

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

April 5, 2017

1:37 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARINGS

State Board of Parole
Jason Wilson

- CONFIRMATION ADVANCED

Violent Crimes Compensation Board
Nora Barlow

- CONFIRMATION ADVANCED

Select Committee on Legislative Ethics
Joyce Anderson
Deborah Fancher
Lee Holmes

- CONFIRMATIONS ADVANCED

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."

- HEARD & HELD

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. 60

"An Act relating to sport fishing, hunting, or trapping licenses, tags, or permits; relating to penalties for certain sport fishing, hunting, and trapping license violations; relating to restrictions on the issuance of sport fishing, hunting, and trapping licenses; creating violations and amending fines and restitution for certain fish and game offenses; creating an exemption from payment of restitution for certain unlawful takings of big game animals; relating to commercial fishing violations; allowing lost federal matching funds from the Pittman - Robertson, Dingell - Johnson/Wallop - Breaux programs to be included in an order of restitution; adding a definition of 'electronic form'; and providing for an effective date."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: SB 15

SHORT TITLE: E-CIGS: SALE TO AND POSSESSION BY MINOR

SPONSOR(s): SENATOR(s) STEVENS

01/13/17	(S)	PREFILE RELEASED 1/13/17
01/18/17	(S)	READ THE FIRST TIME - REFERRALS
01/18/17	(S)	L&C, JUD
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)
02/21/17	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

02/21/17 (S) Heard & Held
02/21/17 (S) MINUTE(L&C)
02/28/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/28/17 (S) <Bill Hearing Canceled>
03/02/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/02/17 (S) Moved CSSB 15(L&C) Out of Committee
03/02/17 (S) MINUTE(L&C)
03/06/17 (S) L&C RPT CS 4DP NEW TITLE
03/06/17 (S) DP: COSTELLO, HUGHES, MEYER, GARDNER
03/27/17 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/27/17 (S) Heard & Held
03/27/17 (S) MINUTE(JUD)
03/29/17 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/29/17 (S) <Bill Hearing Canceled>
04/03/17 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/03/17 (S) Heard & Held
04/03/17 (S) MINUTE(JUD)
04/05/17 (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)
03/29/17 (S) Heard & Held
03/29/17 (S) MINUTE(JUD)
04/05/17 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

NORA BARLOW, Appointee
Violent Crimes Compensation Board
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Violent Crimes Compensation Board.

DEBORAH FANCHER, Appointee
Select Committee on Legislative Ethics
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Select Committee on Legislative Ethics.

JOYCE ANDERSON, Appointee
Select Committee on Legislative Ethics
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Select Committee on Legislative Ethics.

LEE HOLMES, Appointee
Select Committee on Legislative Ethics
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Select Committee on Legislative Ethics.

JASON WILSON, Appointee
State Board of Parole
Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the State Board of Parole.

JENNIFER BRANDT, representing herself
Wasilla, Alaska

POSITION STATEMENT: Testified in support of SB 15.

ETHAN BRANDT, representing himself
Wasilla, Alaska

POSITION STATEMENT: Testified in support of SB 15.

TIM LAMKIN, Staff
Senator Gary Stevens
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions related to SB 15.

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

POSITION STATEMENT: Provided supporting testimony for SB 29.

PALOMA HARBOUR, Director
Division of Administrative Services
Department of Labor and Workforce Development
Juneau, Alaska

POSITION STATEMENT: Answered questions related to SB 29.

CHARLES L. BRADY, President
Workers' Compensation Committee of Alaska and
Workers' Compensation Manager
Arctic Slope Regional Corporation
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 29.

DAVID HALE
Hale and Associates and
Alaska Independent Insurance Agents and Brokers
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 15.

CONSTANCE LIVSEY, Attorney
Burr Pease & Kurtz
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 29.

CHARLES MCKEE, representing himself
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 29.

ANDREW HEMENWAY, representing himself
Anchorage, Alaska

POSITION STATEMENT: Offered observations and suggestions on SB 29 from his perspective as the former chair of the Workers' Compensation Appeals Commission.

ACTION NARRATIVE

[1:37:59 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:37 p.m. Present at the call to order were Senators Costello, Wielechowski, Meyer, and Chair Coghill. Senator Kelly arrived during the course of the meeting.

CONFIRMATION HEARINGS
State Board of Parole
Violent Crimes Compensation Board
Select Committee on Legislative Ethics

[1:39:20 PM](#)

CHAIR COGHILL announced the first order of business would be confirmation hearings of governor appointees to boards and commissions.

He asked Nora Barlow to tell the committee about her interest in serving on the Violent Crimes Compensation Board.

[1:40:19 PM](#)

NORA BARLOW, Appointee, Violent Crimes Compensation Board, Anchorage, Alaska, said she has been the attorney member of the board since March 2010. It has been an important part of her public service to the state. She has a particular interest in this board because the issues it deals with dovetail with the work she has done during her legal career representing the defense bar. She said she has enjoyed the service and would like to continue for another term. It is an important and worthy cause.

CHAIR COGHILL asked how cases are prioritized.

MS. BARLOW clarified that one class of victims is not prioritized over another. The board looks at each case individually and tries to gather as much information as possible.

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

[1:42:51 PM](#)

SENATOR KELLY joined the committee.

CHAIR COGHILL asked Deborah Fancher to tell the committee about her interest in serving on the Select Committee on Legislative Ethics.

[1:46:30 PM](#)

DEBORAH FANCHER, Appointee, Select Committee on Legislative Ethics, Anchorage, Alaska, said Senator Berta Gardner encouraged her to put in her name. She is a lifelong Alaskan and a retired teacher. She has time to serve and believes this would be an interesting opportunity. She said she is not an attorney, but Jerry Anderson assured her that was not a criterion.

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

SENATOR MEYER voiced support for Ms. Fancher.

[1:49:32 PM](#)

CHAIR COGHILL asked Joyce Anderson to tell the committee about her interest in serving on the Select Committee on Legislative Ethics.

JOYCE ANDERSON, Appointee, Select Committee on Legislative Ethics, Anchorage, Alaska said she was the administrator for the committee for 13 years and worked as a consultant for 2 years. That experience and background will be helpful to the committee. She submitted her name at the request of several committee members.

SENATOR COSTELLO voiced support for Ms. Anderson. "I cannot think of a better person to have on this board."

CHAIR COGHILL said legislators recognize Ms. Anderson's background and expertise and are open to her comments on the ethics laws. He thanked her for being willing to serve.

CHAIR COGHILL asked Lee Holmes to tell the committee about his interest in serving on the Select Committee on Legislative Ethics.

[1:52:39 PM](#)

LEE HOLMES, Appointee, Select Committee on Legislative Ethics, Anchorage, Alaska, said he is a mechanical engineer who has lived in Alaska since 1983. He has worked throughout the state and has served on various social and nonprofit organizations and committees over the years. He has additional time in his schedule now and when Senator Berta Gardner told him there was an opening on the committee, he decided this would be a good way to give back to the state.

CHAIR COGHILL said he found a wonderful comradery when he served on the committee as a legislative member. He thanked Mr. Holmes for being willing to serve.

CHAIR COGHILL asked Jason Wilson to tell the committee about his interest in serving on the State Board of Parole.

[1:56:41 PM](#)

JASON WILSON, Appointee, State Board of Parole, Juneau, Alaska, said he is Tlingit, Eagle Killer Whale Clan. He is currently in Anchorage on Parole Board business. He has been serving for the past year filling a vacant seat. He was asked to apply to serve another term and is happy to do so.

SENATOR MEYER asked if he has any suggestions on how to keep Alaska's youth from becoming part of the correction system and if there are things the board could do to keep that from happening.

MR. WILSON said it's a difficult question, but he believes that a lot of it comes down to parenting - the direction and discipline that is given to children. When he worked at the Johnson Youth Center, he found there was a real absence of parents. When that happens, it is more difficult for kids to learn and understand what it takes to become a productive member of society. One thing that does help provide guidance for youth is sports. Coaches can be invaluable in helping youth that otherwise have little adult presence in their lives.

SENATOR MEYER asked if he has any suggestions for controlling the opioid epidemic.

MR. WILSON said there isn't an easy answer, but additional education in schools about how harmful the drug is to one's body might help deter use. The other piece is diversionary programs. He expressed hope that funds would be put into diversionary programs and treatment facilities as set forth in Senate Bill 91. One thing the Parole Board looks at when someone comes up for parole is whether they have tried to better him/herself and get treatment.

SENATOR MEYER asked him to explain the professional license listed in his resume: FAS/FASD 1997.

MR. WILSON explained that one of his duties working at Tlingit & Haida Central Council was working in the Indian Child Welfare Act (ICWA) Department. One of the trainings related to fetal alcohol syndrome (FAS) and fetal alcohol spectrum disorder (FASD). Someone who has been diagnosed FAS/FASD doesn't look any different, but they have cognitive disorders and their reactions and behavior may fall outside the norm. Because alcohol abuse is so predominant, FAS/FASD is something that plagues Alaska. The training is very worthwhile.

SENATOR MEYER voiced support for Mr. Wilson.

CHAIR COGHILL commented on Mr. Wilson's comprehensive resume in criminal justice and thanked him for his service.

CHAIR COGHILL stated that all the appointee names would be forwarded to the full body for consideration. [This statement was supplemented at the end of the meeting.]

SB 15-E-CIGS: SALE TO AND POSSESSION BY MINOR

[2:06:43 PM](#)

CHAIR COGHILL announced the consideration of SB 15 and noted his intent to continue public testimony. He listed the individuals available to answer questions.

[2:07:51 PM](#)

JENNIFER BRANDT, representing herself, Wasilla, Alaska, testified in support of SB 15. She said that as the mother of a teenager she is deeply concerned about the rise in teen use of electronic nicotine devices. It is of particular concern that the vaping industry appears to target youth in its advertising. She provided an example and urged the committee to pass the bill.

[2:08:56 PM](#)

ETHAN BRANDT, representing himself, Wasilla, Alaska, testified in support of SB 15. He said he is 13 years old and he knows that vaping at a young age makes it more likely the person will smoke when they are an adult. He concluded saying, "To protect the future of Alaska, say yes to SB 15."

SENATOR WIELECHOWSKI asked where students in his school get vaping supplies.

MR. BRANDT said he did not know.

CHAIR COGHILL, noting that the legislative drafter was not available, asked the sponsor if the language in Section 3 clarifies that electronic smoking products must be purchased over the counter; it prohibits internet sales, which would include adults.

[2:11:37 PM](#)

TIM LAMKIN, Staff, Senator Gary Stevens, Alaska State Legislature, confirmed that Section 3 says that sales must be under the control of a sales clerk. He said it could be argued that in internet sales there is a clerk sitting at a computer terminal and is in control of transactions. "The vender, say in Carolina - wherever - would have a reasonable responsibility to confirm who is making that purchase."

CHAIR COGHILL said he'd like to talk with the drafter about internet sales.

MR. LAMKIN clarified that the sponsor does not want this legislation to get into tax questions. The focus of the bill is limiting youth access to electronic smoking products and devices. He cited AS 43.50.105 that addresses restrictions on shipping or transporting cigarettes and opined that internet sales of electronic smoking products should be addressed in that section of law. That is outside the scope of the bill.

CHAIR COGHILL pointed out that AS 11.76.106(a) prohibits the sale of products containing tobacco in areas where the sales clerk does not control access. That applies to all ages.

MR. LAMKIN said an investigator with the Department of Revenue is available to answer questions.

[2:14:31 PM](#)

SENATOR MEYER asked how age is verified when the sale is conducted online.

CHAIR COGHILL said cigarettes are not sold online in Alaska because of the taxation issue.

MR. LAMKIN reiterated that the sponsor is not interested in addressing taxes in SB 15. "Once we get this basic policy in place, we can turn, later, to the taxing, including internet sales."

CHAIR COGHILL said he wanted the committee to be aware that the bill potentially would prohibit adults from purchasing electronic products over the internet. He said he did not want to delay progress on the bill, but that question needs to be answered. He suggested a solution could be to include permissive language.

MR. LAMKIN cautioned that introducing that sort of language for internet sales will compel the Department of Revenue (DOR) to investigate. That will trigger a fiscal note.

SENATOR COSTELLO asked if the sponsor's intent is to prohibit internet sales of electronic smoking products in Alaska.

MR. LAMKIN said no, but in the context of prohibiting sales to youth it would be an acceptable unintended consequence. It is already illegal in Alaska to purchase cigarettes over the

internet, so it might be reasonable to ask whether the sale of e-cigarettes should also be prohibited.

[2:18:44 PM](#)

CHAIR COGHILL held SB 15 in committee for further consideration.

SB 29-REPEAL WORKERS' COMP APPEALS COMMISSION

[2:1229:35 PM](#)

CHAIR COGHILL announced the consideration of SB 29 and stated his intention to take public testimony. He asked Commissioner Drygas if the bill has a companion.

[2:20:25 PM](#)

HEIDI DRYGAS, Commissioner, Department of Labor and Workforce Development (DOLWD), Juneau, Alaska, said the House Judiciary Committee passed a committee substitute (CS) at the request of the Court System. The changes were technical in nature.

SENATOR MEYER asked if the \$443,000 savings reflected in the fiscal note is a savings to the designated general fund.

COMMISSIONER DRYGAS said that's correct; the money would remain in the Workers' Safety Compensation Administration Account (WSCAA). It is a designated general fund account that funds several of the department's programs for workers' compensation and occupational safety and health.

SENATOR MEYER observed that this would not have any impact on the budget.

COMMISSIONER DRYGAS said it should not impact the undesignated general fund budget, but it will save the state money because the department will spend \$440,000 less. The Court System submitted a zero fiscal note indicating that it could absorb the additional caseload. She noted that the WSCAA account is being drained at a faster rate than it is being replenished due to the programs the legislature tasked the department to run without additional funding. The workers' compensation fraud unit is an example.

SENATOR MEYER commented that this change gives the department \$440,000 to use elsewhere.

COMMISSIONER DRYGAS said that's correct but it must be used for workers' safety programs. She added, "If we were to deplete our

WSCAA funding, we wouldn't have to augment that funding with undesignated general fund monies."

SENATOR MEYER asked how the WSCAA account is funded and who pays for it.

COMMISSIONER DRYGAS deferred budget questions to Paloma Harbour.

[2:27:18 PM](#)

PALOMA HARBOUR, Director, Division of Administrative Services, Department of Labor and Workforce Development, Juneau, Alaska, explained that funding the Workers' Safety Compensation Administration Account is part of the workers' compensation costs for an employer. Payments are based on a percentage of the workers' compensation premiums written from insurance companies and self-insured employers. Responding to an additional question she said that freeing up this money will help the WSCAA fund last longer.

SENATOR MEYER said he initially thought this would show as a savings to the overall budget.

SENATOR WIELECHOWSKI pointed out that the costs to run the commission will go away if appeals are returned to the superior court. Those monies can then be used for things within the Department of Labor and Workforce Development (DOLWD) or go back to the general fund.

MS. HARBOUR said in FY2013 the department moved some of the workers' safety programs onto unrestricted general funds because of a fund insufficiency in the WSCAA account. Doing away with the commission will prevent the department from having to do that in the future. "We're looking at a three-year cliff before we're out of balance in this account and unable to support the other programs."

COMMISSIONER DRYGAS added that when the commission was created in 2005, the department was required to use existing funds to stand up that component as well as the fraud unit. It has been a significant drain on the WSCAA funds.

[2:31:44 PM](#)

CHARLES L. BRADY, President, Workers' Compensation Committee of Alaska; and Workers' Compensation Manager, Arctic Slope Regional Corporation, Anchorage, Alaska, said he is testifying in opposition to SB 29 and he submitted written testimony to that effect on behalf of WCCA in March. The foremost concern is that

returning appeals to the superior court would result in significant delays. The assumption is that workers' compensation cases would be given lower priority than all other cases. He estimated it could take up to 18 months to get a case heard and that the litigation would be a long, drawn-out process. He opined that the cases would ultimately end up in the Alaska Supreme Court.

[2:35:03 PM](#)

DAVID HALE, representing Hale and Associates and Alaska Independent Insurance Agents and Brokers, Anchorage, Alaska, said he is testifying in opposition to SB 15. He said he has been in the insurance business for more than 30 years and his recollection is that before the commission was created the process was cumbersome for both the employer and the insurance carrier. He said if the current process satisfies 50 percent of the cases it's worth keeping. He suggested tweaking the current process so that 75 percent of the claimants are satisfied. He predicted that returning the appeals to the superior court would add costs and time delays to both the carrier and the employer. The time delay of up to 18 months would also disadvantage the employee. He concluded saying, "I'd hate to see us go back to where we were prior to '05."

CHAIR COGHILL asked if he said that part of the workers' compensation assessment is designated for workers' compensation issues.

MR. BRADY said yes; the tax on each premium goes to the state. "That's where this funding comes from for that \$440,000."

CHAIR COGHILL commented that that is the designated general fund Senator Meyer spoke of.

MR. BRADY agreed.

SENATOR MEYER asked how long it takes under the current process to get a case resolved.

MR. BRADY replied it depends of the availability of the committee, but it can be one or two months.

[2:38:18 PM](#)

CONSTANCE LIVSEY, Attorney, Burr Pease & Kurtz, Anchorage, Alaska, said she is speaking in opposition to SB 29 and in support of maintaining the commission. She said she has practiced workers' compensation law in Alaska since 1988. She

has experience with both the superior court and the appeals commission process and the latter has far more advantages for practitioners. Specifically, the advantages are knowledge, experience, and consistency. The commissioners know this area of law, whereas superior court judges do not. "This is terra incognita to them." The results under the former process were inconsistent and non-precedential and appeals to the Alaska Supreme Court were much more inevitable.

MS. LIVSEY opined that the projected cost savings in the bill is an illusion because there will be more appeals to the Alaska Supreme Court. She noted that Ms. Meade testified in the other body that this would be an added workload for the superior court and these cases would not take precedence. She opined that the precedential value of the appeals commission decisions over time create a body of law that helps make cases before the board more predictable, helps employees and employers understand the law, and has generally brought about a more efficient, economical, and streamlined adjudication process.

CHAIR COGHILL, noting that superior court decisions do not have precedential value, asked her to comment of the value precedence.

MS. LIVSEY said the fact that commission decisions are precedential adds consistency to the body of law and adds consistency and predictability to the proceedings at the board level.

CHAIR COGHILL asked how often there were preemptory challenges prior to 2005 and if that accounted for the lengthier process.

MS. LIVSEY said she does not recall a lot of preemptory challenges of judges; the delays were a matter of the workload and the fact that the cases can be complex.

[2:45:56 PM](#)

CHARLES MCKEE, representing himself, Anchorage, Alaska, testified in opposition to SB 29. He read excerpts of the 10 page document he wrote. He characterized himself as a victim and debt slave. He asserted that the conversion is unlawful because it is done without full disclosure.

[2:49:39 PM](#)

ANDREW HEMENWAY, representing himself, Anchorage, Alaska, advised that he is speaking on SB 29 on his own behalf as the former chair of the Workers' Compensation Appeals Commission. He

noted that the testimony in support of the bill has been based on the financial benefits and the notion that the commission decisions tended to favor one party over the other. He suggested that a possible solution is to place the workers' compensation appeals in the Office of Administrative Hearings. That body conducts hearings at the trial level like the Workers' Compensation Board. It has a good reputation for fairness and impartiality. That is one way to address the fairness concerns in the workers' compensation community. He said that can be addressed in several ways some of which would entail restructuring the commission. Providing preemptory challenges to the administrative law judge (ALJ) assigned to the case would provide an outlet for people who feel that one side or the other is being favored.

Regarding impacts on the process, he said it is generally recognized that the court system will not be able handle these appeals as quickly as the appeals commission. That will have an impact on all the parties. Also, because it is common for pro se litigants to appear before the appeals commission, they will receive more help from staff there than from the superior court.

He said the consistency that was mentioned in previous testimony is the result of the appeals commission having precedential value. That is an important aspect that would be lost if the appeals are returned to superior court. The last point is regarding the lay commissioners. They are not attorneys, so they are not as knowledgeable about the arcane intricacies of the law, but they provide valuable insights and a common sense approach.

MR. HEMENWAY suggested the legislature consider the alternative approach of sending the appeals to a forum in the Office of Administrative Hearings. If the legislature instead decides to send these appeals back to the superior court, the legislation should include a provision that gives the decisions of a superior court judge the same degree of precedential value for administrative proceedings that the appeals commission has now.

[2:55:47 PM](#)

SENATOR COSTELLO asked what percentage of the appeals commission cases are reversed by the Alaska Supreme Court.

MR. HEMENWAY recalled that of 250 published decisions by the Alaska Workers' Compensation Appeals Commission, about 100 have gone to the Alaska Supreme Court. About 30 of those cases were the subject of an Alaska Supreme Court opinion and about half

were reversed. Initially, the court reversed quite a few of the appeals commission decisions, but in more recent years they have been upheld more often than not. He added that the record shows that when the superior court was the initial appellate body it had a similar track record; of the cases that were the subject of a decision, 10-15 percent of the decisions were reversed on appeal.

[2:58:26 PM](#)

SENATOR WIELECHOWSKI asked how many cases the appeals commission hears each year.

MR. HEMENWAY estimated 15 to 20 per year.

SENATOR WIELECHOWSKI calculated the cost under the current process. "So, we're doing 15-20 per year and we're paying nearly \$0.5 million for that when the superior court could be doing it for nothing; and there is roughly a 50 percent reversal rate." He asked if that's accurate.

MR. HEMENWAY clarified that the reversal rate is calculated on the total body of decisions. That is about 10-15 percent. Of the cases that were decided by the Alaska Supreme Court, both the superior court and the appeals commission were reversed about half the time. He added that most of the cases are settled or dismissed before a final decision and in that situation the appeals commission decision stands.

SENATOR WIELECHOWSKI asked if it's common for administrative law judges to hear appeals of lower body decisions.

MR. HEMENWAY said no; their function is largely equivalent to the Workers' Compensation Board.

CHAIR COGHILL held SB 29 in committee for further review.

CONFIRMATION HEARINGS

[3:00:56 PM](#)

CHAIR COGHILL stated that in accordance with AS 39.05.080 the Senate Judiciary Standing Committee reviewed the following and recommends the appointments be forwarded to a joint session for consideration: State Board of Parole - Jason Wilson; Violent Crimes Compensation Board - Nora Barlow; and Select Committee on Legislative Ethics - Joyce Anderson, Deborah Fancher, and Lee Holmes.

He reminded members that signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees, and that the nominations are merely forwarded to the full legislature for confirmation or rejection.

[3:01:47 PM](#)

There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 3:01 p.m.