**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. It also specifies that the Workers' Compensation Board will be the entity responsible for making sure those decisions are available to the public.

**Section 2** amends AS 23.30.107(b), by removing reference to the appeals commission in existing statutes.

**Section 3** amends AS 23.30.108(d), by removing reference to the appeals commission in existing statutes.

**Section 4** amends AS 23.30.108(e), by removing reference to the appeals commission in existing statutes.

**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 appeals commission to the superior court.

**Section 7** amends AS 39.50.200(b)(31), by removing reference to the appeals 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 [23.30.007,] 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 39.25.110(40); AS 44.64.020(a)(12), and 44.64.020(a)(13). These are statutes that deal with commission proceedings, that reference the commission, that deal with commission appointments, and appeals to the commission.

**Section 11** amends the 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 13** amends the uncodified law of the State of Alaska, by adding a new section relating to applicability of amendments to proceedings pending before the Commission.

**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 appeals 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.

[2:21:31 PM](#)

SENATOR COSTELLO asked for an explanation of rules 602(c) and (h), Alaska Rules of Appellate Procedure. Those are repealed in the title of the House companion bill, but not in SB 29.

MS. MARX deferred the question to Kimber Rodgers with the Department of Law.

[2:22:38 PM](#)

KIMBER RODGERS, Assistant Attorney General, Civil Division, Labor and State Affairs Section, Department of Law, Anchorage, Alaska, explained that those rules relate to notice of appeal and the parties to the appeal. She said they realized they were indirectly amending those rules because the bill permits the director of the Division of Workers' Compensation to file an appeal for review in the superior court or to intervene in an appeal or petition for review in the superior court.

SENATOR COSTELLO summarized that the Senate 29 does not reference those rules in the title, but it's implied in the bill.

MS. RODGERS said that's correct; it's in the bill so it needed to be referenced in the title. The House version also added language explaining the indirect amendment.

CHAIR COGHILL suggested Nancy Meade supplement the explanation.

COMMISSIONER DRYGAS said she understands that the changes in the House version were at the request of the Court System.

[2:25:49 PM](#)

CHAIR COGHILL asked if Section 1 establishes that past decisions of the Workers' Compensation Appeals Commission have legal precedent.

MS. MARX explained that Workers' Compensation Appeals Commission appeals currently have the force of legal precedent. Section 1 ensures that decisions that have occurred remain precedential and binding on the Alaska Workers' Compensation Board.

CHAIR COGHILL asked if the decisions the court makes would also have the force of legal precedent.

MS. MARX replied superior court decisions would not have precedential effect on the Alaska Workers' Compensation Board decisions. She deferred to Ms. Meade to talk about the precedential value of superior court decisions.

CHAIR COGHILL asked if the precedent is nullified if the superior court overturns a decision of the commission.

MS. MARX explained that the appeals commission decisions would not be appealed to the superior court so that court would not have the opportunity to reverse decisions of the appeals commission. Should the bill pass, appeals of Workers' Compensation Board decisions would go directly to the superior court.

COMMISSIONER DRYGAS added that if the commission is repealed, board decisions that are appealed would go straight to superior court and those decisions would not have precedential value on the board. If a case is appealed from the superior court to the Alaska Supreme Court, that decision would have precedential value.

[2:29:37 PM](#)

SENATOR MEYER asked who might oppose the bill.

COMMISSIONER DRYGAS said she anticipates there will be testimony from both sides. However, the testimony in favor of keeping the commission won't address the cost of keeping the commission. She related that when she started as commissioner two years ago she was asked to look at the statutes and identify what was not working that the legislature could undue. The Workers' Compensation Appeals Commission was identified during that process. "It didn't live up to its expectations."

SENATOR MEYER observed that this will not only save the state money but also provide faster resolution of appeals.

COMMISSIONER DRYGAS replied it may not be faster but it will be just as fair. The people she has talked to from the plaintiffs' bar are ready to take a little delay in exchange for returning to the judicial process. The current process with the board and the commission is a double administrative layer. That has always been somewhat a concern.

SENATOR MEYER asked if she said that a large percentage of the decisions were appealed to the Supreme Court.

COMMISSIONER DRYGAS clarified that just a limited number of cases are appealed to the Supreme Court after they go through the commission process. She noted that the case records show that there has been a significant decline in the number of cases that have been appealed from the board to the commission. The anecdotal evidence is that individuals thought they would not get a fair shake, so they settled short of appealing to the commission.

SENATOR MEYER noted that Ms. Meade indicated in a previous committee that this change would not have a fiscal impact on the Court System.

CHAIR COGHILL asked if switching to the court wouldn't have a cost factor for the worker and employer.

[2:37:02 PM](#)

COMMISSIONER DRYGAS replied there is a cost of doing business in the Court System that every citizen faces when they appeal a case. Filing fees and associated costs probably would not

prevent a litigant from appealing a case and she didn't believe attorney fees under either process would differ significantly.

CHAIR COGHILL asked Ms. Meade to discuss the Court System perspective.

[2:39:05 PM](#)

NANCY MEADE, General Counsel and Deputy Administrative Director, Administrative Staff, Alaska Court System, advised that there is a significant difference between SB 29 and the amended House bill. The House committee substitute reflects work she and the department did to ensure that the procedures would be the most effective and efficient possible.

She said the differences between the two bills are primarily in Section 5. They are mostly procedural and probably completely noncontroversial. For example, the amended House bill ensures that the procedure in the statute about when a decision is final and can be appealed aligns with the procedure in the court rules for when cases can be appealed from administrative agencies. The House committee substitute reflects procedural and technical differences that are important to the Court System to ensure a smooth process.

MS. MEADE said the court can absorb these cases without hiring another judge or additional staff, if that is the choice of the legislature. She estimated that the court would get about 33 new cases a year for the superior court judges statewide to handle. Most of the cases would occur in Anchorage where there are 11 superior court judges. She advised that the process probably would not be any faster. She estimated that the average time for the judge to issue a decision might be up to a year.

She explained that it was at her suggestion that the House committee substitute amends Rules 602(c) and (h), Alaska Rules of Appellate Procedure. These were overlooked in the original versions of the bill. "Those are added back in and the Rules attorney will basically cross out appeals commission every time it appears in the appellate rules because they were added to the appellate rules in 2005 when the change occurred."

[2:44:16 PM](#)

CHAIR COGHILL asked if preemption allows a litigant to request a different judge, whereas that option doesn't exist with the commission.

MS. MEADE said yes. She explained that in any court case each party has one chance to bump the assigned judge. There is a five-day time limit for doing so, which would not be a significant delay in the resolution of the case.

2:46:50 PM

CHAIR COGHILL held SB 29 in committee for further review.

2:46:58 PM

There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:46 p.m.