

ALASKA STATE LEGISLATURE



SENATOR PETER MICCICHE SENATE DISTRICT O

SB 88 Sponsor Statement

Senate Bill 88 is a “good government” bill to improve the process for hearing administrative appeals in Alaska. This bill updates the Office of Administrative Hearings (OAH) statutes to address due process concerns, procedural confusion, and inefficiencies, all with an eye towards improving OAH’s ability to provide timely, cost-effective, and high-quality administrative adjudication services.

In 2004, under the leadership of Governor Murkowski and Senator Therriault, the legislature created the Office of Administrative Hearings (OAH) to centralize the state administrative adjudication process. The new system has worked well to reduce cost, improve public confidence, and provide a speedier process to resolve disputes. However, the statutory framework is in need of an update to correct drafting anomalies and take advantage of the lessons learned from 14 years of “test driving” the original innovative legislation.

Some of the corrections and improvements included in SB 88;

- Reduce procedural confusion over OAH’s subpoena authority by replacing a patchwork system with a uniform provision. It eliminates gaps that made it impossible, for example, for a parent accused of child abuse to subpoena a key witness to the alleged event.
- Rationalize the system of deadlines that was created to speed the process. For example, one final decision deadline applicable to agency heads, though wise in concept, has been counted from the wrong event, sometimes leaving commissioners with virtually no time to consider far-reaching decisions. At the same time, these final decisionmakers have had no deadline at all to act on revised proposed decisions after a remand, which can lead to long delays that frustrate the parties.
- Make it possible for parties to respond to one another’s objections to a proposed decision, in appropriate cases. The lack of a way to allow for responses has led to due process concerns and delays. The bill also permits the administrative law judge (ALJ) to revise a proposed decision based on errors pointed out by the parties, again cutting down on inefficiency and delay.
- Permit the Chief Administrative Law Judge to employ low-cost junior professionals for some work, correcting an inadvertent omission in the original legislation. This will create opportunities for savings.

- Allow OAH to count experience gained in other jurisdictions toward the minimums needed to serve as a tax qualified ALJ. This is critical in the tax docket, where OAH has had serious recruitment problems and needs to broaden the pool of skilled practitioners it can recruit from.
- Give OAH a means of reopening decisions that were entered in error, such as when a party failed to appear but the failure later turns out to be because the party was incapacitated, or because the agency sent the notice to the wrong person. SB 88 corrects this omission in the original legislation.

The public will be better served by the corrections and streamlining in the process for administrative adjudication as provided by SB 88. I respectfully request support for this bill.