

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

January 31, 2024

1:02 p.m.

**MEMBERS PRESENT**

Representative Sarah Vance, Chair  
Representative Jamie Allard, Vice Chair  
Representative Ben Carpenter  
Representative Craig Johnson  
Representative Jesse Sumner  
Representative Andrew Gray  
Representative Cliff Groh

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 88

"An Act relating to work quotas for employees at warehouse distribution centers; and providing for an effective date."

- MOVED CSHB 88(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 63

"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), 602(c) and (h), and 603(a), Alaska Rules of Appellate Procedure; and providing for an effective date."

- MOVED CSHB 63(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 105

"An Act relating to parental rights in a child's education; relating to access to school records; relating to sex education, human reproduction education, and human sexuality education; relating to school disciplinary and safety programs; and providing for an effective date."

- BILL HEARING CANCELED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 88

SHORT TITLE: WAREHOUSE WORK QUOTAS

SPONSOR(s): REPRESENTATIVE(s) RAUSCHER

02/27/23	(H)	READ THE FIRST TIME - REFERRALS
02/27/23	(H)	L&C, JUD
03/29/23	(H)	L&C AT 3:15 PM BARNES 124
03/29/23	(H)	Heard & Held
03/29/23	(H)	MINUTE(L&C)
04/10/23	(H)	L&C AT 3:15 PM BARNES 124
04/10/23	(H)	<Bill Hearing Canceled>
04/12/23	(H)	L&C AT 3:15 PM BARNES 124
04/12/23	(H)	Heard & Held
04/12/23	(H)	MINUTE(L&C)
04/14/23	(H)	L&C AT 3:15 PM BARNES 124
04/14/23	(H)	Heard & Held
04/14/23	(H)	MINUTE(L&C)
04/17/23	(H)	L&C AT 3:15 PM BARNES 124
04/17/23	(H)	Moved CSHB 88(L&C) Out of Committee
04/17/23	(H)	MINUTE(L&C)
04/19/23	(H)	L&C RPT CS(L&C) 3DP 4NR
04/19/23	(H)	DP: FIELDS, CARRICK, SUMNER
04/19/23	(H)	NR: SADDLER, PRAX, WRIGHT, RUFFRIDGE
01/29/24	(H)	JUD AT 1:00 PM GRUENBERG 120
01/29/24	(H)	Heard & Held
01/29/24	(H)	MINUTE(JUD)
01/31/24	(H)	JUD AT 1:00 PM GRUENBERG 120

BILL: HB 63

SHORT TITLE: REPEAL WORKERS' COMP APPEALS COMMISSION

SPONSOR(s): REPRESENTATIVE(s) RAUSCHER

02/06/23	(H)	READ THE FIRST TIME - REFERRALS
02/06/23	(H)	L&C, JUD
02/17/23	(H)	L&C AT 3:15 PM BARNES 124
02/17/23	(H)	Heard & Held
02/17/23	(H)	MINUTE(L&C)
03/03/23	(H)	L&C AT 3:15 PM BARNES 124
03/03/23	(H)	Heard & Held
03/03/23	(H)	MINUTE(L&C)
03/15/23	(H)	L&C AT 3:15 PM BARNES 124
03/15/23	(H)	Moved HB 63 Out of Committee
03/15/23	(H)	MINUTE(L&C)
03/17/23	(H)	L&C RPT 2DP 5NR

03/17/23	(H)	DP: WRIGHT, SADDLER
03/17/23	(H)	NR: RUFFRIDGE, PRAX, FIELDS, CARRICK, SUMNER
03/17/23	(H)	L&C AT 3:15 PM BARNES 124
03/17/23	(H)	<Bill Hearing Canceled>
03/20/23	(H)	FIN REFERRAL ADDED AFTER JUD
03/20/23	(H)	BILL REPRINTED
01/29/24	(H)	JUD AT 1:00 PM GRUENBERG 120
01/29/24	(H)	Heard & Held
01/29/24	(H)	MINUTE(JUD)
01/31/24	(H)	JUD AT 1:00 PM GRUENBERG 120

**WITNESS REGISTER**

PATRICK DOLAN, representing self  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 88.

TRISTIAN SAMMONS, Warehouse Worker  
United Parcel Service  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 88.

RYAN MCKEE, Staff  
Representative George Rauscher  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on CSHB 88(L&C), on behalf of Representative Rauscher, prime sponsor.

ANDY HEMENWAY, representing self  
Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 63.

LYN ELLIOT, VP of State and Government Relations  
American Property Casualty Insurance Association  
Longmont, Colorado

**POSITION STATEMENT:** Testified in opposition to HB 63.

NANCY MEADE, General Counsel  
Alaska Court System  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 63.

**ACTION NARRATIVE**

[1:02:55 PM](#)

**CHAIR VANCE** called the House Judiciary Standing Committee meeting to order at 1:02 p.m. Representatives Carpenter, Gray, Sumner, and Vance were present at the call to order. Representatives C. Johnson, Groh, and Allard arrived as the meeting was in progress.

**HB 88-WAREHOUSE WORK QUOTAS**

[1:03:49 PM](#)

CHAIR VANCE announced that the first order of business would be HOUSE BILL NO. 88, "An Act relating to work quotas for employees at warehouse distribution centers; and providing for an effective date." [Before the committee was CSHB 88(L&C).]

CHAIR VANCE opened public testimony on HB 88.

[1:04:21 PM](#)

PATRICK DOLAN, representing self, reflected on his 20-year tenure working at Carr's distribution center, which utilized a quota-based system accessible to employees. He spoke to the system's effectiveness for both workers and management.

[1:07:57 PM](#)

TRISTIAN SAMMONS, Warehouse Worker, United Parcel Service, testified in support of HB 88. He said granting employees access to workload data promotes transparency and gives them the tools to understand the grading system and address performance issues. He emphasized the need to safeguard the health and safety of Alaska's workforce.

CHAIR VANCE closed public testimony on HB 88.

[1:10:32 PM](#)

REPRESENTATIVE GRAY asked how many warehouses in Alaska would be affected by the bill.

[1:10:48 PM](#)

RYAN MCKEE, Staff, Representative George Rauscher, Alaska State Legislature, on behalf of Representative Rauscher, prime sponsor

of CSHB 88(L&C), offered to follow up with the requested information.

[1:11:09 PM](#)

The committee took a brief at-ease.

[1:11:31 PM](#)

CHAIR VANCE entertained a motion from Representative Sumner.

[1:11:58 PM](#)

REPRESENTATIVE SUMNER moved to report CSHB 88(L&C) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 88(L&C) was reported from the House Judiciary Standing Committee. He gave Legislative Legal Services the authority to make all technical and conforming changes as necessary.

[1:12:25 PM](#)

The committee took an at-ease from 1:12 p.m. to 1:16 p.m.

**HB 63-REPEAL WORKERS' COMP APPEALS COMMISSION**

[1:16:03 PM](#)

CHAIR VANCE announced that the final order of business would be HOUSE BILL NO. 63, "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), 602(c) and (h), and 603(a), Alaska Rules of Appellate Procedure; and providing for an effective date."

CHAIR VANCE opened public testimony to HB 63.

[1:16:42 PM](#)

ANDY HEMENWAY, representing self, testified in opposition to HB 63. He informed the committee that he had retired as chair of the Alaska Worker's Compensation Appeals Commission. He cited three main points: the Commission's caseload, the Commission's

force of legal precedent, and the commission's productivity. In respect to caseload, he acknowledged that the number of cases had drastically decreased, due in part to covid. He said it was reasonable to expect a return to normal levels as the economy rebounds and would therefore be a mistake to make a policy decision based on low numbers. On the second point, he addressed how cases were handled before the commission was created, emphasizing that the commission's decisions have the force of legal precedent. He cited state statute that gives the board legal precedent and conveyed the clarity that it provides for the board, insurance companies, and lawyers. In regard to productivity, he explained that the commission's rules provide for a certain amount of time for preparing the record, briefing, etcetera. It would take a year to decide a case regardless of the number of cases in front of the commission, he said.

[1:21:26 PM](#)

LYN ELLIOT, VP of State and Government Relations, American Property Casualty Insurance Association, testified in opposition to HB 63. She made three points: Firstly, she emphasized the complexity of workers' compensation law and the commission members' knowledge, which reduces the likelihood of a supreme court appeal. She added that she would expect a decrease in cases if the commission was doing its job properly. Secondly, the judicial system has a lack of resources that would likely delay resolution appeals, she posited. Thirdly, the repeal of the commission would not support the intent of the Workers' Compensation Act.

CHAIR VANCE closed public testimony on HB 63.

[1:24:44 PM](#)

REPRESENTATIVE ALLARD moved to adopt Conceptual Amendment 1 to HB 63, such that all references to 2023 would be changed to 2024. There being no objection, Conceptual Amendment 1 was adopted.

[1:25:20 PM](#)

REPRESENTATIVE GRAY asked what would happen if the case count rose above 30.

MR. MCKEE deferred to Ms. Meade

[1:26:21 PM](#)

NANCY MEADE, General Counsel, Alaska Court System, acknowledged that the fiscal note implied a zero fiscal impact for up to 30 cases; however, she did not intend to imply that 31 cases would create a fiscal impact. She reiterated that the bill would not require fiscal resources at this time. In response to a follow up question, she explained that superior court decisions bind the parties in a particular case to the judge's determination. Superior court judges don't make law, she said, adding that new common law is decided by the Alaska Supreme Court whose job it is to resolve disagreements on the application of the law and to make law for the state of Alaska.

[1:28:17 PM](#)

REPRESENTATIVE GRAY asked who enforced the precedent created by the commission.

MS. MEADE said similar to statute, there is no outside enforcement entity. She indicated that any infringement could be handled in court.

REPRESENTATIVE GRAY asked whether the commission always met its 30-day time constraint when issuing a decision.

MS. MEADE answered no; however, both parties always agreed to pushing the 30-day time limit for various reasons.

[1:30:15 PM](#)

REPRESENTATIVE CARPENTER asked how the members of the hearing panel - composed of a labor member, management member, and a full-time attorney - were appointed.

MR. MCKEE shared his belief that the governor appointed the commissioners.

REPRESENTATIVE CARPENTER sought to confirm that should the bill pass, the [Alaska] Supreme Court would establish precedent for the industry.

MR. MCKEE answered yes.

REPRESENTATIVE CARPENTER asked whether there was value in resolving cases establishing precedent by the Alaska Supreme Court, as opposed to establishing a commission prior to reaching the Alaska Supreme Court.

MS. MEADE said that would be a judgement call for the legislature to make.

REPRESENTATIVE CARPENTER asked whether the subject matter expertise at the commission positively or negatively impacted the length of time it take to resolve a case when compared to the same case going to the Supreme Court.

MS. MEADE indicated that in general, the court takes longer to resolve cases compared to the appeals commission. In response to a follow up question, she confirmed that to set binding precedent for the industry, the Alaska Supreme Court would need to be involved. She declined to opine on the value to industry or laborers.

[1:35:56 PM](#)

REPRESENTATIVE ALLARD inquired about the expertise of the commissioners and the necessary qualifications to sit on the commission.

MR. MCKEE said no particular expertise was required.

REPRESENTATIVE ALLARD asked whether there had been complaints about commissioners lacking legal expertise.

MR. MCKEE answered no, adding that cases were supposed to take less time to go through the commission; however, the commission was taking as long as the superior court, even with the drop in cases. He countered the idea that the low case count was a result of the pandemic, indicating that fewer cases had become a pattern.

REPRESENTATIVE ALLARD asked whether Ms. Meade was saying that sitting judges and attorneys don't have the knowledge or whether they don't have the time. She asked Ms. Meade to clarify her prior indication "that sometimes judges don't know ... because they're not an expert in it."

MS. MEADE acknowledged that most judges do not have a background in workers' compensation law; however, when presented with a case, a judge's duty is to learn that area of law to make the best decision necessary. She added that these cases are often more time consuming than other matters due to complex medical records in many instances.

REPRESENTATIVE ALLARD asked whether cases would take longer to process if responsibility was transferred from the commission to the Supreme Court.

MS. MEADE shared her understanding that it would take longer; however, some cases have strict deadlines with severe consequences, such as criminal cases, expedited cases, and Child in Need of Aid (CINA) cases.

[1:42:04 PM](#)

REPRESENTATIVE ALLARD asked whether within the commission, there was a timeframe for the appeals process.

MR. MCKEE offered to follow up with the requested information.

[1:42:47 PM](#)

REPRESENTATIVE CARPENTER shared his understanding that the bill would save the state roughly \$480,000 per year. He asked which fund the money would go back to or whether it would be consumed by other things.

MR. MCKEE stated his belief that it would go back into the commission's fund, which was currently being filled with general fund (GF) dollars to cover any remaining deficit from the tax on insurance claims.

[1:43:59 PM](#)

REPRESENTATIVE CARPENTER asked how the court would respond to the increased caseload.

MS. MEADE stated that the court system would watch the caseload and if justified, come to the legislature to ask for a new judge to take on the increased work.

[1:46:35 PM](#)

REPRESENTATIVE ALLARD moved to report HB 63, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 63(JUD) was reported out of the House Judiciary Standing Committee.

[1:47:09 PM](#)

The committee took an at-ease from 1:47 p.m. to 1:51 p.m.

1:51:15 PM

CHAIR VANCE provided closing remarks on future business.

1:51:30 PM

**ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:51 p.m.