

CS FOR SENATE BILL NO. 60(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR WIELECHOWSKI

A BILL**FOR AN ACT ENTITLED**

1 "An Act repealing the Workers' Compensation Appeals Commission; relating to
2 decisions and orders of the Workers' Compensation Appeals Commission; relating to
3 the office of administrative hearings; relating to jurisdiction of the office of
4 administrative hearings over appeals from Alaska Workers' Compensation Board
5 decisions; amending Rules 201.1, 202(a), 204(a) - (c), 210(e), 401.1, 501.1, and 601(b),
6 Alaska Rules of Appellate Procedure; and providing for an effective date."

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 * **Section 1.** AS 23.30.005 is amended by adding a new subsection to read:

9 (n) The board, in its administrative capacity, shall make available, upon
10 request, the decisions and orders of the former Workers' Compensation Appeals
11 Commission. Unless reversed or modified by the office of administrative hearings or
12 the Alaska Supreme Court, decisions of the former Workers' Compensation Appeals
13 Commission have the force of legal precedent and shall stand instead of the order of

1 the board from which review was taken.

2 * **Sec. 2.** AS 23.30.007 is repealed and reenacted to read:

3 **Sec. 23.30.007. Jurisdiction of the office of administrative hearings.** (a) The
4 office of administrative hearings has jurisdiction to hear appeals from final decisions
5 and orders of the board under this chapter. Jurisdiction of the office under this chapter
6 is limited to administrative appeals arising under this chapter.

7 (b) The office shall designate one primary administrative law judge and one
8 alternate administrative law judge to hear and decide all appeals to the office under
9 this chapter. The primary administrative law judge shall hear and decide an appeal to
10 the office under this chapter. If the primary administrative law judge is unable to hear
11 an appeal for reasons of absence or illness in excess of 15 days, the alternate
12 administrative law judge shall hear and decide the appeal.

13 * **Sec. 3.** AS 23.30.008(a) is amended to read:

14 (a) The office [COMMISSION] shall be the exclusive and final authority for
15 the hearing and determination of all questions of law and fact arising under this
16 chapter in those matters that have been appealed to the office [COMMISSION],
17 except for an appeal to the Alaska Supreme Court. [THE COMMISSION DOES NOT
18 HAVE JURISDICTION IN ANY CASE THAT DOES NOT ARISE UNDER THIS
19 CHAPTER OR IN ANY CRIMINAL CASE.] On any matter taken to the office under
20 this chapter [COMMISSION], the decision of the office [COMMISSION] is final
21 and conclusive, unless appealed to the Alaska Supreme Court, and shall stand in lieu
22 of the order of the board from which the appeal was taken. Unless reversed by the
23 Alaska Supreme Court, decisions of the office [COMMISSION] have the force of
24 legal precedent.

25 * **Sec. 4.** AS 23.30.008(b) is repealed and reenacted to read:

26 (b) The office, in its administrative capacity, shall maintain, index, and make
27 available for public inspection the final administrative decisions and orders of the
28 office and of the board.

29 * **Sec. 5.** AS 23.30.008(c) is amended to read:

30 (c) The office, [CHAIR OF THE COMMISSION SHALL DRAFT AND
31 PROPOSE, AND THE COMMISSION] in its administrative capacity, may adopt [,]

1 regulations implementing the office's [COMMISSION'S] authority and duties under
2 this chapter, including rules of procedure and evidence for proceedings before the
3 office [COMMISSION] under this chapter. The provisions of AS 44.62
4 (Administrative Procedure Act) apply to the adoption of regulations by the office
5 [COMMISSION].

6 * **Sec. 6.** AS 23.30.008(d) is amended to read:

7 (d) In an appeal, the office [COMMISSION] shall award a successful party
8 reasonable costs and, if the party is represented by an attorney, attorney fees that the
9 office [COMMISSION] determines to be fully compensatory and reasonable.
10 However, the office [COMMISSION] may not make an award of attorney fees against
11 an injured worker unless the office [COMMISSION] finds that the worker's position
12 on appeal was frivolous or unreasonable or the appeal was taken in bad faith.

13 * **Sec. 7.** AS 23.30.008(e) is amended to read:

14 (e) The office [COMMISSION], in its administrative capacity, may [ADOPT
15 AND ALTER AN OFFICIAL SEAL AND] do all things necessary, convenient, or
16 desirable to carry out the powers expressly granted or necessarily implied in this
17 chapter.

18 * **Sec. 8.** AS 23.30.107(b) is amended to read:

19 (b) Medical or rehabilitation records, and the employee's name, address, social
20 security number, electronic mail address, and telephone number contained on any
21 record, in an employee's file maintained by the division or held by the board or the
22 office under this chapter [COMMISSION] are not public records subject to public
23 inspection and copying under AS 40.25.100 - 40.25.295. This subsection does not
24 prohibit

25 (1) the reemployment benefits administrator, the division, the board,
26 the office [COMMISSION], or the department from releasing medical or rehabilitation
27 records in an employee's file, without the employee's consent, to a physician providing
28 medical services under AS 23.30.095(k) or 23.30.110(g), a party to a claim filed by
29 the employee, or a governmental agency; or

30 (2) the quoting or discussing of medical or rehabilitation records
31 contained in an employee's file during a hearing on a claim for compensation or in a

1 decision or order of the board or office [COMMISSION].

2 * **Sec. 9.** AS 23.30.108(d) is amended to read:

3 (d) If the employee files a petition seeking a protective order to recover
4 medical and rehabilitation information that has been provided but is not related to the
5 employee's injury, and the board or the board's designee grants the protective order,
6 the board or the board's designee granting the protective order shall direct the division,
7 the board, the office [COMMISSION], and the parties to return to the employee, as
8 soon as practicable following the issuance of the protective order, all medical and
9 rehabilitation information, including copies, in their possession that is unrelated to the
10 employee's injury under the protective order.

11 * **Sec. 10.** AS 23.30.108(e) is amended to read:

12 (e) If the board or the board's designee limits the medical or rehabilitation
13 information that may be used by the parties to a claim, either by an order on the record
14 or by issuing a written order, the division, the board, the office [COMMISSION], and
15 a party to the claim may request and an employee shall provide or authorize the
16 production of medical or rehabilitation information only to the extent of the limitations
17 of the order. If information has been produced that is outside of the limits designated
18 in the order, the board or the board's designee shall direct the party in possession of
19 the information to return the information to the employee as soon as practicable
20 following the issuance of the order.

21 * **Sec. 11.** AS 23.30.125(b) is amended to read:

22 (b) Notwithstanding other provisions of law, a decision or order of the board is
23 subject to review by the office [COMMISSION] as provided in this chapter.

24 * **Sec. 12.** AS 23.30.125(c) is amended to read:

25 (c) If a compensation order is not in accordance with law or fact, the order
26 may be suspended or set aside, in whole or in part, through proceedings in the office
27 [COMMISSION] brought by a party in interest against all other parties to the
28 proceedings before the board. The payment of the amounts required by an award may
29 not be stayed pending a final decision in the proceeding unless, upon application for a
30 stay, the office [COMMISSION], on hearing, after not less than three days' notice to
31 the parties in interest, allows the stay of payment, in whole or in part, where the party

1 filing the application would otherwise suffer irreparable damage. Continuing future
2 periodic compensation payments may not be stayed without a showing by the
3 appellant of irreparable damage and the existence of the probability of the merits of
4 the appeal being decided adversely to the recipient of the compensation payments. The
5 order of the office [COMMISSION] allowing a stay must contain a specific finding,
6 based on [UPON] evidence submitted to the office [COMMISSION] and identified by
7 reference to the evidence, that irreparable damage would result to the party applying
8 for a stay and specifying the nature of the damage.

9 * **Sec. 13.** AS 23.30.127(a) is amended to read:

10 (a) A party in interest may appeal a compensation order issued by the board to
11 the office [COMMISSION] within 30 days after the compensation order is filed with
12 the office of the board under AS 23.30.110. The director may intervene in an appeal. If
13 a party in interest is not represented by counsel and the compensation order concerns
14 an unsettled question of law, the director may file an appeal to obtain a ruling on the
15 question by the office [COMMISSION].

16 * **Sec. 14.** AS 23.30.127(b) is amended to read:

17 (b) An appeal is initiated by filing with the office [OF THE COMMISSION]
18 (1) a signed notice of appeal specifying the compensation order
19 appealed from;
20 (2) a statement of the grounds on [UPON] which the appeal is taken;
21 and
22 (3) other material the office [COMMISSION] may by regulation
23 require.

24 * **Sec. 15.** AS 23.30.127(c) is amended to read:

25 (c) A cross-appeal may be initiated by filing with the office [OF THE
26 COMMISSION] a signed notice of cross-appeal within 30 days after the decision is
27 filed or within 15 days after service of notice of an appeal, whichever is later. The
28 notice of cross-appeal shall specify the compensation order appealed from and the
29 grounds on [UPON] which the cross-appeal is taken.

30 * **Sec. 16.** AS 23.30.127(d) is amended to read:

31 (d) The office [OF THE COMMISSION] may charge a fee, not to exceed

1 \$100, for filing appeals and cross-appeals, except that the office [OF THE
2 COMMISSION] may not charge a fee if the appellant is the state or a political
3 subdivision of the state. The office [COMMISSION] may require an appellant to pay
4 the costs of the transcript of hearing and the preparation of the record on appeal. The
5 office [COMMISSION] may require cross-appellants or intervenors to share in the
6 costs.

7 * **Sec. 17.** AS 23.30.127(f) is amended to read:

8 (f) The office [COMMISSION] may require written briefs and make other
9 rules and orders to facilitate the business of the office [COMMISSION] and advance
10 the prompt, fair, and just disposition of appeals.

11 * **Sec. 18.** AS 23.30.128 is amended to read:

12 **Sec. 23.30.128. Office [COMMISSION] proceedings.** (a) An appeal from a
13 decision of the board under this chapter, and other proceedings under this section,
14 shall be heard and decided by the administrative law judge designated under
15 AS 23.30.007(b). [A THREE-MEMBER PANEL OF THE COMMISSION. AN
16 APPEAL PANEL OF THE COMMISSION MUST INCLUDE THE CHAIR OF THE
17 COMMISSION. THE CHAIR OF THE COMMISSION SHALL ASSIGN TWO
18 MEMBERS TO EACH APPEAL, INCLUDING ONE COMMISSION MEMBER
19 CLASSIFIED AS REPRESENTING EMPLOYEES AND ONE COMMISSION
20 MEMBER CLASSIFIED AS REPRESENTING EMPLOYERS. ACTS, DECISIONS,
21 AND ORDERS OF THE COMMISSION PANEL IN THE APPEAL OR RELATED
22 PROCEEDING SHALL BE CONSIDERED THE ACTS, DECISIONS, AND
23 ORDERS OF THE FULL COMMISSION.] The matter on appeal shall be decided on
24 the record made before the board, a transcript or recording of the proceedings before
25 the board, and oral argument and written briefs allowed by the office
26 [COMMISSION]. Except as provided in (c) of this section, new or additional evidence
27 may not be received with respect to the appeal.

28 (b) The office [COMMISSION] may review discretionary actions, findings of
29 fact, and conclusions of law by the board in hearing, determining, or otherwise acting
30 on a compensation claim or petition. The board's findings regarding the credibility of
31 testimony of a witness before the board are binding on the office [COMMISSION].

1 The board's findings of fact shall be upheld by the office [COMMISSION] if
2 supported by substantial evidence in light of the whole record. In reviewing questions
3 of law and procedure, the office [COMMISSION] shall exercise its independent
4 judgment.

5 (c) The office [COMMISSION] may hold hearings and receive evidence on
6 applications for (1) stays under AS 23.30.125; (2) attorney fees and costs of appeal;
7 (3) waiver of fees by indigent appellants; or (4) dismissal of appeals for failure to
8 prosecute or upon settlement. The office [COMMISSION] may rely on new or
9 additional evidence presented during the hearing in making its decision on the
10 application.

11 (d) The office [COMMISSION] may affirm, reverse, or modify a decision or
12 order upon review and issue other orders as appropriate. The office [COMMISSION]
13 may remand matters it determines were improperly, incompletely, or otherwise
14 insufficiently developed. The office [COMMISSION] may remand for further
15 proceedings and appropriate action with or without relinquishing the office's
16 [COMMISSION'S] jurisdiction of the appeal. The administrative adjudication
17 procedures of AS 44.62 (Administrative Procedure Act) do not apply to the
18 proceedings of the office under this chapter [COMMISSION].

19 (e) Within 90 days after written briefing on the appeal is completed or oral
20 argument is held, whichever is later, the office [COMMISSION] shall issue a decision
21 in writing. The decision must contain a concise statement of reasons for the decision,
22 including findings of fact, if required, and conclusions of law. The office
23 [COMMISSION] shall serve each party and the director with a copy of the decision.
24 Appeals may be expedited for good cause by the office [COMMISSION]. Unless
25 reconsideration is ordered under (f) of this section, a decision under this subsection is
26 the final office [COMMISSION] decision.

27 (f) A party or the director may request reconsideration of a decision issued
28 under (e) of this section within 30 days after the date of service shown in the
29 certificate of service of the decision. The request must state specific grounds for
30 reconsideration. Reconsideration may be granted if, in reaching the decision, the office
31 [COMMISSION] (1) overlooked, misapplied, or failed to consider a statute,

regulation, court or administrative decision, or legal principle directly controlling; (2) overlooked or misconceived a material fact; (3) misconceived a material question in the case; or (4) applied law in the ruling that has subsequently changed. The administrative law judge [PANEL OF THE COMMISSION] hearing the request for reconsideration must be the same administrative law judge who [SHALL CONSIST OF THE SAME MEMBERS OF THE PANEL THAT] issued the decision. The office [COMMISSION] may issue an order for reconsideration of all or part of the decision upon request of a party or the director. Reconsideration is based on the record, unless the office [COMMISSION] allows additional argument. The power to order reconsideration expires 60 days after the date of service, as shown on the certificate of service, of a decision issued under (e) of this section. If the office [COMMISSION] does not issue an order for reconsideration within the time allowed for ordering reconsideration, a request for reconsideration is considered denied. If reconsideration is ordered, the office [COMMISSION] shall issue a decision within 30 days after the close of the record on reconsideration. The office [COMMISSION] shall serve each party in the case with a copy of the decision upon reconsideration. The decision upon reconsideration is the final office [COMMISSION] decision.

(g) A decision of the office [COMMISSION] becomes final on the

(1) 31st day after the date of service of a decision if reconsideration is not requested;

(2) 61st day after the date of service of a decision if reconsideration is requested but an order for reconsideration is not issued; or

(3) date of service of the office [COMMISSION] decision upon reconsideration under (f) of this section if reconsideration is requested and an order for reconsideration is issued.

* Sec. 19. AS 23.30.129 is amended to read:

Sec. 23.30.129. Judicial review of office [COMMISSION] orders. (a)

Notwithstanding the provisions of AS 44.62.560, orders of the office under this chapter [COMMISSION] may not be appealed to the superior court. Consistent with AS 22.05.010(b), final decisions of the office under this chapter [COMMISSION] may be appealed to the supreme court, and other orders may be reviewed by the

1 supreme court as provided by the Alaska Rules of Appellate Procedure.

2 (b) A finding by the office [COMMISSION] concerning the weight to be
3 accorded a witness's testimony, including medical testimony and reports, is conclusive
4 even if the evidence is conflicting or susceptible to contrary conclusions. The office's
5 [COMMISSION'S] findings of fact may be reversed on appeal if not supported by
6 substantial evidence in light of the whole record.

7 * **Sec. 20.** AS 23.30.395 is amended by adding a new paragraph to read:

8 (43) "office" means the office of administrative hearings established in
9 AS 44.64.010.

10 * **Sec. 21.** AS 39.50.200(b)(31) is amended to read:

11 (31) Workers' Compensation Board (AS 23.30.005) [AND
12 WORKERS' COMPENSATION APPEALS COMMISSION (AS 23.30.007)];

13 * **Sec. 22.** AS 44.64.030(a) is amended by adding a new paragraph to read:

14 (52) AS 23.30 (administrative appeals arising under AS 23.30).

15 * **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 DIRECT COURT RULE AMENDMENT. Rule 201.1, Alaska Rules of
18 Appellate Procedure, is amended to read:

19 **Rule 201.1. Appeals from the Office of Administrative Hearings**
20 **[ALASKA WORKERS' COMPENSATION APPEALS COMMISSION].** (a) Part
21 Two of these rules (Rules 201 through 220) applies to appeals as of right to the
22 supreme court from a final decision of the Office of Administrative Hearings
23 [ALASKA WORKERS' COMPENSATION APPEALS COMMISSION] under
24 AS 23.30.129.

25 (b) The "trial court" referred to in Part Two of these rules includes the Office
26 of Administrative Hearings [ALASKA WORKERS' COMPENSATION APPEALS
27 COMMISSION], if that office [COMMISSION] entered the decision being appealed
28 under AS 23.30.129.

29 (c) The "judgment" referred to in Part Two of these rules includes the final
30 decision of the Office of Administrative Hearings [ALASKA WORKERS'
31 COMPENSATION APPEALS COMMISSION], if that office [COMMISSION]

entered the decision being appealed under AS 23.30.129.

* **Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 202(a), Alaska Rules of Appellate Procedure, is amended to read:

(a) An appeal may be taken to the supreme court from a final judgment entered by the superior court, in the circumstances specified in AS 22.05.010, or from a final decision entered by the **Office of Administrative Hearings** [ALASKA WORKERS' COMPENSATION APPEALS COMMISSION] in the circumstances specified in AS 23.30.129.

* **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 204(a), Alaska Rules of Appellate Procedure, is amended to read:

(a) When Taken—Appeals and Cross-Appeals.

(1) **Appeals.** The notice of appeal shall be filed within 30 days from the date shown in the clerk's certificate of distribution on the judgment appealed from, unless a shorter time for filing a notice of appeal applies as provided by Rules 216-219, or unless a different time applies as provided in AS 23.30.128 (g).

(2) **Subsequent Appeals.** If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 14 days of the filing of any timely notice of appeal by any other party, or within 30 days from the date shown in the clerk's certificate of distribution on the judgment, whichever period expires last. A post-judgment order awarding or denying costs, attorney's fees, or prejudgment interest, or a final judgment that has been amended to award or deny costs, attorney's fees, or prejudgment interest, may be appealed by filing either a notice of appeal or a motion to amend the points on appeal under subparagraph (a)(5)(A) of this rule within 14 days of the filing of any timely notice of appeal by any other party, or within 30 days from the date shown in the clerk's certificate of distribution on the order, whichever period expires last.

(3) Motions That Terminate Time for Filing Appeals in Civil

Cases. In a civil case, the running of the time for filing an appeal is terminated by a timely motion filed in the trial court pursuant to those rules of civil procedure enumerated in this section or by AS 23.30.128. The full time for an appeal by any party begins to run again on the date of notice, as defined in Civil Rule 58.1 (c), of any of the following orders made on timely motion:

(A) Granting or denying a motion for judgment under Civil Rule 50(b);

(B) Granting or denying a motion to amend or make additional findings of fact under Civil Rule 52 (b) whether or not an alteration of the judgment would be required if the motion is granted;

(C) Granting or denying a motion to alter or amend a judgment under Civil Rule 59;

(D) Denying a new trial under Civil Rule 59; or

(E) Granting or denying a motion for reconsideration filed in the trial court under Civil Rule 77(k) on the date of notice as defined by Civil Rule 58.1 (c) or on the date of denial of the motion pursuant to Civil Rule 77(k)(4), whichever is earlier; or

(F) Granting or denying a request for reconsideration filed in the **Office of Administrative Hearings** [ALASKA WORKERS' COMPENSATION APPEALS COMMISSION] under AS 23.30.128 (f) or on the date the request is deemed denied pursuant to that section, whichever is earlier; or

(G) Granting or denying a petition for rehearing under Appellate Rule 506 in an appeal from an administrative agency other than the **Office of Administrative Hearings acting under AS 23.30** [ALASKA WORKERS' COMPENSATION APPEALS COMMISSION].

(4) Motions That Terminate Time for Filing Appeals in Criminal

Cases. In a criminal case, if a timely motion for a new trial or in arrest of judgment, or a timely motion for reconsideration has been filed in the superior court, or if a motion for reduction, correction, or suspension of sentence under Criminal Rule 35 has been made within the 30-day period following the date shown in the clerk's certificate of

1 distribution on the judgment, an appeal from a judgment may be filed within 30 days
2 after the date of notice of the order deciding the motion. Date of notice is defined in
3 Criminal Rule 32.3 (c).

4 **(5) Effect of Taxing of Costs and Prejudgment Interest and**
5 **Awarding of Attorney's Fees.**

6 (A) The running of the time for filing an appeal is not
7 terminated by proceedings related to the taxing of costs pursuant to Civil Rule
8 79 or while awaiting calculation of prejudgment interest or proceedings related
9 to the award of attorney's fees. However, the statement of points on appeal
10 filed pursuant to Appellate Rule 204(e) and the designation of transcript filed
11 pursuant to Appellate Rule 210(b)(1) may be amended on motion by an
12 appellant or cross-appellant to include the award or denial of costs and
13 attorney's fees or prejudgment interest and pertinent portions of the electronic
14 record. These subjects will thereafter be considered part of the appeal if
15 covered in the brief of appellant or cross-appellant. If no appeal is pending, a
16 post-judgment order awarding or denying costs, attorney's fees, or prejudgment
17 interest may be considered a final judgment subject to an appeal limited to
18 issues of costs, attorney's fees, or prejudgment interest. Any subsequent
19 appeals of this order allowed under paragraph (a)(2) of this rule also will be
20 limited to issues of costs, attorney's fees, or prejudgment interest, unless the
21 period for filing a notice of appeal on the underlying judgment has not yet
22 expired.

23 (B) Notwithstanding Rule 203, the pendency of an appeal shall
24 not divest the trial court of jurisdiction to consider the matters of costs and
25 attorney's fees pursuant to Civil Rules 79 and 82 or AS 23.30.008 (d).

26 (6) **Premature Appeals.** If a notice of appeal is filed after the
27 announcement of a decision but before the date shown in the clerk's certificate of
28 distribution on the judgment, the notice of appeal shall be treated as filed on the date
29 shown in the clerk's certificate of distribution on the judgment.

30 * **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 DIRECT COURT RULE AMENDMENT. Rule 204(b), Alaska Rules of
2 Appellate Procedure, is amended to read:

3 **(b) Appeal—How Taken.** A party may appeal from a final order or judgment
4 by filing a notice of appeal with the clerk of the appellate courts. The notice of appeal
5 must identify the party taking the appeal, the final order or judgment appealed from,
6 and the court to which the appeal is taken. The party must file the notice of appeal
7 accompanied by the documents listed below:

8 (1) a completed docketing statement in the form prescribed by these
9 rules, which includes a list of the parties to the appeal;

10 (2) a copy of the final order or judgment from which the appeal is
11 taken and, if the order is a partial final judgment entered under Civil Rule 54(b), the
12 Civil Rule 54(b) order;

13 (3) a statement of points on appeal as required by Rule 204(e);

14 (4) unless the party is represented by court-appointed counsel, the
15 party is the state or an agency thereof, or the party is a prisoner found by the court to
16 be eligible to pay less than full fees under AS 09.19.010,

17 (A) the filing fee required by Administrative Rule 9(a);

18 (B) a motion for waiver of filing fee pursuant to Administrative
19 Rule 9(f)(1); or

20 (C) a motion to appeal at public expense pursuant to Rule 209;

21 (5) unless the party is represented by court-appointed counsel, the
22 party is the state, municipality, or officer or agency thereof, or the party is an
23 employee appealing denial of compensation by the Office of Administrative
24 Hearings under AS 23.30 [ALASKA WORKERS' COMPENSATION APPEALS
25 COMMISSION] or denial of benefits under AS 23.20 (Employment Security Act),

26 (A) the cost bond or deposit required by Rule 204(c)(1);

27 (B) a copy of a superior court order approving the party's
28 supersedeas bond or other security in lieu of bond or a copy of the party's
29 motion to the superior court for approval of a supersedeas bond or other
30 security;

31 (C) a motion for waiver of cost bond; or

(D) a motion to appeal at public expense pursuant to Rule 209;

(6) a designation of transcript if the party intends to have portions of the electronic record transcribed pursuant to Rule 210(b); and

(7) proof of service of the notice of appeal and all required accompanying documents, except the filing fee, on all other parties to the appeal.

A party may move for an extension of time to file the statement of points on appeal and the designation of transcript. The clerk of the appellate courts shall refuse to accept for filing any notice of appeal not conforming to this paragraph and accompanied by the items specified in (1)-(7) or a motion to extend the time for filing item (3) or (6).

* **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 204(c), Alaska Rules of Appellate Procedure, is amended to read:

(c) Bond on Appeal.

(1) Unless a party is exempted by law, a bond for costs on appeal shall be filed with the notice of appeal in a civil case. The bond shall be in the sum of seven hundred fifty dollars (\$ 750.00), unless the superior court fixes a different amount or unless a supersedeas bond is filed, in which event no separate bond on appeal is required. The bond on appeal shall have sufficient surety and shall be conditioned to secure the payment of costs if the appeal is dismissed or the judgment affirmed, or such costs as the supreme court may award if the judgment is modified. If a bond on appeal in the sum of seven hundred fifty dollars (\$ 750.00) is given, no approval thereof is necessary. After a bond on appeal is filed, an appellee may by motion raise objection to the form or amount of the bond or to the sufficiency of the surety which shall be determined by the superior court. In lieu of filing such cost bond, the appellant may deposit in the office of the clerk of the court from which the appeal is taken a sum of money reasonably sufficient to cover such costs, the amount thereof to be fixed by the superior court.

(2) Notwithstanding subparagraph (1), a bond for costs on appeal shall not be required in an appeal from a decision of the trial court in any criminal case or

any civil case where an indigent party is entitled to court-appointed counsel, and a bond shall not be required from an employee appealing from a denial of compensation by the Office of Administrative Hearings under AS 23.30 [ALASKA WORKERS' COMPENSATION APPEALS COMMISSION] or from a denial of a claim for benefits under AS 23.20 (Employment Security Act).

* **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 210(e), Alaska Rules of Appellate Procedure, is amended to read:

(e) **Preparation of the Trial Court File.**

(1) **Page Numbering.** Upon receiving the notice of appeal, the regional appeals clerk shall number the pages of the record, assembled in accordance with subsection (a) of this rule, in a single consecutive sequence throughout all volumes. Page numbering must be completed within 40 days after filing of the notice of appeal. In an appeal from the Office of Administrative Hearings under AS 23.30 [ALASKA WORKERS' COMPENSATION APPEALS COMMISSION], the office's [COMMISSION'S] record should be numbered beginning with the number immediately following the number of the last page in the record prepared by the Workers' Compensation Board.

(2) **Confidential Materials.** Papers filed under seal in the trial court and exhibits submitted or introduced at closed hearings in the trial court shall be maintained under seal while they constitute part of a record on appeal, and access to them shall be governed by Rule 512.5 (c).

* **Sec. 29.** The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 401.1, Alaska Rules of Appellate Procedure, is amended to read:

Rule 401.1. Review of Non-Appealable Orders or Decisions from the Office of Administrative Hearings [ALASKA WORKERS' COMPENSATION APPEALS COMMISSION]. (a) Part Four of these rules (Rules 401 to 408) applies to petitions for review of non-appealable orders or decisions from the Office of

1 Administrative Hearings under AS 23.30 [ALASKA WORKERS'
2 COMPENSATION APPEALS COMMISSION].

3 (b) The court referred to in Part Four of these rules includes the Office of
4 Administrative Hearings [ALASKA WORKERS' COMPENSATION APPEALS
5 COMMISSION], if that office [COMMISSION] entered the order or decision for
6 which review is sought under AS 23.30.

7 (c) For petitions for review covered by this rule, the procedures governing the
8 Office of Administrative Hearings acting under AS 23.30 [WORKERS'
9 COMPENSATION APPEALS COMMISSION] should be referenced when Part Four
10 refers to a particular Alaska Rule of Civil Procedure.

11 * **Sec. 30.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 DIRECT COURT RULE AMENDMENT. Rule 501.1, Alaska Rules of
14 Appellate Procedure, is amended to read:

15 **Rule 501.1. Appeals from the Office of Administrative Hearings**
16 **[ALASKA WORKERS' COMPENSATION APPEALS COMMISSION].** (a) The
17 "trial court" referred to in Part Five of these rules includes the Office of
18 Administrative Hearings [ALASKA WORKERS' COMPENSATION APPEALS
19 COMMISSION], if that office [COMMISSION] entered the decision being appealed
20 under AS 23.30.129.

21 (b) The "judgment" referred to in Part Five of these rules includes the final
22 decision of the Office of Administrative Hearings [ALASKA WORKERS'
23 COMPENSATION APPEALS COMMISSION], if that office [COMMISSION]
24 entered the decision being appealed under AS 23.30.129.

25 * **Sec. 31.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 DIRECT COURT RULE AMENDMENT. Rule 601(b), Alaska Rules of
28 Appellate Procedure, is amended to read:

29 (b) An appeal may be taken to the superior court from a final judgment
30 entered by the district court, in the circumstances specified in AS 22.15.240, or from a
31 final decision of an administrative agency, except that appeals from decisions of the

1 **Office of Administrative Hearings under AS 23.30** [ALASKA WORKERS'
2 COMPENSATION APPEALS COMMISSION] shall be taken to the supreme court
3 under AS 23.30.129 and are governed by parts Two and Five of these rules.

4 * **Sec. 32.** AS 23.30.009, 23.30.395(10); AS 39.25.110(40); AS 44.64.020(a)(12), and
5 44.64.020(a)(13) are repealed.

6 * **Sec. 33.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 APPLICABILITY. (a) AS 23.30.005(n), 23.30.007, 23.30.008, 23.30.009,
9 23.30.107(b), 23.30.108(d) and (e), 23.30.125(b) and (c), 23.30.127(a) - (d) and (f),
10 23.30.128, 23.30.129, 23.30.395, AS 39.25.110(40), AS 39.50.200(b)(31),
11 AS 44.64.020(a)(12) and (13), and 44.64.030(a), as those statutes read on December 31, 2024,
12 continue to apply to appeals, petitions for review, and other proceedings pending before the
13 Workers' Compensation Appeals Commission on or before July 1, 2025. Appeals, petitions
14 for review, and other proceedings under this subsection shall be continued in the Workers'
15 Compensation Appeals Commission on or before July 1, 2025.

16 (b) AS 23.30.129, as it read on December 31, 2024, applies to appeals to the Alaska
17 Supreme Court from final decisions of the Workers' Compensation Appeals Commission
18 issued on or before July 1, 2025, and to petitions for review from interlocutory decisions of
19 the Workers' Compensation Appeals Commission issued on or before July 1, 2025.

20 * **Sec. 34.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 TRANSITION: APPEALS, PETITIONS FOR REVIEW, REQUESTS FOR
23 RECONSIDERATION, AND OTHER PROCEEDINGS PENDING BEFORE, AND
24 JUDICIAL REVIEW OF FINAL DECISIONS OF, THE WORKERS' COMPENSATION
25 APPEALS COMMISSION. (a) Appeals, petitions for review, and other proceedings that seek
26 review of decisions and orders of the Alaska Workers' Compensation Board and that have not
27 been filed before the Workers' Compensation Appeals Commission before January 1, 2025,
28 shall be filed with the office of administrative hearings on or after January 1, 2025, in
29 accordance with AS 23.30.127, as amended by secs. 13 - 17 of this Act.

30 (b) A party seeking review of a final Workers' Compensation Appeals Commission
31 decision issued on or before July 1, 2025, shall file an appeal to the Alaska Supreme Court

1 under AS 23.30.129, and the Alaska Rules of Appellate Procedure, as that statute and those
2 rules read on December 31, 2024. A party who seeks review of an interlocutory decision of
3 the Workers' Compensation Appeals Commission issued on or before July 1, 2025, shall file a
4 petition for review with the Alaska Supreme Court under AS 23.30.129, and the Alaska Rules
5 of Appellate Procedure, as that statute and those rules read on December 31, 2024. Cases in
6 which a party seeks review of a final Alaska Workers' Compensation Board decision and
7 order issued after a remand from the Workers' Compensation Appeals Commission must be
8 filed with the office of administrative hearings on or after January 1, 2025, in accordance with
9 AS 23.30.127, as amended by secs. 13 - 17 of this Act.

10 (c) The power of the Workers' Compensation Appeals Commission to order
11 reconsideration under AS 23.30.128(f), as that section read on December 31, 2024, expires on
12 July 2, 2025. Requests for reconsideration pending before the Workers' Compensation
13 Appeals Commission shall be automatically denied on July 2, 2025, and, notwithstanding
14 AS 23.30.128(g), as that section read on December 31, 2024, the decision of the Workers'
15 Compensation Appeals Commission becomes final on July 2, 2025. If the Workers'
16 Compensation Appeals Commission ordered reconsideration but did not issue a decision on
17 reconsideration on or before July 1, 2025, reconsideration shall be automatically denied on
18 July 2, 2025, and, notwithstanding AS 23.30.128(g), as that section read on December 31,
19 2024, the original decision of the Workers' Compensation Appeals Commission becomes final
20 on July 2, 2025. A party whose request for reconsideration was denied under this subsection
21 and who seeks further review shall file an appeal in the Alaska Supreme Court under
22 AS 23.30.129, and the Alaska Rules of Appellate Procedure, as that section and those rules
23 read on December 31, 2024.

24 (d) On July 2, 2025, the Workers' Compensation Appeals Commission shall transfer
25 the files of all appeals, petitions for review, and other proceedings that were pending before
26 January 1, 2025, and were not completed on or before July 1, 2025, to the office of
27 administrative hearings, which shall assume jurisdiction under AS 23.30.007(a). The Workers'
28 Compensation Appeals Commission shall provide notice to all parties of record 30 days
29 before it transfers a pending case, advising parties of the transfer of jurisdiction and the
30 effective date of the transfer. The Workers' Compensation Appeals Commission shall prepare
31 each record in accordance with regulations adopted by the office of administrative hearings

1 under AS 23.30.008(c) and shall mail or hand deliver the record in the pending case to the
2 office of administrative hearings. If the office of administrative hearings determines that the
3 record does not comply with the regulations adopted by the office of administrative hearings
4 under AS 23.30.008(c), the office of administrative hearings may return the record to the
5 Alaska Workers' Compensation Board and direct the Alaska Workers' Compensation Board to
6 conform the record as may be necessary.

7 * **Sec. 35.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 TRANSITION: TERMS OF COMMISSIONERS. Notwithstanding the repeal of
10 AS 23.30.007(e) by sec. 32 of this Act, the terms of the members appointed to the Workers'
11 Compensation Appeals Commission expire July 31, 2025.

12 * **Sec. 36.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 TRANSITION: REGULATIONS. The office of administrative hearings may adopt
15 regulations to implement this Act. The regulations take effect under AS 44.62 (Administrative
16 Procedure Act), but not before the effective date of the law implemented by the regulations.

17 * **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 CONDITIONAL EFFECT. This Act takes effect only if secs. 23 - 31 of this Act
20 receive the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of
21 the State of Alaska.

22 * **Sec. 38.** Section 36 of this Act takes effect immediately under AS 01.10.070(c).

23 * **Sec. 39.** Except as provided under sec. 38 of this Act, this Act takes effect January 1,
24 2025.