

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 20, 2020

1:32 p.m.

MEMBERS PRESENT

Senator Click Bishop, Chair
Senator Gary Stevens, Vice Chair
Senator Mia Costello
Senator Joshua Revak
Senator Elvi Gray-Jackson

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Senator Cathy Giessel
Senator Donny Olson

COMMITTEE CALENDAR

CONFIRMATION HEARINGS

Alaska Workers' Compensation Board
Lake Williams - Fairbanks

- CONFIRMATION ADVANCED

Board of Barbers and Hairdressers
Michelle McMullin - Anchorage

- CONFIRMATION ADVANCED

Occupational Safety and Health Review Board
Vincent Perez - Wasilla

- CONFIRMATION ADVANCED

PRESENTATION: ALASKA EMPLOYMENT PREFERENCE LAWS SINCE THE 1960s

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

LAKE WILLIAMS, Appointee
Alaska Workers' Compensation Board
Department of Labor and Workforce Development (DOLWD)
Fairbanks, Alaska

POSITION STATEMENT: Testified as re-appointee to the Alaska Workers' Compensation Board.

VINCENT PEREZ, Appointee
Occupational Safety and Health Review Board
Department of Labor and Workforce Development (DOLWD)
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Occupational Safety and Health Review Board.

MICHELLE MCMULLEN, Appointee
Board of Barbers and Hairdressers
Department of Commerce, Community and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Board of Barbers and Hairdressers.

JOSEPH DUNHAM, Supervisor
Wage and Hour Section
Labor Standards and Safety Division
Department of Labor and Workforce Development (DOLWD)
Anchorage, Alaska

POSITION STATEMENT: Participated in the presentation on Alaska's employment preference laws since the 1960s.

JOSEPH KNOWLES, Deputy Director
Division of Labor Standards and Safety
Department of Labor and Workforce Development (DOLWD)
Juneau, Alaska

POSITION STATEMENT: Participated in the presentation on Alaska's employment preference laws since the 1960s.

ACTION NARRATIVE

[1:32:12 PM](#)

CHAIR CLICK BISHOP called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Gray-Jackson, Costello, Revak, and Chair Bishop. Senator Stevens arrived soon thereafter.

CONFIRMATION HEARINGS
Alaska Workers' Compensation Board
Board of Barbers and Hairdressers
Occupational Safety and Health Review Board

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CHAIR BISHOP announced the first order of business would be consideration of governor appointees. He asked each appointee to place their name and affiliation on the record, give a brief introduction, and discuss the reason they want to serve on the board or commission. He advised that public testimony would be taken after all appointees have testified and the names would be forwarded to the full body for consideration. The hearing was not a recommendation on any subsequent vote.

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LAKE WILLIAMS, Appointee, Alaska Workers' Compensation Board, Department of Labor and Workforce Development (DOLWD), Fairbanks, Alaska, stated that he was born and raised in Fairbanks. He attended and received a Bachelor of Business Administration from the University of Iowa in 2000. During that time he was also an apprentice with the International Union of Operating Engineers Local 302 and Senator Bishop was his apprentice coordinator. He graduated from that program in 2002 and is currently the district representative of Local 302 in Fairbanks. He related that he had served on the Fairbanks Chamber Board and the Fairbanks Economic Development Council, and was currently the president of the Fairbanks Building and Construction Trades. He noted that he was also a training trust trustee and a Big Brother from Big Brothers Big Sisters.

MR. WILLIAMS stated that he was first appointed to the Workers' Compensation Board By Governor Parnell in 2014 and this would be his second reappointment. He said the decisions this board makes affect people's lives but it also makes a difference. He emphasized that he was committed to trying to improve the system for contractors, employers, and workers. Serving can sometimes be difficult and this board requires its members to do the work, he said. Fortunately, his employer supports his service.

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SENATOR REVAK commented that Mr. Lake has lots of professional experience and he appreciates that he is a Big Brother. It speaks volumes to his character.

MR. WILLIAMS responded that he was matched with his little brother Ryan when he was 12 and they remained together until they timed out when Ryan reached age 18. They are still in contact as he and his mother became part of the Williams family.

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SENATOR STEVENS joined the committee.

CHAIR BISHOP shared that it had always been his philosophy to get all the education possible. Therefore, as the apprenticeship coordinator he allowed Mr. Williams to attend college and get a BA from the University of Iowa while he was an apprentice.

He recognized that Senator Giessel was in attendance.

[1:40:30 PM](#)

VINCENT PEREZ, Appointee, Occupational Safety and Health Review Board, Department of Labor and Workforce Development (DOLWD), Anchorage, Alaska, stated that this was a reappointment and he had enjoyed serving for the last two years. He related that he chose to move to Alaska and raise his family here. He had enjoyed working in the safety field since leaving the Army in 1991. Serving on this board is a small way to give back to the state that has given him so much, he said.

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CHAIR BISHOP reviewed Mr. Perez's resume and described him as consistent in his education and work which was now with Anchorage Municipal Light and Power (ML&P). It is important work to keep employees safe so there was no need to visit the appeals commission.

MR. PEREZ responded that was why he was in business.

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MICHELLE MCMULLEN, Appointee, Board of Barbers and Hairdressers, Department of Commerce, Community and Economic Development (DCCED), Anchorage, Alaska, thanked the committee for the opportunity for a reappointment. She stated that she had lived in Alaska since 1996. She received her license in Georgia to be a nail technician before age 18 and moved to Alaska shortly thereafter. She raised her family in Alaska. In 2012 she received her esthetician's license from a local school. She

expressed gratitude for the opportunity to help the industry in Alaska to ensure it was in tune with what was happening in the Lower 48, licensees follow appropriate standards, and the public was safe.

CHAIR BISHOP commented on her extensive experience and that she knows what to look for.

MS. MCMULLEN agreed.

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CHAIR BISHOP stated that in accordance with AS 39.05.080, the Senate Labor and Commerce Standing Committee reviewed the following and recommends the appointments be forwarded to a joint session for consideration:

Board of Barbers and Hairdressers

Michelle McMullin - Anchorage

Alaska Workers' Compensation Board

Lake Williams - Fairbanks

Occupational Safety and Health Review Board

Vincent Perez - Wasilla

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; the nominations are merely forwarded to the full legislature for confirmation or rejection.

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At ease

Presentation: Employment Preference Overview

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CHAIR BISHOP reconvened the meeting and announced the final order of business would be an overview of employment preference in Alaska.

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JOSEPH DUNHAM, Supervisor, Wage and Hour Section, Labor Standards and Safety Division, Department of Labor and Workforce Development (DOLWD), Anchorage, Alaska, stated that he and Deputy Director Joseph Knowles were asked to provide an overview of Alaska's employment preference laws since 1960. He related

that he started as an investigator with the Wage and Hour Section in 2005 and was promoted to his current position as statewide supervisor in 2011.

MR. DUNHAM advised that the terms "employment preference," "resident hire," and "36.10" are synonymous but he would primarily refer to resident hire throughout the presentation. He reported that the first resident hire law was enacted in 1960 with the intention of putting Alaskans to work on the Trans Alaska Pipeline. The next resident hire law, which passed in 1972, applied to all oil and gas leases, easements or rights-of-way permits for oil or gas pipeline purposes, utilization agreements, or any renegotiation of any of the preceding to which the state was a party. The law included a one year durational residency requirement.

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MR. DUNHAM turned to the first Constitutional Challenge to the law, *Hicklin v. Orbeck*, 437 US 518 - Supreme Court 1978. He reviewed the following from slide 4:

In 1975, the Department received numerous complaints that alleged nonresident workers were dispatched to jobs on the Trans-Alaska Pipeline while Alaska resident workers were not. The Commissioner of the Department of Labor issued cease and desist orders to labor unions who had dispatched workers to the job and required that qualified Alaska residents be preferred and dispatched before any non-residents were dispatched. As such, several workers including Hicklin were unable to gain employment on the project.

Alaska's Supreme Court ruled that the 1-year residency requirement unfairly discriminated against newcomers to the state, but held that the Act's general preference for Alaska residents was constitutionally permissible.

Hicklin appealed to the US Supreme Court.

US Supreme Court reversed the Alaska Supreme Court decision. The US Supreme Court held that the State did not show that the hiring of nonresident workers constituted a peculiar source of the "evil at which the statute is aimed." The US Supreme Court found that "Alaska Hire" violated the Privileges and Immunities

Clause of Art. IV, § 2 and the Equal Protection Clause of the Fourteenth Amendment.

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CHAIR BISHOP noted that last week the committee heard that the US Supreme Court talked about the law in terms of a "peculiar source of evil." He then asked Mr. Dunham if he recalled when residents were issued an Alaska resident hire card

MR. DUNHAM answered no.

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MR. DUNHAM moved to slide 5 that lists the following points in the first revision of the Alaska resident hire law:

Alaska's Legislature drafted a new law that was designed to give Alaska residents preference on public works projects and on construction jobs.

AS 36.10.010 required that all work on all public construction projects be performed almost entirely by Alaska residents.

The Alaskan preference applied to all job classifications regardless of whether Alaska residents in those classifications were in need of work.

He noted that this law required 95 percent resident hire unless the project had 10 or fewer employees in which case only 90 percent resident hire was required.

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MR. DUNHAM directed attention to slide 6, Constitutional Challenge No. 2. He paraphrased the following points:

Robinson v. Francis 713 P. 2d (Alaska 1986)

Department issued enforcement notice to contractor on a public construction contract at North Pole High School in 1983. Subsequently, a non-resident ironworker was terminated. Terminated non-resident worker sued the State seeking

declaration that AS 36.10.010 was unconstitutional under privileges and immunities and equal protection clauses of the US Constitution and the Alaska Constitution.

Injunctive relief and damages under 42 U.S.C. § 1983

The Alaska Superior Court entered partial judgment for Francis in the amount of \$30,676 in wages, and declared AS 36.10.010 violated the privileges and immunities clause. The State and Francis appealed.

The Alaska Supreme Court held that AS 36.10.010 violated the privileges and immunities clause of article IV, § 2 of the US Constitution. However, it reversed the Superior Court's award of damages and held that the State may not be held liable for damages arising from the passage of a law later found to be unconstitutional

In response to the Alaska Supreme Court ruling, the Alaska resident hire law underwent revision No. 2. He spoke to the following points from slides 7 and 8:

Legislature enacted a new statute designed to give residents preference on public works and construction jobs in May of 1986. Became effective in spring of 1987.

Created four hiring preferences.

- Eligible individuals residing within a zone of underemployment (AS 36.10.150)
- Eligible residents of an economically distressed zone (AS 36.10.160)
- Eligible economically disadvantaged minority residents of a zone (AS 36.10.170)
- Eligible economically disadvantaged female residents of a zone ((AS 36.10.175)

The revised law differed from the previous versions in that:

- The law was only triggered when the unemployment rate reached certain levels,
- The Commissioner of the Department Labor made employment preference determinations,
 - Preference required on a craft-by-craft basis,
 - Imposed only for those job categories that had high resident unemployment, and

- Included special provisions for minority and female hire preference.

MR. DUNHAM reviewed the points of the third constitutional challenge of resident hire outlined on slide 9:

State v. Enserch Alaska Const., Inc., 787 P. 2d 624 - Alaska: Supreme Court 1989.

The State and Enserch entered into a contract for the construction of the Red Dog Mine Road Project in 1987. Later that same year, the Northwest Arctic Borough requested that the Commissioner of Labor declare the borough an economically distressed zone. The Commissioner reviewed and evaluated information related to the Borough's request and subsequently issued emergency regulations that declared the Borough was an economically distressed Zone.

CHAIR BISHOP commented that the borough requested that the commissioner determine that the borough was an economically distressed zone.

MR. DUNHAM agreed and continued to review the challenge:

The Red Dog project was subject to the employment preference requirements of AS 36.10.160 - dealing with residents of an economically distressed zone.

(at the time 50% resident hire required)

In 1987, Enserch filed suit seeking

- declaration that AS 36.10.160 violated equal protection guarantees and federal privileges and immunities clause
- damages for increased costs incurred to comply with the law.

Alaska Superior Court entered partial judgement for Enserch, the State appealed

MR. DUNHAM highlighted the request for damages.

CHAIR BISHOP observed that the superior court entered a partial judgement for Enserch and the state appealed.

MR. DUNHAM said yes and one of the issues was the request for damages. He continued to review the third constitutional challenge to the resident hire law outlined on slide 11:

The Alaska Supreme Court found that:

- The disparate treatment of unemployed workers in one region in order to confer an economic benefit on similarly-situated workers in another region was not a legitimate legislative goal,
- Alaska's constitution guarantees rights of "persons", not communities. Communities are separate from the people who constitute the communities,
- AS 36.10.160 and implementing regulations contravened the equal protection clause of the state constitution, and
- Enserch had no right to seek damages for the State's enforcement of the unconstitutional law.

CHAIR BISHOP commented that this ruling gets to the current law.

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MR. DUNHAM agreed. He reviewed the current law under AS 36.10 as outlined on slide 12:

Current Law AS 36.10

90% of workers in applicable crafts must be Alaska residents.

Per AG guidelines addressed in WHPL 71A (12/27/1984), Employment Preference is only enforced if classification appears in *Laborers' & Mechanics' Minimum Rates of Pay*, Pamphlet 600.

Not enforced for Foremen or Superintendents who do not perform hands-on work, i.e., Architects, Engineers

Penalties are assessed on a weekly basis and are equal to the wage amount that should have been paid to displaced Alaska resident workers.

Applies to non-federally funded public construction contracts let by the state or political subdivisions

of the state and certain construction contracts which utilize state funds.

Requires 90% preference for qualified, eligible residents.

Residents must be eligible for preference AS 36.10.140.

MR. DUNHAM clarified that a state-funded project that receives no federal money would trigger the resident hire employment preference.

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CHAIR BISHOP thanked him for the clarification and commented that that narrowed the scope of applicability.

MR. DUNHAM agreed and continued to review the points in the current resident hire law:

Worker must reside in zones of underemployment (AS 36.10.150)

- Determinations made by Commissioner of Labor and Workforce Development valid for 2 fiscal years.
- Unemployment rate in the zone must be 10% or greater than the federal rate.
- The Commissioner's most recent determination (July 2019) identifies the entire state as a zone of underemployment.
 - Alaska's unemployment rate in December of 2019 was 6.1%.
 - The federal unemployment rate was 3.5%.

CHAIR BISHOP advised that next week people from DOLWD Research and Analysis will discuss the mechanics of those determinations.

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MR. DUNHAM directed attention to slide 14 that depicts the most recent DOLWD Employment Preference Determination. It lists the 23 craft classifications that qualify for a minimum of 90 percent resident hire preference.

He referenced slide 15 and explained that while the attorney general declined to defend the current resident hire law, the statute was still on the books. Many agencies are still

enforcing the employment preference laws on their contracts because it is the law and the contractors are questioning DOLWD in light of the attorney general opinion. He described it as an odd scenario.

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MR. DUNHAM turned to slide 16 and discussed the waivers available under certain circumstances:

Waivers 8 AAC 30.078(d)

Contractors who are unable to locate eligible resident workers can request waivers to employ non-resident workers.

He recalled the situation where the inside of the silo at the Kodiak rocket station was corroding from the salt air and had to be painted with a special epoxy paint that required special expertise to prep and apply. The contractor requested a waiver and it was granted.

CHAIR BISHOP commented that common sense applies, which was why there is a waiver process.

MR. DUNHAM agreed and continued to review the formal waiver process outlined on slide 16:

Waivers 8 AAC 30.078(d) (cont'd)

Formal process:

- Request must be submitted seven calendar days prior to the waiver being considered for approval
- Should include minimum qualifications for position that the contractor wishes to employ non-resident worker
- Department reviews minimum qualifications
- Once minimum qualifications are approved, employer must advertise using at least one public form of advertisement

The public advertisement and facilitated recruitment must run for at least 3 days, and both must

- State that the purpose of the request is to satisfy Employment Preference requirements under AS 36.10: applicants must be residents of the state,
- List the job title and minimum qualifications accepted by the department,
- Identify the rate of pay including fringe benefits and other compensation,
- Identify the job location, expected duration of the job, and the number of expected daily and weekly work hours, and
- Specify that all job seekers apply through the Alaska Job Center Network.

Once recruitment process concludes, employer completes a waiver request form to the Department.

If an employer can establish that there are no qualified eligible residents, the department will approve the waiver.

- Waivers are issued for specific workers
- Waivers are not retroactive
- Waivers expire after 6 months.

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CHAIR BISHOP recognized that Senator Olson had joined the committee.

MR. DUNHAM turned to slide 19 that discusses how the law is enforced. He reviewed the following:

How is the law enforced?

Currently, the majority of violations are identified through the audit of certified payroll reports; and through complaints from stakeholders such as contractors, labor unions, resident workers and contracting agencies.

Regarding Employment Preference, where potential violations were identified, an investigation would be opened, and the contractor would be afforded due process under 8 AAC 30.090, and 8 AAC 30.100. This process also applies to Prevailing Wage violations.

MR. DUNHAM explained that if an Alaskan was displaced for 40 hours per week for eight weeks, that money would be withheld from the contract. He noted that some investigations resulted in \$100,000 violations.

CHAIR BISHOP asked if there was a provision to negotiate the penalty down.

MR. DUNHAM answered yes; that would be addressed on slide 21.

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SENATOR STEVENS asked what happens to the money that's assessed for violations and if the Alaskans who are left out of work receive any benefit.

MR. DUNHAM replied the money is subtracted from the contract, per the statute, and retained by the agency.

MR. DUNHAM reviewed the investigative process outlined in slides 20-22:

Investigative Process (8 AAC 30.900)

Division investigates potential violations on its own motion or on the complaint of any person.

Where department finds probable cause that violation exists, the respondent receives a copy of the complaint or description of alleged violation via personal service or certified mail.

Under current regulations and procedure, copies of complaint must also be provided to the prime contractor and contracting agency

Division attempts to eliminate the alleged violation through conference and persuasion.

Provide respondent/prime opportunity for an informal conference to discuss matter and attempt to eliminate alleged violation

If informal conference fails to resolve the violation, Division issues a Notice of Findings to the violating contractor.

Notice is copied to prime contractor and to contracting agency.

Includes notification of the failure of the informal conference failed, and the Department's investigative findings.

Respondents have the right to challenge our findings. 30 day period from date of findings to request a formal hearing as part of the administrative process.

After Notice of Findings, Department may issue a notice to withhold funds in an amount equal to potential penalties, or may wait until 30 day period has lapsed depending on the amount of funds left on the contract.

For example, a \$30,000 penalty that was not disputed would be subtracted from the contract and the state agency would retain those funds.

If no formal hearing is requested, the decision of the Department becomes final. A notice is issued to the contracting agency which directs them to withhold and retain the calculated penalty.

If a formal hearing is requested, the Department would follow regulation 8 AAC.30.100. Pending the outcome of the hearing, the Department may direct the agency to withhold and retain funds or release funds.

SENATOR GRAY-JACKSON asked how frequently violations occur.

MR. DUNHAM replied there were 24 violations in FY2019 and a total of \$78,632.00 was withheld from those contracts.

SENATOR GRAY-JACKSON asked for the statistics for violations for the last 10 years.

MR. DUNHAM agreed to provide the information to the committee.

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CHAIR BISHOP asked if there is still the ability to negotiate the penalty down, even after a formal hearing.

MR. DUNHAM said yes, although there are times the contractor doesn't want to negotiate. The department does not try to be heavy-handed; it always offers options.

SENATOR STEVENS asked if the department had found that the same companies commit multiple violations or if they learn their lesson once a fine is assessed.

MR. DUNHAM replied there have been frequent fliers but the majority are first-time offenders. Oftentimes the contractor stops the work when they are informed that they are potentially in violation.

SENATOR STEVENS asked if the department was less forgiving for frequent fliers.

MR. DUNHAM answered yes, especially if the previous violation was recent. The department's policy had always been to offer an informal conference to the contractor and seek a remedy. If the mitigating factors showed that the contractor didn't know better, the penalty would be reduced 90 percent. If it's the second time, and the mitigating explanation was that it's a special craft that required a particular crew, the department would explain the waiver process and reduce the penalty 50 percent. Thereafter, the department would generally have the agency withhold 100 percent of the penalty from the contract.

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SENATOR GRAY-JACKSON asked if there was an RFP [request for proposal] process before a contract was awarded.

MR. DUNHAM replied the agency is supposed to let the contractors know the requirements of a project.

SENATOR GRAY-JACKSON expressed concern that contractors wouldn't be aware of the rules because the RFP was supposed to contain information about a resident hire requirement.

[2:26:01 PM](#)

CHAIR BISHOP asked him to include in Senator Gray-Jackson's request for 10 years of data on violations a breakdown of which violations were from out-of-state contractors and which were in-state contractors.

MR. DUNHAM said he'd provide the data but the violations are primarily from out-of-state contractors.

[2:26:59 PM](#)

MR. DUNHAM turned to slide 23 that highlights the differences in staffing at the Division of Labor Standards and Safety between 1988 and 2020. He reviewed the following points:

Staffing at Wage and Hour - Then and Now

In 1988, LSS [the Division of Labor Standards and Safety] had 12 staff members [in the Wage and Hour Section] statewide dedicated solely to the enforcement of Employment Preference.

In 2020, LSS has 21 positions statewide [in the Wage and Hour Section] that are responsible to enforce all Wage and Hour programs.

He added that until recently the four investigators in the Wage and Hour Section looked into potential violations of employment preference as they found a problem.

SENATOR STEVENS asked if he understood correctly that in 1988 there were 12 people enforcing the employment preference law and now there are only four.

MR. DUNHAM clarified that the division has four investigators but they are primarily looking for prevailing wage deficits, not the enforcement of employment preference. Staffing was insufficient to look specifically for employment preference violations.

[2:28:29 PM](#)

MR. DUNHAM turned to slide 24 that discusses the history of the penalties that have been assessed. He reviewed the following points:

History of penalties assessed

Donations made by contractors into Alaska training opportunities were often accepted in lieu of penalty retention by State agency.

First time offenders were often allowed to have only a portion of the penalty amount to be retained by the contracting agency. In these cases, or when other mitigating factors were presented, penalties were often reduced by 90%.

He explained that since the Enserch ruling, a tool the division uses in the informal conference to reduce or eliminate the penalty is to offer the contractor the option to donate an equivalent percentage of the proposed penalty to any training program in the state that focuses on training young Alaskans to work in the blue collar construction field. For example, a contractor in the early 90s who was facing a \$50,000 penalty would be given the option of donating to any of the existing training programs, including the UAA welding shop. The division would likely accept that donation (through the conference and persuasion process under AAC 30.090) in lieu of the penalty. The logic was that instead of those funds going back into the general fund, they were directly supporting the intent of the employment preference law, which was training Alaskans to work in Alaska. That decades long process was changed a few years ago when the attorney general put a stop to it, calling it a breach of ethics. The division repeatedly asked under what circumstances that process could be used and recently they received an email from an (assistant) attorney general that said a donation to the University of Alaska was acceptable because it was a state agency.

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CHAIR BISHOP asked which attorney general issued the opinion.

MR. DUNHAM replied it was an email from the assistant attorney general assigned to the Department of Labor and Workforce Development (DOLWD). Responding to a further question, he said the email was sent less than a year ago.

CHAIR BISHOP pointed out that an employer facing a \$50,000 fine could make the donation to the University of Alaska and take advantage of the education tax credit.

MR. DUNHAM agreed and added that contractors who donated in lieu of their penalty have followed up and advertised their donations.

[2:34:03 PM](#)

MR. DUNHAM turned to slide 25 that outlines the alternative penalty efforts. He reviewed the following points:

Alternative Penalty Efforts - Workforce Investments

Rationale

To reduce legal costs from both sides, donations into various training programs that focused on

introducing and were accepted by providing blue-collar skills to young Alaskans.

This type of settlement agreements has been accepted by the Department for decades.

Benefits

The donated funds directly supported and promoted the mission of the Employment Preference, as opposed to the funds being retained by the various State agencies and placed back into the General Fund.

MR. DUNHAM discussed the following points outlined on slide 26 relating to the fourth constitutional challenge of the employment preference law:

Constitutional Challenge No. 4

- 17 projects identified as out of compliance
- Contractor's position was that the Employment Preference Act was unconstitutional
- July 2019, the contractor filed suit
- AG agreed to issue a formal opinion declaring AS 36.10 to be unconstitutional.
- Based on AG Opinion, the Department was directed to cease enforcement of Employment Preference provisions, and all investigations into alleged or potential Employment Preference violations were closed.

MR. DUNHAM explained that in July 2019, a contractor in Juneau filed suit after 17 of his projects were found out of compliance with the employment preference law. The contractor maintained that the Employment Preference Act was unconstitutional. As part of the negotiation process, Attorney General Clarkson agreed to issue an opinion and that resulted in DOLWD being directed to stop enforcing employment preference and all cases of alleged violations of that law were closed.

CHAIR BISHOP thanked him for the presentation and advised that he would have his staff follow up with another request for information from one of the committee members.

[2:36:21 PM](#)

There being no further business to come before the committee, Chair Bishop adjourned the Senate Labor and Commerce Standing Committee meeting at 2:36 p.m.