

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

February 28, 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."

- MOVED SB 45 OUT OF COMMITTEE

SENATE BILL NO. 40

"An Act relating to workers' compensation; repealing the second injury fund upon circumstances under which certain nonemployee executive corporate officers and satisfaction of claims; relating to service fees and civil penalties for the workers' safety members of limited liability companies may obtain workers' compensation coverage; programs and the workers' compensation program; relating to the liability of specified relating to the duties of injured employees to report income or work; relating to officers and members of specified business entities for payment of workers' misclassification of employees and deceptive leasing; defining 'employee'; relating to the compensation benefits and civil penalties; relating to civil penalties for underinsuring or Workers' Compensation Board's approval of attorney fees in a settlement agreement; failing to insure or provide security for workers' compensation liability; relating to and providing for an effective date." preauthorization and timely payment for medical treatment and services provided to injured employees; relating to incorporation of reference materials in workers' compensation

regulations; relating to proceedings before the Workers' Compensation Board; providing for methods of payment for workers' compensation benefits; relating to the workers' compensation benefits guaranty fund authority to claim a lien; excluding independent contractors from workers' compensation coverage; establishing the

- 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. 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 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, FIN
02/07/17	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/07/17	(S)	Heard & Held
02/07/17	(S)	MINUTE(L&C)
02/28/17	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 40

SHORT TITLE: OMNIBUS WORKERS' COMPENSATION

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/25/17 (S) READ THE FIRST TIME - REFERRALS  
01/25/17 (S) L&C, FIN  
02/14/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
02/14/17 (S) Scheduled but Not Heard  
02/28/17 (S) L&C 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)

**WITNESS REGISTER**

JULIANA MELIN, Staff  
Senate Labor and Commerce Standing Committee  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided information on SB 45 on behalf of the sponsor.

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

**POSITION STATEMENT:** Provided answers to questions on SB 45 that were asked during a previous hearing.

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

**POSITION STATEMENT:** Introduced SB 40 on behalf of the administration; and answered questions related to SB 29.

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

**POSITION STATEMENT:** Delivered a sectional analysis of SB 40.

AVES THOMPSON, Executive Director  
Alaska Trucking Association  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 40.

SHELLY ERICKSON, representing herself  
Homer, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 40.

BRONSON FRYE, Union Local 1959  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 40.

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

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

#### **ACTION NARRATIVE**

[1:33:12 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, Meyer, Gardner, Hughes, and Chair Costello.

#### **SB 45-EXEMPTION: LICENSING OF CONTRACTORS**

[1:35:01 PM](#)

CHAIR COSTELLO announced the consideration of SB 45. She stated that this is the second hearing and the intent is to go over the answers to questions previously asked, take Senator Hughes' question, and move the bill from committee.

[1:35:29 PM](#)

JULIANA MELIN, Staff, Senate Labor and Commerce Standing Committee, directed attention to the handout that responds to Senator Steven's request for data on the number of contractors throughout Alaska. She noted that Senator Hughes also wanted clarification about the implication of the bill for Alaskans. She deferred to Ms. Hovenden to go over the answers that were asked during the previous hearing.

[1:36:37 PM](#)

JANEY HOVENDEN, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), Juneau, Alaska reviewed her written response to the questions that were posed during the previous hearing:

1. What is the penalty for unlicensed practice by contractors?

AS 08.18.125 allows for an administrative fine of \$1,000 for the first offense and \$1,500 for the second or subsequent offense.

2. What is the cost to obtain a contractor's license?

Application fee for initial registration or residential endorsement:	\$65
New license	\$235
Renewal license	\$235

3. Is it true that in 2013 almost half of the new construction home sales in the Mat-Su area were from unlicensed construction companies as claimed by the Mat-Su Home Builders Association?

The division does not track the number of homes built or sold. The Department of Labor and Workforce Development reported that they conducted 315 inspections to what appeared to be new homes in Mat-Su in calendar year 2013. On 75 of those new homes, they were unable to determine who the builder was. Of the remaining 240 homes, they issued 8 Cease and Desist Orders and 7 Administrative Fines for failure to have proper licensure. Of those licensing actions, there were only three instances where the defendant was acting as an unlicensed homebuilder, the remaining were for unlicensed sub-contractors.

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SENATOR HUGHES asked if a homebuilder would be cited if they failed to file the required form even though they were honestly unaware of SB 45 and the obligation it imposes on an owner/builder who has to sell his house within the timeframe set out in the bill.

MS. HOVENDEN clarified that there is no penalty provision in the bill for not filling out and sending in the form. The only potential penalty would be trying to circumvent the licensure requirements. That would fall under unlicensed practice rules.

SENATOR HUGHES summarized that the only time someone would be subject to a citation is if they were also found to be conducting a business without a license.

MS. HOVENDEN agreed with the recap.

CHAIR COSTELLO thanked Senator Hughes for bringing that forward and making it part of the public record.

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SENATOR STEVENS asked if this is a state licensure issue or if local communities handle this through building codes.

MS. HOVENDEN replied every municipality has its own building codes. She didn't know about municipal licensure requirements, but it is a statewide requirement to be licensed to conduct business.

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SENATOR HUGHES moved to report SB 45 from committee with individual recommendations and attached fiscal note(s).

CHAIR COSTELLO found no objection and announced that SB 45 was reported from the Senate Labor and Commerce Standing Committee.

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At ease

### **SB 40-OMNIBUS WORKERS' COMPENSATION**

[1:46:29 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 40. She stated that the intention is to receive a presentation by the department, take questions, and hold the bill for further review.

[1:47:15 PM](#)

HEIDI DRYGAS, Commissioner, Department of Department of Labor and Workforce Development (DOLWD), stated that SB 40 will speed up the resolution of disputes, improve the delivery of benefits to injured employees, deter workers' compensation fraud, reduce administrative costs, and provide adequate funding for the

administration of the system. She related that the system has not been significantly changed in 10 years. The improvements in the bill address rising costs, recent legal developments, and new approaches to improve the system's efficiency and fairness. The bill focuses on efficiency.

She advised that the department would address benefit issues such as reemployment benefits and medical costs in another legislative session.

MARIE MARX, Director, Division of Workers' Compensation, Department of Labor and Workforce Development (DOLWD), began the introduction of SB 40 by highlighting the pillars of the Alaska Workers' Compensation system embodied in the mission, which is to ensure the quick efficient, fair, and predictable delivery of benefits to workers at a reasonable cost to employers. She explained what the Division of Workers' Compensation ensures that both employees and employers comply with the Alaska Workers' Compensation Act. They also conduct timely hearings when there is a dispute, operate an appeals program, and administer the fisherman's fund and the reemployment program.

She advised that Sections 10, 11, 12, 13, 18, 20, and 39 speed up the dispute resolution. Sections 18 and 20 speed up and simplify the hearing process by allowing the board to schedule a hearing shortly after a claim is filed. Under current law the division waits for an employee to request a hearing, which has led to inefficiencies. Section 19 ends the practice of allowing non-attorneys from representing parties before the board. An individual may still be represented in board proceedings by a parent, guardian, or court-appointed representative. An authorized employee of an employer or medical provider currently may be self-represented and that will not change. The Alaska Rules of Professional Conduct currently allow a party to be represented by an attorney or a paralegal in their employ, and that will not change.

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SENATOR HUGHES asked who as a non-attorney would be able to represent someone.

MS. MARX replied it could be a parent, guardian or court-appointed representative of a minor. The division will also continue to allow an authorized employee of a physician to appear in board proceedings.

SENATOR HUGHES said she heard concern about this provision at a town hall meeting in Chugiak, but that party may have been confused.

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SENATOR GARDNER asked if excluding non-attorneys would add cost to the person who requested the hearing.

MS. MARX explained that it actually increases costs for both sides when people are represented by non-attorneys who are not bound by ethical and professional rules.

SENATOR GARDNER commented that the recommendation for an IRS audit is to send a delegate because they can't speak to another matter the auditor may bring up.

SENATOR HUGHES asked if the division has tracked the outcomes for people who are represented by a non-attorney.

MS. MARX said she doesn't have that data but her anecdotal observation is that it tends to cause delays and draw out the proceedings by months if not years.

SENATOR HUGHES asked if she had anecdotal information about outcomes and whether or not the non-attorney was helpful.

MR. MARX said anecdotally she saw no better outcomes with non-attorney representation. She explained that the division has fulltime staff to provide assistance to those parties who are unable to retain an attorney. Work comp technicians answer the phones and help people fill out forms and a workers' compensation officer will talk in detail about the case and provide information about how to pursue their rights under the Alaska Workers' Compensation Act.

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MS. MARX advised that the bill also speeds up dispute resolution by eliminating the requirement for the board to approve settlement agreements when the only issue is attorney fees. She noted that when both sides are represented by an attorney the settlement generally does not need board approval.

Sections 16, 22, 24, and 25 offer further efficiencies. First is to streamline the process by allowing the Division of Workers' Compensation to directly assess civil penalties against uninsured employers instead of petitioning the board and going

to a hearing. The parties would still have the right to appeal to the Workers' Compensation Board.

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The next efficiency is to require an employer to preauthorize or deny medical treatment within 60 days of a medical provider's written request.

CHAIR COSTELLO asked if there is any exception if it's an emergency or the treatment is time sensitive.

MS MARX clarified that preauthorization is not needed for emergency treatment. For non-emergencies, 60 days was seen as adequate for an employer to review the medical records and decide whether to authorize or deny the request without a penalty.

SENATOR STEVENS expressed concern about delaying treatment after an injury and asked for examples of medical treatment that could be delayed 60 days without harm to the patient.

MS. MARX offered the example of an employee who needs surgery to repair a torn rotator cuff. The employer would have a maximum of 60 days to authorize the treatment before incurring a penalty for being untimely. She said care may be delayed by that 60-day limit, but she isn't sure the current system provides the benefit to an injured worker any better.

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COMMISSIONER DRYGAS explained that the original idea was that 30 days was sufficient because it's the same time as paying a medical bill. However, some stakeholders argued persuasively that paying a bill timely is different than going through medical records and evaluating whether or not to authorize the treatment. That's how the 60-day timeframe came about, but the legislature has the prerogative to shorten it, she said.

SENATOR STEVENS continued to express reservations about potentially waiting 60 days to receive treatment for a painful injury.

SENATOR HUGHES asked what recourse a worker has if treatment is denied.

MS. MARX said the injured worker could go ahead with the surgery and potentially assume the cost if it's found to be unrelated to

work, or they could request a hearing on the preauthorization. That is the current process and it takes longer than 60 days.

CHAIR COSTELLO asked why it takes so long.

MS. MARX replied it's largely the delay during the discovery process.

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SENATOR HUGHES asked if the board members have the medical expertise to make authorization decisions.

MS. MARX explained that the board doesn't make the complicated medical evaluations, but they do weigh the expert testimony from the medical doctors representing each side.

She returned to the discussion about improvements to the delivery of medical care in Sections 16, 22, 24, and 25. SB 40 provides a penalty for untimely preauthorization or denial of a request for treatment; it provides that benefits will be paid every 21 days; and it continues payment of medical bills within 30 days.

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SENATOR STEVENS asked if the penalty for untimely preauthorization or denial is connected to the 60-day timeline for preauthorization or denial.

MS. MARX replied an employer or insurance company must either pay or deny within 60 days to avoid a 25 percent penalty. The same language currently exists for medical bills, but the deadline is 30 days.

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She stated that the division is tackling the topic of misclassification because: fraudulent misclassification can result in the death or severe injury of workers; the risk of uninsured losses can put a company out of business; and law-abiding employers should not have to pay the price for misclassification. She emphasized that SB 40 only addresses independent contractors with regard to workers' compensation.

MS. MARX reviewed the fraud strengthening provisions in SB 40. Sections 9, 11, 14, 28, 29, 31, 34-38, and 40: define misclassification and when it amounts to fraud; impose an affirmative duty on employees receiving workers' compensation benefits to report work or other types of wage loss replacement

benefits; and define independent contractor and clarify the statutory definition of employee. She noted the division met with various stakeholder groups and is in the process of refining the definition of independent contractor.

SB 40 also grants the Benefit Guarantee Fund the right to file a lien to ensure that assets are available to pay the benefits for compensation as well as civil penalties if the employer didn't carry workers' compensation insurance. Injured workers currently have this right.

SENATOR HUGHES asked if the definition of independent contractor would be applicable to just these statutes.

MS. MARX confirmed it only applies to the Alaska Workers' Compensation Act.

She said SB 40 also strengthens fraud provisions by expanding the division's ability to assess a civil penalty to include employers who: are under insured because they have misclassified workers to attain artificially low workers' compensation premiums; misrepresented the nature of their business; or engaged in deceptive leasing practices.

SENATOR GARDNER, noting that classification can be complex, asked if employers have an opportunity to confirm a classification with the Department of Labor and Workforce Development.

MS. MARX answered yes. She explained that when there is an investigation the employer provides information about proper codes and classification. Any penalty assessment would be based on substantial evidence.

COMMISSIONER DRYGAS advised that there is an opportunity for employers to contact the department if they have questions about workers' compensation or wage and hour to ensure they are operating correctly.

MS. MARX added that the division is very proactive in providing help to employers to ensure they do not have uninsured losses. The fraud provisions in SB 40 are aimed at employers who are fraudulently trying to get lower workers' compensation premiums to underbid a project. This creates an un-level playing field for law-abiding employers.

SB 40 also changes the maximum civil penalty for failing to carry workers' compensation insurance to three times the premium the employer would have paid for each uninsured employee workday. This reasonable deterrent will take into account the employer's size, the nature of their business, and the financial gain they realized by operating without full workers' compensation insurance. The bill clarifies that civil penalties may not be suspended, but allows for a payment plan with interest at the state rate for judgements.

CHAIR COSTELLO asked what the interest rate is right now.

MS. MARX noted that the governing statute is AS 09.30.070(a) and offered to follow up with the information.

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MS. MARX discussed the topic of reducing administrative costs in Sections 2-8, 15, 17, 21, 23, 26, 27, 30, 32, and 33: employers may pay benefits electronically, saving time and costs; the division may prescribe the filing format of reports of injury and compensation payments; and corporate executive officers are no longer required to seek division approval before opting out of workers' compensation coverage for themselves, provided they have at least 10 percent ownership interest.

SENATOR STEVENS asked if someone could be a 10 percent owner and still opt to carry workers' compensation insurance.

MS. MARX confirmed that anyone who isn't required to carry coverage can always opt in. She added that is always encouraged and more than pays for itself in the event of a catastrophic injury.

SB 40 also reduces administrative costs by adding medical publications to a list the department can incorporate into regulation. The particular version of the codes for procedural terminology book that will be used is identified through public notice. The bill also extends to 30 days the time for insurance companies to report initial and termination coverage to the department, and imposes a penalty for failure to report timely. Finally, SB 40 phases out the Second Injury Fund because its purpose is met by the Americans with Disabilities Act. She clarified that the fund will continue to be used to pay existing liabilities.

SENATOR HUGHES asked how much is in the fund right now.

CHAIR COSTELLO also requested the balance in the Benefits Guarantee Fund.

MS. MARX advised that as of FY2016 the balance in the Second Injury Fund was \$3.792 million and the balance in the Benefits Guarantee Fund was \$2.207 million.

SENATOR HUGHES asked if this will save employers money.

MS. MARX said it would be a cost saving for insurance companies or employers who get more in reimbursement than they are paying out.

SENATOR HUGHES asked the length of the phase-out.

MS. MARX said it could be some time because most of the payments will go on throughout the claimants' lives. The fiscal note assumes a life expectancy of 80 and that two or three claims will close each year.

SENATOR HUGHES asked if it could be decades before the fund is completely phased out.

MS. MARX answered yes.

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MS. MARX stated that the provisions in Section 1 of SB 40 ensure adequate funding for the administration of the Workers' Compensation Safety Administration Account. SB 40 does not change current law that provides that insurers pay a fee of 2.7 percent of the net workers' compensation premium written. The bill does change the amount that goes to the Workers' Safety Compensation Administrative Account (WSCAA) from 1.82 percent to 2.5 percent. It also changes the amount that goes to the general fund from .88 percent to .2 percent. This will replenish the WSCAA account that has been declining since 2005 when the Workers' Compensation Fraud Unit and the Medical Services Review Committee were established and funded through the WSCAA account. The bill addresses the decline by allowing the department to receive a greater percentage of the annual service fee that insurers pay.

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SENATOR GARDNER asked why any of the annual service fee goes to the general fund.

MS. MARX said the previous division director told her that 1.82 percent was sufficient to cover the needs in 2000 when the WSCAA account was established.

CHAIR COSTELLO asked if the legislation has a plan should there be any residual funds after all the claimants have passed.

COMMISSIONER DRYGAS explained that the fund will be closed to additional beneficiaries, but it will continue to pay out to claimants currently receiving benefits from the fund.

CHAIR COSTELLO asked what the plan is should there be remaining funds after all the claimants have passed.

MS. MARX said that any residual would go to the general fund, but the idea is to adjust the contribution rate to match the existing liabilities.

COMMISSIONER DRYGAS recounted that the formula that was devised in 2000 didn't have an adjustment for additional responsibilities such as the Workers' Compensation Appeals Commission and an enhanced Workers' Compensation Fraud Unit.

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CHAIR COSTELLO thanked the presenters and opened public testimony on SB 40.

[2:33:17 PM](#)

AVES THOMPSON, Executive Director, Alaska Trucking Association, Anchorage, Alaska, testified in opposition to SB 40. He expressed concern with the new language in Section 31 that defines the tests to determine when a person is an independent contractor for purposes of workers' compensation coverage. He outlined the decisions that a trucking business owner/operator makes and emphasized that the proposed changes to the workers' compensation statute preclude the use of owner/operators in the trucking business in a number of ways. He pointed to the provisions in AS 23.30.230(a)(11)(A)(E) and (F) as examples that preclude an owner/operator of a trucking business from being recognized as an independent contractor.

He recommended providing an exemption for truck drivers from the provisions of the Act in the same way that taxi drivers and network transportation drivers are exempted in current law and the proposed law under SB 14. He noted that the ATA provided language to address this issue for trucking business owner/operators. He also recommended adopting a distinct truck

driver independent contractor owner/operator definition instead of tests. He noted the ATA has provided specific language to Commissioner Drygas in that regard.

MR. THOMPSON informed the committee that the ATA has been working with Commissioner Drygas and the Workers' Compensation Division to address these concerns and some progress has been made.

SENATOR HUGHES asked if he provided the suggested language to the chair of the Labor and Commerce Committee.

MR. THOMPSON replied he would email it today.

[2:39:35 PM](#)

SHELLY ERICKSON, representing herself, Homer, Alaska, testified in opposition to SB 40. She stated that she is a small business owner who has a claim against her workers' compensation policy. She maintained that the law is written in favor of the employee regardless of the situation. She asked the committee to add a section on employee fraud to SB 40; require new hires to release their workers' compensation records, particularly when special certifications are required; and rewrite the language to ensure that boat owners aren't assumed to be negligent. She maintained that the laws are written such that insurance companies have to "cave" even when they know a deckhand is in a fraudulent situation. She emphasized the importance of fair consequences for both employers and employees if they break the law.

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BRONSON FRYE, Union Local 1959, Anchorage, Alaska, testified in support of SB 40. He stated strong support for having clear definitions for both "independent contractor" and "misclassification," opining that it is particularly important in the construction industry. He claimed that certain employers in this industry are misclassifying their employees as independent subcontractors and described the unfair advantage this creates in the bidding process. He maintained that this either forces employers out of business or causes them to adopt this unscrupulous business model. He also pointed out how misclassification can jeopardize the health and safety of unwary employees. He concluded that workers' compensation insurance protects both employees and employers when workers are correctly classified.

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CHAIR COSTELLO closed public testimony on SB 40 and held the bill in committee for further consideration.

[2:49:46 PM](#)

At ease

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

[2:52:46 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 29. She stated that this is the second hearing and public testimony was closed on 2/14/17. She asked members if they had questions for Commissioner Drygas.

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SENATOR STEVENS asked if the same problems will persist if workers' compensation appeals are returned to the superior court.

COMMISSIONER DRYGAS said returning the appeals to the superior court probably isn't ideal, but any other option costs money. The superior court dealt with these appeals before and it routinely handles administrative appeals, which these are. She said Ms. Meade could speak for the Court System but the 40 some superior court judges around the state would have to absorb the 30 some workers' compensation appeals each year.

She explained that departments were asked to look at their statutes and identify what wasn't working. DOLWD identified this one as not working the way that people had hoped. She said the Court System submitted a zero fiscal note, which is probably an acknowledgement that they can absorb the appeals without having to hire additional staff. "I get the feeling that they are willing to do that somewhat reluctantly, but they understand the situation that we're in."

COMMISSIONER DRYGAS said these appeals could be handled by an administrative law judge but that would be very expensive and the work comp bench in this state is very short. That would be a problem even if there was money for a different solution than returning to the previous procedure. She concluded that returning the appeals to the superior court is a better solution than sticking with something that is not working, and it will save the state some money.

SENATOR STEVENS said he appreciates the explanation, but he was fairly confident that the legislature would be dealing with this again in the future.

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SENATOR MEYER asked if [her previous testimony] was that 60 percent of the cases are appealed.

COMMISSIONER DRYGAS clarified that - of the cases that are appealed to the Alaska Supreme Court and decided on the merits, 50 percent are overturned. She offered to follow up with information on the 20-30 cases from the Workers' Compensation Board that are appealed to the Workers' Compensation Appeals Commission.

SENATOR MEYER described going directly to court as skipping a step. He expressed concern that the proposed change could delay decisions then commented that it might not be much different than now if the decision is appealed.

COMMISSIONER DRYGAS clarified that the proposed change does not skip a step. The case goes from the Workers' Compensation Board to the superior court and then on to the Alaska Supreme Court if the decision is appealed. She also reminded members that the commission was created to address perceived delays, but the department has found that the commission hasn't gotten cases through any faster.

SENATOR STEVENS asked if there are other options to consider, even if they cost more.

COMMISSIONER DRYGAS said there has been discussion about moving the cases to the Office of Administrative Hearings, which would carry a positive fiscal note. She pointed out the downside that the injured worker would have a double administrative layer to negotiate before they could hear their case in court.

[3:03:34 PM](#)

NANCY MEADE, General Counsel and Deputy Administrative Director, Alaska Court System offered to answer questions on SB 29.

CHAIR COSTELLO expressed appreciation that Court System offered to take on this additional duty.

SENATOR STEVENS asked how a better response can be expected by returning to the old system.

MS. MEADE said the Court System can't promise a better response, but is willing to do it if that is the will of the legislature.

CHAIR COSTELLO announced she would hold SB 29 in committee for further consideration.

[3:05:58 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 3:05 p.m.