

ALASKA STATE LEGISLATURE



SENATOR PETER MICCICHE
SENATE DISTRICT O

SB 88 Sectional Analysis

Sec. 1: Amends AS 18.80.120(b) and is a conforming change to remove the statutory reference that is being repealed in section 20 (AS 44.64.055). (Page 1, line 12 – Page 2, line 6)

Sec. 2: Amends AS 39.25.120(c)(20) and is a conforming change to align with the proposed change in section 4. It adds “professional staff” to the partially exempt service in the Office of Administrative Hearings. (Page 2, lines 7-9)

Sec. 3: Amends AS 44.64.010(d) to correct two anomalies in the chief administrative law judge’s salary. The chief administrative law judge would be paid at step 27 according to the personnel rules and the duty station where he or she works. (Page 2, lines 10-14)

Sec. 4: Amends AS 44.64.020 to provide more flexibility in staffing structure of the Office of Administrative Hearings and includes language clean-up. (Page 2, line 15 – Page 4, line 12)

Sec. 5: Amends AS 44.64.030(b) to correct an anomaly in statute, whereby municipalities and school districts are expressly permitted to contract with the Office of Administrative Hearings for services under AS 44.64.055, but are omitted from the provision for referral of cases. This section streamlines the statute and permits the repeal of AS 44.64.055 in section 20. (Page 4, lines 13-23)

Amends AS 44.64.030(b) to clarify that agencies, municipalities, and school districts referring cases to the Office of Administrative Hearings may agree with the office that certain procedures will apply. (Page 4, lines 20-21)

Sec. 6: Amends AS 44.64.030(c) to add the word “entity,” which makes it explicit that a municipality or school district may choose to delegate final decision authority to OAH. (Page 4, lines 24-29)

Sec. 7: Amends AS 44.64.040(a) to require the minimum experience for all classes of administrative law judges be four years, but in the case of tax-qualified ALJs it would remove the requirement that the experience be in Alaska. (Page 4, line 29 – Page 5, line 11)

Sec. 8: Amends AS 44.64.040(b) to clarify that delegation of a referring agency’s or entity’s procedural powers applies to any proceeding the agency or entity has referred. By adding the term “entity,” this includes cases accepted from municipalities and school districts. (Page 5, lines 12-27)

Sec. 9: Amends AS 44.64.040(c) to make a technical change regarding judges that serve part-time in a position that is authorized as full-time. (Page 5, line 28 – Page 6, line 2)

Sec. 10: Amends AS 44.64.050(c) to put a statute of limitations on complaints for code of conduct violations. The section creates a dual limitations period. First, any person can bring a complaint about conduct that occurred less than three years ago. Second, any person can bring a complaint about conduct that occurred during a proceeding that ended less than two years ago (even if the conduct itself was more than three years ago). (Page 6, lines 3-20)

Sec. 11: Amends AS 44.64.060(a) to clarify that if a municipality sends a case to the Office of Administrative Hearings, its ordinances apply. Aligns this section with AS 44.64.030(b) by making it explicit that preemption by OAH regulations does not apply to voluntarily-referred cases. (Page 6, line 21 – Page 7, line 2)

Sec. 12: Amends AS 44.64.060(b) to require basic information be submitted when a case is referred to the OAH. In addition, this section changes the appeal process of a denial of referral from the Superior Court to the OAH. Also in this section, the timeline for compiling a full agency record is modified. (Page 7, lines 3-19)

Sec. 13: Amends AS 44.64.060(d) to adjust the deadline for stayed cases, allowing the 120-day deadline for a proposed decision to be suspended while a parallel case is moving forward. (Page 7, lines 20-29)

Sec. 14: Amends AS 44.64.060(e) to make changes to the decision-making process in the majority of OAH cases.

Page 7, line 31: This change brings the language into line with current drafting standards, without changing meaning.

Page 8, lines 5-6: Permits extension of the period for parties to comment on a proposed decision if all parties agree.

Page 8, line 8: Ensures that proposals for action are filed with the Office of Administrative Hearings for forwarding to the final decision-maker.

Page 8, lines 9-14: Permits the administrative law judge to allow parties to reply to one another's proposals for action, establishes a time limit for transmittal of the proposed decision and the parties' briefs, and permits the administrative law judge to return a proposed decision to make revisions in response to a proposal for action.

Page 8, lines 15-19: Changes the date from which the final decision-maker's action deadline is calculated to the date on which the final-decision-maker receives the proposed decision.

Page 8, lines 26-27: Permits a final decision-maker to set the length of time in which a remanded case must be processed.

Sec. 15: Amends AS 44.64.060(f) to conform with language in section 14. (Page 9, lines 8-12)

Sec. 16: Amends AS 44.64.060 to add new subsections (g-h). Subsection (g) creates uniform authority for the issuance of subpoenas in some cases. Subsection (h) allows for the final decision maker in a case to reopen the proceeding for a reason provided in Rule 60(b) Alaska Rules of Civil Procedure. (Page 9, lines 13-21)

Sec. 17: Amends AS 44.64.080(c) to clarify what agency staff can do and what the agency head can do, but does not change how this section has been interpreted historically. (Page 9, lines 22-28)

Sec. 18: Amends AS 44.64.200(1) to correct a drafting oversight in the original legislation. (Page 9, line 29 – Page 10, line 2)

Sec. 19: Amends AS 44.64.200 to add three new paragraphs to the definition section (to define “entity,” “other proceeding,” and “school district.” (Page 9, lines 3-9)

Sec. 20: Repealer due to the function of AS 44.64.055 being moved into AS 44.64.030 in section 6. (Page 9, line 10)

Sec. 21: Applicability clause. Makes changes to compensation or prior bar membership requirements applicable to new hires only. Makes the statute of limitations in section 10 applicable only to complaints filed after section 10 is effective. (Page 9, lines 11-25)

Sec. 22: Delays by one year the effective date of the statute of limitations in section 10. (Page 9, line 26)