

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 7, 2017

1:33 p.m.

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Shelley Hughes, Vice Chair
Senator Kevin Meyer
Senator Gary Stevens
Senator Berta Gardner

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 45

"An Act relating to an exemption from the regulation of construction contractors."

- HEARD & HELD

WORKERS' COMPENSATION OVERVIEW

- HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 45

SHORT TITLE: EXEMPTION: LICENSING OF CONTRACTORS

SPONSOR(s): LABOR & COMMERCE

02/01/17	(S)	READ THE FIRST TIME - REFERRALS
02/01/17	(S)	L&C, FI
02/07/17	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

JULIANA MELIN, Staff
Senator Mia Costello
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 45 on behalf of the Senate Labor and Commerce Committee.

JANEY HOVENDEN, Director
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community and Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions and provided information related to SB 45.

AARON WELTALLEN, representing himself
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 45.

JEFF TWAIT, licensed builder
Kenai Peninsula Builders Association
Kenai, Alaska

POSITION STATEMENT: Testified in support of SB 45.

BRANDON SNODGRASS, Director
Alaska State Home Building Association
Treasurer, Anchorage Home Builders Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 45.

JACK HÉBERT, Chief Executive Officer/Founder
Cold Climate Housing Research Center
Fairbanks, Alaska

POSITION STATEMENT: Provided supporting testimony on SB 45.

PATRICK DALTON, representing himself
Delta Junction

POSITION STATEMENT: Testified in opposition to SB 45.

PAUL MICHELSON JR. representing
Alaska State Homebuilding and
Anchorage Homebuilder Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 45.

LINDA BRUCE, Attorney
Legislative Legal Services
Legislative Affairs Agency
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions related to SB 45.

HEIDI DRYGAS, Commissioner
Alaska Department of Labor & Workforce Development
Anchorage, Alaska

POSITION STATEMENT: Provided information during the overview of the Workers' Compensation System.

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

POSITION STATEMENT: Delivered an overview of the Workers' Compensation System.

ACTION NARRATIVE

[1:33:21 PM](#)

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Stevens, Gardner, Meyer, Hughes, and Chair Costello.

SB 45-EXEMPTION: LICENSING OF CONTRACTORS

CHAIR COSTELLO announced the consideration of SB 45. She advised that the intent is to hear the bill, take public comment, and hold it for further consideration.

[1:34:54 PM](#)

JULIANA MELIN, Staff, Senator Mia Costello, introduced SB 45 on behalf of the Senate Labor and Commerce Committee paraphrasing the following sponsor statement:

Senate Bill 45 provides better protections for consumers purchasing a home from an unlicensed builder.

Following the housing market crash of the 1980s, the Alaska State Legislature raised the standards for homebuilders. Residential contractors were required to obtain a state-license, a residential endorsement, bonding, and insurance. In addition, programs on energy ratings and efficiency were established through the Alaska Housing Finance Corporation. These efforts helped Alaska develop a home construction industry that offers quality options for home buyers that are efficient and affordable.

Currently state law provides an exemption that allows individuals to build structures without a contractor license. Alaska law AS 08.18.161 allows anyone to build one structure every two years without a license. While the exemption was intended to allow Alaskans to build their own home, the industry is seeing a growing number of individuals using the exemption to operate construction businesses.

In 2013, the Mat-Su Home Building Association estimated that almost one-half of all new construction home sales in their area were from unlicensed construction companies. Without a construction contractor license, unlicensed builders avoid requirements for bonding and insurance that apply to licensed builders. The wording of the exemption creates enforcement problems and allows for potential abuse by those who would seek to build homes for sale without the required state license.

Senate Bill 45 helps prevent abuse of this exemption. The bill would require anyone who builds and sells a home without a contractor license to disclose the fact that they do not have a license to the state within two years of completing construction. Senate Bill 161 does not prohibit owner-builder construction or require any form of state approval, it simply calls for disclosure to the Department of Commerce, Community & Economic Development for builders selling structures without a license.

SB 45 is supported by the Alaska State Home Building Association.

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MS. MELIN provided a sectional analysis for SB 45.

Section 1 adds the following legislative intent language:

It is the intent of the legislature that the exemptions listed in AS 08.18.161, as amended by sec. 3 of this Act, be construed broadly to allow individuals the freedom and ability to construct and sell their own homes based on their own discretion.

Section 2 adds a new subsection (b) clarifying when the Department of Commerce, Community and Economic

Development should investigate whether a home builder who has listed his house for sale is operating a business for which he/she would need a contractor's license.

Section 3 makes a series of technical changes that appear on page 2, lines 22-30. They make conforming changes and add language that clarifies the exemptions. Language is added on page 3, lines 2-6, to clarify that a disclosure must be filed with the state if an owner sells a structure or advertises it for sale within two years after construction begins.

Section 4 adds an applicability section. For the purposes of this law, it defines beginning of construction as either when construction begins on a structure or when an owner enters into an agreement with another person to provide labor, act as a sub-contractor, or provide materials for construction.

MS. MELIN listed the individuals available to testify and answer questions.

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SENATOR GARDNER said she likes the bill but wonders what the consequences are for somebody who fails to comply.

MS. MELIN deferred the question to Ms. Hovenden with the Division of Corporations, Business and Professional Licensing.

SENATOR GARDNER said she reviewed the testimony from last year when similar legislation was heard, and some people indicated that the bill would have greater impact in rural Alaska where there is less access to licensed builders. She asked if there has been pushback from that area.

MS. MELIN replied some of the contractors will address the effect in rural areas in particular.

[1:40:48 PM](#)

SENATOR MEYER asked how this bill differs from the one last year.

MS. MELIN said the primary difference is that SB 45 defines the two-year timeline as starting with the beginning of construction. The bill last year was ambiguous in that regard.

SENATOR MEYER asked why the bill didn't pass last year.

MS. MELIN deferred the question.

CHAIR COSTELLO invited Ms. Hovenden to comment on the bill.

[1:42:08 PM](#)

JANEY HOVENDEN, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED) responded to Senator Gardner's question about the penalty for failing to comply with provisions in the bill. She explained that circumventing the home builder's law would fall under unlicensed practice in Title 08.

SENATOR GARDNER asked her to describe the consequences.

MS. HOVENDEN offered to follow up with the information.

SENATOR MEYER expressed interest in getting that information. He asked if the zero fiscal note is realistic given the potential need to investigate.

MS. HOVENDEN said the qualifier is the language that says, "when circumstances indicate that the owner is operating a business for which the owner is required to register." Any irregularity would have to come to the division's attention and that is happening now. She anticipates this form could be downloaded from the division's website. Because the forms would be from homeowners rather than licensees, the names would be listed in an Excel spreadsheet and could be searched that way.

SENATOR MEYER asked how the two-year timeframe came about.

MS. HOVENDEN said she didn't know.

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SENATOR STEVENS noted that the committee heard that in 2013, half of the construction in Mat-Su involved unlicensed builders. He asked if she has statistics on the number of unlicensed builders statewide.

MS. HOVENDEN said she did not have statistics on unlicensed builders in Mat-Su or statewide.

[1:46:12 PM](#)

SENATOR HUGHES asked how the penalties compare to the cost of the license and if there is anything to prevent repeat offenses.

MS. HOVENDEN offered to follow up with an answer.

[1:46:56 PM](#)

CHAIR COSTELLO opened public testimony on SB 45.

[1:47:21 PM](#)

AARON WELTALEN, President, Alaska State Home Building Association and President, Interior Alaska Building Association, testified in support of SB 45. Responding to an earlier question about why the bill didn't pass last year, he said the sponsor opted to pull the bill. He said these associations support the bill to ensure that people can't build home after home without a license or bonding. He emphasized that this is in the best interest of consumers.

SENATOR STEVENS asked if the two-year window couldn't be circumvented easily by starting excavation then waiting a year and one-half to start building.

MR. WELTALEN said it's been a difficult issue, but he is satisfied with the two-year timeline in SB 45.

CHAIR COSTELLO clarified that the bill went through the process in the Senate and the sponsor withdrew the bill on the House floor.

[1:49:20 PM](#)

JEFF TWAIT, licensed builder, Kenai Peninsula Builders Association, testified in support of SB 45. He said a lot of work has gone into this bill and it's time it passed. Other than this being a consumer protection bill, it levels the playing field by ensuring that people who build homes as a business adhere to the licensing and bonding requirements. It's a matter of fairness.

[1:50:31 PM](#)

BRANDON SNODGRASS, Director, Alaska State Home Building Association and Treasurer, Anchorage Home Builders Association, testified in support of SB 45. He said he is also in charge of construction lending for First National Bank Alaska and has seen the ramifications of owner-built homes on consumers. Last year someone who was using a licensed builder applied for a loan but couldn't be accommodated because the appraisal only used comparables that were owner/builder homes and all of them had sold for quite a bit below market. He opined that as more and more homes built by unlicensed builders go on the market, all

home values will be affected. It will also make it more difficult to obtain financing.

SENATOR STEVENS asked if all licensed contractors are members of the Alaska State Home Building Association.

MR. SNODGRASS answered no

SENATOR STEVENS said he would like to see where the licensed contractors are located and the size of communities where there are few to no licensed contractors. He acknowledged that wouldn't be Mr. Snodgrass's purview.

MR. SNODGRASS said the Department of Commerce, Community and Economic Development would likely have that information. He disclosed that he has financed homes for owner/builders for the purpose of selling when it makes sense. He also described a situation where a group was obviously skirting the rules and getting preferential treatment.

[1:54:45 PM](#)

CHAIR COSTELLO asked what recourse a family has after they have taken possession of an owner-built home and there are problems.

MR. SNODGRASS said there is no recourse if the builder is unlicensed.

CHAIR COSTELLO asked if the requirement for an owner/builder to fill out a form and submit it to the department is overly onerous.

MR. SNODGRASS answered no, it's nothing compared to what he requires for them to get a loan.

[1:55:39 PM](#)

SENATOR GARDNER observed that passage of this bill would increase the cost of new homes for everyone.

MR. SNODGRASS opined that it will return prices to the level they should be. He added that homes built by licensed builders are generally a better product.

SENATOR GARDNER asked if an owner/builder who is not a licensed contractor is able to offer workers' compensation benefits and insurance coverage to someone working with him/her; and if the owner/builder can offer a warranty that has backing.

MR. SNODGRASS said he didn't know for sure.

[1:58:11 PM](#)

SENATOR HUGHES asked if bankers and mortgage lenders will be watching to ensure the owner/builder files the required form because some people may not be aware it is a requirement.

MR. SNODGRASS said he's not in the mortgage business, so he didn't know if that's something they'd track.

[2:01:06 PM](#)

At ease

[2:02:33 PM](#)

CHAIR COSTELLO reconvened the meeting and recognized Patrick Dalton as the next testifier on SB 45.

[2:03:18 PM](#)

At ease due to technical difficulties

[2:06:36 PM](#)

CHAIR COSTELLO reconvened the meeting and asked Mr. Hébert to respond to Senator Gardner's earlier questions.

[2:07:29 PM](#)

JACK HÉBERT, Chief Executive Officer/Founder, Cold Climate Housing Research Center, Fairbanks, Alaska, said he has been a licensed general contractor with a residential endorsement for 40 years.

SENATOR GARDNER asked if he agrees with testimony last year that the bill would have a greater effect in rural communities because there are fewer licensed builders.

MR. HÉBERT said he didn't believe so; in rural areas, most of the building other than by owner/builders is done by the housing authorities.

SENATOR HUGHES asked if there is any concern that energy efficient homes that are built by an unlicensed builder might have ventilation problems that cause health issues. She noted that this might be another consumer protection aspect.

MR. HÉBERT said that is a huge problem in both newer, tighter homes and older homes that have poor ventilation. Solving the problem is a matter of education and understanding that good indoor air quality is essential. The Cold Climate Housing

Research Center has developed affordable systems such as brHEAThe that provides fresh air and high efficiency heating in an energy efficient building.

SENATOR HUGHES ask if there is a problem that Alaskans unknowingly buy homes with poor air quality because some owner/builders don't have the training and put in ventilation systems incorrectly.

MR. HÉBERT said there are thousands of homes in Alaska that have poor ventilation because of poor building science and lack of builder education. It's particularly problematic when a builder uses part of a technology but not the whole package. That's why licensed contractors are required to take continuing education in several areas including ventilation.

SENATOR HUGHES commented that we can conclude that people who repeatedly sell their owner-built homes probably aren't getting adequate training increasing the potential that Alaskans are living in homes that don't have good air quality.

MR. HÉBERT added that the home is likely going to be unhealthy throughout the life of the building.

SENATOR STEVENS asked how many hours of training it takes to become a contractor.

MR. HÉBERT said 16 hours of continuing education is required every two years.

[2:13:58 PM](#)

PATRICK DALTON, representing himself, Delta Junction, testified in opposition to SB 45. He said he has no problem with this type of regulation in the organized areas of the state, but he would like an exemption for people living in the unorganized areas of Alaska. He said the people that live in the unorganized areas are different. "There is more of a liberty mindedness out here ... and we appreciate the absence of regulation." He maintained that imposing unnecessary regulations on people that don't want it will cost the state money. Requiring people to fill out paperwork when they sell their house is going too far, he said. He pointed out that the legislature sits as the assembly for the unorganized borough and as such has the responsibility of representing that population and listening to their requests. He suggested providing incentives to get people to do a good job when they build instead of passing unwanted regulations.

[2:18:08 PM](#)

PAUL MICHELSON JR., Alaska State Homebuilding, and Anchorage Homebuilder Association, testified in support of SB 45. He refuted the previous testimony arguing that the unorganized areas need this type of regulations more than the organized areas. He cited examples of problems he has seen when people purchased owner-built homes. The first was a 14-month-old home outside of Wasilla that had a failed septic system. Upon further investigation he found some of the floors were out of level and the walls were out of square. The builder of record could not be found and the cost to replace the septic system and bring the floors and walls up to standard cost about \$23,000. The second example was a home outside Soldotna in the unorganized borough. This was the third house that owner/builder had sold. He was asked to inspect the home and found 18 code infractions. These included no bolts fastening the house to the foundation, a bedroom egress window that was too small to meet fire codes, and an undersized gas pipe to the house. He said he didn't know if the house sold, but if it did it was probably a cash sale.

MR. MICHELSON said those are the kinds of issues that arise when builders are unlicensed, and it's the end user that suffers the consequences. Referring to earlier questions, he agreed with Mr. Hébert that indoor air quality is a serious issue and that continuing education is critical to ensure the health and safety of the end user. When problems arise it's generally a matter of the building not being constructed to code and there is usually zero recourse other than filing a civil lawsuit.

Referring to Senator Steven's question, he said the two-year timeline was a compromise. The problem with the bill last year was that the starting point for the timeline was subjective. SB 45 establishes that the timeline starts at the beginning of the project, which is customarily when the footing and foundation is put in place. He urged the committee to pass the bill, adding that it should have happened last year.

[2:28:08 PM](#)

CHAIR COSTELLO asked if his understanding is that the bill places no additional requirements on an owner/builder who builds his/her own home. She cited the new language on page 3, lines 2-6, that requires the owner/builder to file a form with the department indicating that they are "not engaged in a business for which the owner is required to register as a contractor under this chapter;". She asked if he agrees that other than dating, signing, and filing the form no other requirements are imposed on the owner/builder.

MR. MICHELSON said that's correct. He added that the legislature not only sits as the assembly for the unorganized borough, it also sits as the representative of all the citizens of the state. Thus it sits to represent the uneducated buyers of these homes. The bill simply clarifies the rules for owner/builders who sell their home and are not registered as a contractor.

CHAIR COSTELLO asked if he agrees that the bill does not provide a penalty. Filing the form with the department simply provides information for consumer protection purposes.

MR. MICHELSON said he understood the department representative say she didn't know if there was a penalty but would follow up with an answer. He said he believes there should be a penalty, but he didn't want to slow the bill by suggesting that that amendment.

CHAIR COSTELLO asked if owner/builders are unique to Alaska or if this is an issue in other states.

MR. MICHELSON said the requirements vary, but the issue is not as prevalent in other states.

SENATOR HUGHES asked if there would be a penalty for innocent lack of knowledge of the requirement if the person clearly was not engaged in a business. She expressed hope that those individuals would not be penalized; they would just be asked to submit the form.

MR. MICHELSON said he didn't know but he believes that infractions tend to occur when there isn't a penalty for an infraction.

SENATOR HUGHES clarified that she is asking about a person who is not running a business but must sell within the two-year timeframe.

MR. MICHELSON said he believes the bill has a provision to addresses that.

CHAIR COSTELLO asked Ms. Bruce to respond to the last two questions.

[2:35:56 PM](#)

LINDA BRUCE, Attorney, Legislative Legal Services, Legislative Affairs Agency, Alaska State Legislature, said this version of the bill does not include anything related to an exception to the exemptions [listed in AS 08.18.161}. Regarding the penalty, she said it appears that a person who didn't submit the form could be issued a citation for a violation under AS 08.18.117.

SENATOR HUGHES asked what the fine would be. She clarified that she was talking about a well-meaning person who was not engaged in a business and didn't know to submit the form.

MS. BRUCE said she couldn't answer that at this time, but it would be minimal.

SENATOR GARDNER said she isn't sure there is any consequence whatsoever for violating the statute should the bill pass. Someone could get a citation and go on and build another house.

MS. BRUCE explained that if the department investigated and found the owner was running a business without registering as a contractor under that chapter, additional provisions might apply. For example, the department could issue an administrative fine or petition the superior court to issue a civil penalty or injunction. Under certain facts the person may be guilty of a class B misdemeanor.

[2:39:10 PM](#)

SENATOR GARDNER asked if adding language authorizing a penalty would result in a positive fiscal note.

MS. BRUCE deferred the question to the department.

SENATOR STEVENS said he, too, would like more information because cities and boroughs also have building codes. In his community substantial fines are attached to those violations.

MR. MICHELSON offered to serve as a resource to the committee members going forward.

[2:40:39 PM](#)

CHAIR COSTELLO closed public testimony on SB 45 and held the bill in committee.

[2:40:56 PM](#)

At ease

Workers' Compensation Overview

[2:45:13 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the next order of business is an overview of workers' compensation by Heidi Drygas the Commissioner of the Alaska Department of Labor & Workforce Development and Mari Marks, the Director of the Division of Workers' Compensation. She noted a bill was forthcoming.

[2:45:58 PM](#)

HEIDI DRYGAS, Commissioner, Alaska Department of Labor & Workforce Development (DOLWD), said the department was asked to present an overview of workers' compensation: how it works, a lookback at key numbers, an update on the Medical Services Review Committee, and a discussion of the challenges the division is facing. She noted that Ms. Marx would deliver the overview.

[2:46:55 PM](#)

MARIE MARX, Director, Division of Workers' Compensation, Department of Labor and Workforce Development (DOLWD) explained that the division administers the Alaska Workers' Compensation Act, the intent of which is set out in statute. She read the mission statement which is to ensure quick, efficient, fair and predictable delivery of benefits to injured workers at a reasonable cost to employers. She relayed that workers' compensation is a system of insurance that is designed to protect workers and employers from losses caused by job-related accidents and illnesses. All 50 states have these laws.

She described the insurance system as the grand compromise. The employer pays medical and wage replacement benefits to an injured worker. In exchange, the injured worker receives limited benefits and gives up the right to sue the employer. It is a no-fault system that does not provide compensation for non-economic or punitive damages.

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MS. MARX said the benefits include medical care, wage replacement benefits, death benefits, and retraining benefits. In the event of an injury, the employee notifies the employer of the injury, the employer reports the injury to the division, and the employer begins to pay benefits. In the event of a dispute, the injured worker files a claim with the Alaska Workers' Compensation Board. The employer may admit or deny the claim. If the claim is denied, the parties engage in discovery and submit the records to the board. If the case isn't settled, either

party may request a hearing. The entire board has 18 members, but the hearing is conducted by a board panel consisting of one labor member, one industry member and one attorney staff member who chairs the hearing and rules on evidence. The board evaluates the opinions from the employee's doctor and the employer's medical evaluator. If those opinions disagree, the parties can request a second independent medical evaluator. The panel deliberates and issues a decision.

[2:50:58 PM](#)

MS. MARX said the workers' compensation requirements say that an employer with one or more full or part-time employees must purchase and maintain insurance policies to cover their employees. This includes employees who are friends and family. Independent contractors are not employees and as such they are responsible for the losses they may experience. She highlighted that some employers try to avoid paying premiums by misclassifying their employees as independent contractors. This gives those employers an unfair economic advantage. Current law does not define independent contractor, but the current, multifactor test is set out in board regulation.

An employer who fails to insure their employees may be subject to civil penalties. She highlighted that the special investigation unit's priority is to ensure that insurance policies are in place to prevent uninsured losses thereby protecting both employees and employers. The division gives general and industry-specific employer workshops to help employers understand how to protect themselves against uninsured injuries.

[2:52:42 PM](#)

MS. MARX provided data on the number of Alaska workplace injuries reported, claims filed, and total compensation payments made. She pointed out that injury frequency has generally declined from 2006-2015. In each of those years the division received about 20,000 injury reports and about 1,200 claims were filed. Total compensation payments have increased over time; in 2015 just over \$300 million in workers' compensation benefits were paid.

[2:53:31 PM](#)

MS. MARX reviewed the program challenges the division is actively working to address. The first is rising medical costs and their impact on workers' compensation premiums. She said Alaska has one of the highest workers' compensation premium rates in the nation and the primary cost driver is medical

costs. For Alaska that represents approximately 76 percent of the total claim costs. To help contain those costs the legislature in 2014 passed House Bill 316 that established the Medical Services Review Committee (MSRC). The committee made recommendations regarding the workers' compensation fee schedule that were put into regulation. This resulted in an estimated reduction in overall system costs of 3.7 percent. As required by the governing legislation, the committee will continue to meet annually and make recommendations on how to adjust the fee schedule.

Providing timely dispute resolution is another program challenge. The governor introduced SB 40 that will address these inefficiencies and speed up the dispute resolution process.

The declining Workers' Safety and Compensation Administration Account (WSCAA) balance is another program challenge. This program was established in 2000 to create a stable funding source for the state's workers' compensation and worker safety programs. Revenue is collected through service fees from insurance companies and it provides economic incentives for employers to provide safe work environments. The WSCAA balance has declined over time. One reason is that revenue into the account was not increased when the legislature created the Workers' Compensation Appeals Commission. Should the governor's legislation to repeal the Workers' Compensation Appeals Commission pass, WSCAA costs would be reduced by about \$440,000 per year. That bill is SB 29. The governor's omnibus bill also addresses the declining balance by allocating to the department a larger percentage of the annual service fees insurers pay.

Prosecuting civil and criminal worker misclassification and failure to insure cases is a very costly challenge. Current statutory penalties are extremely high and don't withstand review on appeal. They are often contested which increases litigation costs and employer defaults. The governor's omnibus bill will streamline the process of imposing civil penalties by changing the calculation and the maximum civil penalty to an easier calculation.

[2:57:12 PM](#)

MS. MARX highlighted the pillars of the Alaska Workers' Compensation System - quick, efficient, fair, predictable, and reasonable cost, that guide the division's administration of the Workers' Compensation Act. She said the governor's omnibus workers' compensation bill addresses all the pillars focusing on fairness, efficiency, and quickness in the process. This is done

by speeding up dispute resolutions, improving delivery of benefits to injured workers, strengthening fraud prosecutions and employer compliance, and reducing administrative costs. She offered to answer questions.

[2:58:12 PM](#)

SENATOR MEYER asked if injury frequency in Alaska is still over 20,000 per year.

MS. MARX replied it was very close to that mark in 2015.

SENATOR MEYER asked where those injuries are occurring.

MS. MARX said back injuries are most common. They must be reported even though a majority do not require time off work or medical care.

SENATOR MEYER asked if one occupation or industry accounts for the most injuries. He recalled that at one time the fishing industry was the most dangerous, but he didn't know about the number of injuries.

MS. MARX said the high hazard industries have higher premium rates because their employees are more at risk. Premiums for clerical work would be much lower than construction, for example.

[3:00:44 PM](#)

COMMISSIONER DRYGAS offered to provide specific data on the occupations where injuries are occurring more frequently.

SENATOR MEYER said he'd appreciate getting that information. He expressed concern that the graphs show that injury frequency has been declining since 2006 but compensation payments are increasing. He asked if it's a matter of fewer, but more serious injuries or a matter of higher medical costs.

COMMISSIONER DRYGAS replied it is medical costs.

SENATOR GARDNER asked if an owner/builder is required to carry workers' compensation insurance on someone they hire if they aren't covered by another company.

MS. MARX explained that the Alaska Workers' Compensation Act covers employers, which is a person or a company engaged in business. A homeowner who calls a plumber to do work is not engaged in business, so the plumber's injury would not be

covered by the Alaska Workers' Compensation Act. She advised that anyone who is engaged as a business contractor should have workers' compensation coverage in place. Even independent contractors. If they have employees and they fail to cover themselves for those employees' work place injuries, Alaska law has a provision that requires the contractor to pay for that work injury to ensure the burden doesn't fall on the injured worker.

SENATOR STEVENS asked what SB 29 does and where it is in the process.

MS. MARX replied SB 29 repeals the Alaska Workers' Compensation Appeals Commission. If it passes, it will save about \$440,000 per year. A second governor bill focuses on making the worker compensation dispute process more efficient and cost saving. She clarified that both are governor's bills.

CHAIR COSTELLO asked what the budget is for the workers' compensation division and who pays for their salaries.

COMMISSIONER DRYGAS said they would follow up with specific information, but most of the division is funded by the Workers' Safety and Compensation Administration Account (WSCAA).

[3:06:15 PM](#)

CHAIR COSTELLO asked what she sees as the main drivers to reduce medical costs; and what can the legislature do to assist.

COMMISSIONER DRYGAS said the department has struggled with how to address rising medical costs while balancing the pillars that guide the Division of Workers' Compensation through statute. The Medical Services Review Committee has helped to bring down premium costs for employers, but it's a work in progress. She mentioned the conversion factors that the committee works on and deferred further explanation to Ms. Marx.

CHAIR COSTELLO asked if data on worker compensation claims is gathered on forms an employee fills out in the doctor's office.

COMMISSIONER DRYGAS replied many physicians opt to ask if the injury is work-related.

CHAIR COSTELLO asked if the same injury costs more if it is a workers' compensation claim compared to private insurance.

COMMISSIONER DRYGAS said there generally is a difference. "Oftentimes services provided through the workers' compensation system are higher than services provided to individuals who are not suffering from a work-related injury or illness." The Medical Services Review Committee is using the conversion factors to bring down the cost of reimbursement to providers because many of those reimbursements are out of whack relative to private insurance. She cited the example of a broken arm.

SENATOR STEVENS commented that problems with workers' compensation have been around since the First State Legislature in 1959.

SENATOR HUGHES asked if she said that the cost of a broken arm billed through workers' compensation insurance would be higher than if it was billed through private insurance.

MS. MARX replied the lack of transparency regarding what providers bill and what insurers pay is a big challenge for all states. There is no opportunity for comparison shopping. "We don't really know what that group health data is. We can pay and get some data but it's not easy to get that group health comparison." The data the division has been able to get shows that workers' compensation costs more than group health. The Medical Services Review Committee has found that costs are substantially more in certain areas of practice such as surgery and radiology. The committee is looking at how to contain those costs while maintaining the injured worker's access to quality medical care. The idea is to phase in changes over a few years.

CHAIR COSTELLO asked if an injured worker would be sent outside the state if the cost for the procedure or treatment was less than in Alaska.

MS. MARX explained that the employee can choose their physician wherever he/she may be, but the fees are subject to the Alaska Workers' Compensation Act. The bill that passed in 2014 had a provision that said the maximum reimbursement is according to the fee schedule in the state that the service is provided.

[3:16:04 PM](#)

CHAIR COSTELLO asked where the Medical Services Review Committee is in the process for providing recommendations.

MS. MARX advised that the Medical Services Review Committee held its first meeting shortly after House Bill 316 passed. They have held 12 meetings that are open to the public and have a public

comment period. The recommendations were forwarded to the Alaska Workers' Compensation Board to go through the regulatory process. The board held two meetings, public comment was taken, and the recommendations were finalized in March 2016.

The strategy going forward is to annually hold meetings in the summer to develop the next round of recommendations. One will be a joint meeting of the Medical Services Review Committee and the Alaska Workers' Compensation Board to ensure consensus. Thereafter the regulatory process will go forward so they are in effect in January of each year. She urged anyone who has public comment on how to reduce costs or suggestions for the conversion factor recommendations to attend the meetings.

CHAIR COSTELLO asked if it is correct that workers' compensation does not have in-network and out-of-network providers.

MS. MARX said that is correct; the Workers' Compensation Act allows both the employer and the employee to have a choice of physician. Each party is allowed one change without getting permission from the other party.

CHAIR COSTELLO asked how many employers in the state pay into the workers' compensation program.

MS. MARX offered to follow up with the answer.

SENATOR HUGHES asked if anything would prevent an employer from having a list of preferred providers.

MS. MARX replied employers absolutely can supply a list, but the injured worker can select outside that list.

CHAIR COSTELLO thanked the presenters.

[3:20:15 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 3:20 p.m.