

1 ALASKA ADMINISTRATIVE PROCEDURE ACT

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1 IN THE HOUSE

BY MR. HELLENTHAL AND MR. TAYLOR

2 HOUSE BILL NO. 13

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing administrative
7 procedures for executive, quasi-judicial
8 and quasi-legislative agencies of the
9 State; providing standard procedures for
10 the adoption, promulgation after notice
11 and public hearing, and judicial review of
12 rules and regulations adopted by the State
13 agencies; providing for due process and
14 standard procedural methods in connection
15 with administrative adjudication and quasi-
16 judicial hearings conducted by specified
17 State agencies; providing for judicial
18 review of administrative rules and regula-
19 tions and of administrative adjudications;
20 providing for legislative review of rules
21 and regulations; requiring that all agency
22 meetings be public; and repealing or amend-
23 ing all laws inconsistent herewith."

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

25 CHAPTER 1. RULES AND REGULATIONS

26 ARTICLE I

27 GENERAL

28 Section 1. SHORT TITLE. This Act constitutes and may be
29 cited as the Administrative Procedure Act.

HB #13
Engrossed as amended

1 Sec. 2. DEFINITIONS. In this chapter, unless otherwise
2 specifically indicated:

3 (1) "State agency" does not include an agency in the
4 judicial or legislative departments of the State Government.

5 (2) "Regulation" means every rule, regulation, order,
6 or standard of general application or the amendment, supplement
7 or revision of any rule, regulation, order or standard adopted by
8 any State agency to implement, interpret, or make specific the
9 law enforced or administered by it, or to govern its procedure,
10 except one which relates only to the internal management of the
11 State agencies. "Regulation" does not mean or include any form
12 prescribed by a State agency or any instructions relating to the
13 use of the form, but this provision is not a limitation upon any
14 requirement that a regulation be adopted pursuant to this Act
15 when one is needed to implement the law under which the form is
16 issued. "Regulation" shall include "manuals," "policies,"
17 "instructions," "guides to enforcement," "interpretative bulle-
18 tins," "interpretations," and the like, which have the effect of
19 rules, orders, regulations or standards of general application,
20 and such and similar phraseology shall not be used to avoid or
21 circumvent this Act. Whether a regulation, regardless of name,
22 is covered by this Act depends in part on whether it affects the
23 public or is used by the agency in dealing with the public.

24 (3) "Order of repeal" means any resolution, order or
25 other official act of a State agency which expressly repeals a
26 regulation in whole or in part.

27 (4) Rule making powers conferred by the State Organiza-
28 tion Act of 1959 shall be subject to this Act.

29 Sec. 3. SECRETARY OF STATE. "Secretary of State" as used

1 in this chapter means the office of the Secretary of State in the
2 executive branch of the State Government, or such other agency
3 as shall be designated by executive order pursuant to the
4 Constitution.

5 Sec. 4. PROVISIO. Except for the authority conferred upon
6 the Secretary of State in Article III hereof, nothing in this
7 chapter confers authority upon or augments the authority of any
8 State agency to adopt, administer, or enforce any regulation.
9 Each regulation adopted, to be effective, must be within the
10 scope of authority conferred and in accordance with standards
11 prescribed by other provisions of law.

12 Sec. 5. LIMITATION. Whenever by the express or implied
13 terms of any statute a State agency has authority to adopt regu-
14 lations to implement, interpret, make specific or otherwise
15 carry out the provisions of the statute, no regulation adopted
16 is valid or effective unless consistent and not in conflict with
17 the statute and reasonably necessary to effectuate the purpose
18 of the statute.

19 Any existing rules or regulations conflicting with this
20 section are hereby repealed.

21 ARTICLE II

22 FILING AND PUBLICATION

23 Section 1. FILING PRESENT AND FUTURE REGULATIONS. Every
24 State agency shall:

25 (1) Transmit for filing to the Secretary of State a
26 certified copy of every regulation adopted by it except one
27 which:

- 28 (a) Establishes or fixes rates, prices or tariffs,
29 (b) Relates to the use of public works, including

1 streets and highways, under the jurisdiction of any State
2 agency when the effect of such order is indicated to the
3 public by means of signs or signals.

4 (c) Is directed to a specifically named person or
5 to a group of persons and does not apply generally through-
6 out the State.

7 (2) File with the Secretary of State on a date designat-
8 ed by him a certified copy of every existing rule and regulation
9 adopted by it and in effect on the effective date hereof, and
10 upon which the agency intends to rely as being effective.

11 (3) Transmit to the Secretary of State for filing a
12 certified copy of every order of repeal of a regulation required
13 to be filed under subdivision (1) of this section.

14 (4) Deliver to the Secretary of State at the time of
15 filing two duplicate copies of the regulation or order of repeal
16 together with a citation of the authority pursuant to which it or
17 any part thereof was adopted.

18 Sec. 2. STYLE AND FORM OF FILING. The Secretary of State
19 shall prescribe the style in which regulations shall be prepared
20 and a standard size form to be used in filing regulations pur-
21 suant to the preceding section, which form shall be effective
22 within fifteen days after the effective date hereof, and he shall
23 notify all agencies subject to the provisions of this article of
24 the date when the form so prescribed by him becomes effective.

25 Sec. 3. APPROVAL AND FILING. The Secretary of State shall
26 examine each regulation or order of repeal transmitted to him
27 for filing and determine whether it complies with the form and
28 style prescribed.

29 Sec. 4. FEES. No fee shall be charged by any State officer

1 or public official for the performance of any official act in
2 connection with the certification or filing of regulations
3 pursuant to this article.

4 Sec. 5. ENDORSEMENT BY SECRETARY OF STATE. The Secretary
5 of State shall endorse on the certified copy of each regulation
6 or order of repeal filed with him, the time and date of filing
7 and shall maintain a permanent file of the certified copies of
8 regulations and orders of repeal for public inspection.

9 Sec. 6. FILING WITH LOCAL GOVERNMENT UNIT CLERKS. The
10 Secretary of State shall file one copy of each issue of the
11 Alaska Administrative Code and of the Alaska Administrative
12 Register in the office of the clerk of each local government unit
13 in the State, or if the authority to accept filings on his behalf
14 has been delegated, to the person to whom such authority has
15 been delegated.

16 Sec. 7. PRESUMPTIONS FROM FILING. The filing of a certi-
17 fied copy of a regulation or an order of repeal with the Secre-
18 tary of State raises the rebuttable presumption that:

19 (1) It was duly adopted.

20 (2) It was duly filed and made available for public
21 inspection at the day and hour endorsed on it.

22 (3) All requirements of this chapter and the regula-
23 tions relative to such regulation have been complied with.

24 (4) The text of the certified copy of a regulation
25 or order of repeal is the text of the regulation or order of
26 repeal as adopted.

27 The courts shall take judicial notice of the contents of
28 the certified copy of each regulation and of each order of repeal
29 duly filed.

1 visions of Articles II and III of this chapter. Among other
2 things the regulations shall provide for the manner and form in
3 which regulations, notice of the repeal of regulations, compila-
4 tions, and codifications shall be prepared, printed, and indexed,
5 to the end that all regulations, compilations, and codifications
6 shall be prepared and published in a uniform manner and at the
7 earliest practicable date and that each regulation published
8 shall be accompanied by a reference to the statutory authority
9 pursuant to which it was enacted.

10 Sec. 2. LOCAL GOVERNMENT UNIT CLERKS TO RECEIVE CODE AND
11 REGISTER. The Secretary of State shall supply a complete set of
12 the Alaska Administrative Code, and of the Alaska Administrative
13 Register, which have been or are published and of each supplement
14 to such code or register to the clerk of each local government
15 unit, or if the authority to accept filings on his behalf has
16 been delegated, to the person to whom such authority has been
17 delegated.

18 Sec. 3. PRICE AT WHICH SOLD. The Alaska Administrative
19 Register and the Alaska Administrative Code shall as nearly as
20 practical be sold by the Secretary of State at such prices as
21 will reimburse the State for all costs incurred for printing,
22 publication and distribution.

23 All money received from the sale of the Alaska Administrative
24 Register and the Alaska Administrative Code shall be deposited in
25 the treasury and credited to the General Fund, except that an
26 amount necessary to cover the distribution costs shall be credited
27 to the fund from which such costs have been paid.

28 Sec. 4. PUBLICATION DATE. The publication date shall be
29 determined by the Secretary of State, and all rules and regulations

1 thereafter filed and all rules and regulations theretofore filed
2 and in effect on the publication date shall be published.

3 Sec. 5. FORM OF PUBLICATION. Nothing in this chapter limits
4 or restricts the discretion of the Secretary of State to determine
5 the form in which the Alaska Administrative Code, and the Alaska
6 Administrative Register shall be published. Either or both of
7 said publications may be issued in such units, whether in bound
8 volumes or in loose-leaf form, separately or in combination, at
9 the same or at different times, as the Secretary of State deems
10 most economical and best adapted to make the current regulations
11 available to interested persons and to the public.

12 ARTICLE IV

13 PROCEDURE FOR ADOPTION OF REGULATIONS

14 Section 1. PURPOSE OF ARTICLE. It is the purpose of this
15 article to establish basic minimum procedural requirements for
16 the adoption, amendment or repeal of administrative regulations.
17 Except as provided in Section 2 of this article, the provisions
18 of this article are applicable to the exercise of any quasi-
19 legislative power conferred by any statute heretofore or hereafter
20 enacted, but nothing in this article repeals or diminishes addi-
21 tional requirements imposed by any such statute. The provisions
22 of this article shall not be superseded or modified by any sub-
23 sequent legislation except to the extent that such legislation
24 shall do so expressly.

25 Sec. 2. EMERGENCY REGULATIONS. (1) The provisions of this
26 article shall not apply to any regulation not required to be filed
27 with the Secretary of State under this chapter, and only this
28 section and Section 3 of this article shall apply to any regulation
29 prescribing an agency's organization or procedure or to an

1 emergency regulation adopted pursuant to subdivision (2) of this
2 section.

3 (2) If in any particular case the State agency makes a
4 finding, including a statement of facts constituting the emergency
5 in writing that the adoption of a regulation or order of repeal
6 is necessary for the immediate preservation of the public peace,
7 health and safety or general welfare, the regulation or order
8 of repeal may be adopted as an emergency regulation or order of
9 repeal. It is the State policy that emergencies be held to a
10 minimum and rarely be found to exist.

11 Sec. 3. EFFECTIVE DATE. A regulation or an order of repeal
12 required to be filed with the Secretary of State shall become
13 effective on the thirtieth day after the date of filing unless:

14 (1) Otherwise specifically provided by the statute
15 pursuant to which the regulation or order of repeal was adopted,
16 in which event it becomes effective on the day prescribed by such
17 statute.

18 (2) It is a regulation prescribing an agency's organi-
19 sation or procedure, in which event it shall become effective upon
20 filing or upon any later date specified by the State agency in
21 a written instrument filed with, or as part of, the regulation or
22 order of repeal.

23 (3) It is an emergency regulation or order of repeal
24 adopted pursuant to subdivision (2) of Section 2 of this article,
25 in which case the finding and the statement of the facts consti-
26 tuting the emergency shall be filed with the Secretary of State,
27 together with the emergency regulation or order of repeal, which
28 shall, in that event only, become effective upon filing or upon
29 any later date specified by the State agency in a written

1 instrument filed with, or as part of, the regulation or order of
2 repeal.

3 (4) A later date is prescribed by the State agency in
4 a written instrument filed with, or as part of, the regulation or
5 order of repeal.

6 Sec. 4. EMERGENCY: LIMITATION ON EFFECTIVE PERIOD. No.
7 regulation adopted as an emergency shall remain in effect more
8 than ninety days unless the adopting agency has complied with
9 Sections 5, 6, and 7 of this article prior to the adoption of the
10 emergency regulation, or has, within said ninety-day period, given
11 notice of the adoption of the emergency regulation in a manner
12 substantially similar to that required for the proposed adoption
13 of a regulation and has afforded interested persons the opportunity
14 to present statements, arguments, or contentions in a manner
15 substantially similar to that required by Section 7 of this article.
16 The agency shall, prior to the expiration of the ninety-day period,
17 transmit to the Secretary of State for filing a certification
18 that either Sections 5, 6, and 7 of this article were complied
19 with prior to adoption, or that compliance was had with this
20 section within the said period. Failure to so certify shall
21 constitute a repeal of the emergency regulation.

22 Sec. 5. NOTICE OF PROPOSED ACTION. At least thirty days
23 prior to the adoption, amendment, or repeal of a regulation,
24 notice of the proposed action shall be:

25 (1) Published in such newspaper of general circulation,
26 trade or industry publication, as the State agency shall prescribe.

27 (2) Mailed to every person who has filed a request for
28 notice thereof with the State agency.

29 (3) In cases in which the State agency is within a

1 State department, mailed or delivered to the director of such
2 department.

3 (4) When appropriate in the judgment of the State
4 agency, (a) mailed to any person or group of persons whom the
5 agency believes to be interested in the proposed action and, (b)
6 published in such additional form and manner as the State agency
7 shall prescribe.

8 Where the form or manner of notice is prescribed by statute
9 in any particular case, in addition to filing and mailing notice
10 as required herein, the notice shall be published, posted, mailed,
11 filed or otherwise publicized as prescribed by that statute.

12 The failure to mail notice to any person as provided in this
13 section shall not invalidate any action taken by a State agency
14 pursuant to this article.

15 Sec. 6. CONTENTS OF NOTICE. The notice of proposed adoption
16 amendment, or repeal of a regulation shall include:

17 (1) A statement of the time, place, and nature of
18 proceedings for adoption, amendment, or repeal of the regulation;

19 (2) Reference to the authority under which the regula-
20 tion is proposed and a reference to the particular code sections
21 or other provisions of law which are being implemented, inter-
22 preted, or made specific;

23 (3) Either the express terms or an informative summary
24 of the proposed action;

25 (4) Such other matters as are prescribed by statute
26 applicable to the specific State agency or to any specific
27 regulation or class of regulations.

28 Sec. 7. PUBLIC PROCEEDINGS. On the date and at the time
29 and place designated in the notice the State agency shall afford

1 any interested person or his duly authorized representative, or
2 both, the opportunity to present statements, arguments, or
3 contentions in writing, with or without opportunity to present
4 the same orally. The State agency shall consider all relevant
5 matter presented to it before adopting, amending or repealing any
6 regulation.

7 In any hearing under this section the State agency or its
8 duly authorized representative shall have authority to administer
9 oaths or affirmations, and may continue or postpone such hearing
10 from time to time to such time and at such place as it shall
11 determine.

12 Sec. 8. RIGHT TO PETITION. Except where the right to
13 petition for adoption of a regulation is restricted by statute
14 to a designated group or where the form of procedure for such
15 a petition is otherwise prescribed by statute, any interested
16 person may petition a State agency requesting the adoption or
17 repeal of a regulation as provided in this article. Such
18 petition shall state clearly and concisely:

19 (1) The substance or nature of the regulation, amend-
20 ment, or repeal requested;

21 (2) The reasons for the request;

22 (3) Reference to the authority of the State agency to
23 take the action requested.

24 Sec. 9. PROCEDURE ON PETITION. Upon receipt of a petition
25 requesting the adoption, amendment or repeal of a regulation
26 pursuant to this article, a State agency shall within 30 days
27 deny the petition in writing or schedule the matter for public
28 hearing pursuant to Sections 5, 6, and 7 of this article.

29 Sec. 10. RETROACTIVE ACTION: LIMITATION. All regulations

1 promulgated by an agency subject to this Act which are primarily
2 legislative in nature shall have prospective effect only. Any
3 regulation adopted pursuant hereto which is primarily an "inter-
4 pretative regulation" shall have retroactive effect only if the
5 agency adopting it has adopted no prior inconsistent regulation
6 or has followed no prior course of conduct inconsistent with
7 said regulation. Silence or failure to pursue any course of
8 conduct shall be deemed prior inconsistent conduct.

9 ARTICLE V

10 JUDICIAL REVIEW

11 Section 1. COURT REVIEW. Any interested person may obtain
12 a judicial declaration as to the validity of any regulation by
13 bringing an action for declaratory relief in the superior court
14 in accordance with the provisions of the Code of Civil Procedure
15 and in addition to any other ground which may exist, such regula-
16 tion may be declared to be invalid for a substantial failure to
17 comply with the provisions of this chapter or, in the case of an
18 emergency regulation or order of repeal, upon the ground that the
19 facts recited in the statement do not constitute an emergency
20 within the provisions of Section 2 (2) of Article 4.

21 ARTICLE VI

22 AGENCY MEETING PUBLIC

23 Section 1. AGENCY MEETINGS PUBLIC. All meetings of governing
24 bodies of all State and local government agencies, including
25 municipalities, boroughs, school boards and all other boards,
26 agencies, assemblies, councils, departments, divisions, bureaus,
27 commissions or organizations (advisory or otherwise) of the State
28 or local government, supported in whole or in part by public funds
29 or entrusted with the expending of public funds, except juries

1 and such other agencies as shall be expressly exempt by the
2 Legislature, shall be public meetings, but the public may be ex-
3 cluded only from such portions thereof as deal with matters, the
4 immediate knowledge of which would deleteriously affect the
5 finances of the government unit, or that deal with subjects that
6 tend to prejudice the reputation and character of persons. When
7 meetings are held at which such excepted subjects are to be dis-
8 cussed, the meeting must first be convened as a public meeting,
9 and the question of holding an executive session to discuss matters
10 that come within the two exceptions shall be determined by a
11 majority vote of the agency, and no subjects can be considered
12 at such executive session except those as are mentioned in the
13 motion calling for the executive session, and no action shall be
14 taken at said executive session.

15 ARTICLE VII

16 LEGISLATIVE REVIEW OF RULES

17 Section 1. The Legislature, by resolution adopted by vote
18 of both houses shall have the power to annul any agency or depart-
19 ment rule or regulation. The Legislative Council shall annually
20 review all agency regulations to determine if the legislative in-
21 tent is being correctly followed. A comprehensive report of said
22 annual review with recommendations shall be submitted to the
23 members of the legislature fifteen days prior to the start of its
24 regular session each January.

25 CHAPTER 2. ADMINISTRATIVE ADJUDICATION

26 Section 1. DEFINITIONS. In this chapter, unless the context
27 or subject matter otherwise requires:

28 (1) "Agency" includes the State boards, commissions
29 and officers enumerated in Section 2 and those to which this

1 chapter is made applicable by law or executive order involving
2 reorganization under the Constitution. All of the agencies listed
3 in Section 2 may delegate the power to act and to hear and to de-
4 cide, unless expressly prohibited by law; in future laws, wherever
5 the word "agency" alone is used, the power to act may be delegated
6 by the agency, and wherever the words "agency itself" are used,
7 the power to act shall not be delegated unless the statutes re-
8 lating to the particular agency authorize the delegation of the
9 agency's power to hear and decide.

10 (2) "Party" includes the agency, the respondent, and
11 any person, other than an officer or an employee of the agency
12 in his official capacity, who has been allowed to appear in the
13 proceeding.

14 (3) "Respondent" means any person against whom an
15 accusation is filed pursuant to Section 4 or against whom a state-
16 ment of issues is filed pursuant to Section 5.

17 (4) "Hearing officer" means a hearing officer qualified
18 under Section 3.

19 (5) "Agency member" means any person who is a member
20 of any agency to which this chapter is applicable, and includes any
21 person who himself constitutes an agency.

22 Sec. 2. APPLICATION OF CHAPTER. (1) The procedure of the
23 following enumerated State boards, commissions, and officers or
24 of their successors under the State Reorganization Act of 1959 or
25 under reorganization pursuant to the Constitution shall be con-
26 ducted pursuant to the provisions of this chapter; and said pro-
27 cedure, including, but not limited to, accusations and statements
28 of issues, service, notice and time and place of hearing, subpoenas,
29 depositions, matters concerning evidence and decisions, conduct of

1 hearing, judicial review and scope of judicial review, continuance,
2 reconsideration, reinstatement or reduction of penalty, contempt,
3 mail vote, oaths, impartiality and other similar matters, shall be
4 governed by this Act despite similar provisions in the statutes
5 dealing with the following enumerated State boards, commissions,
6 and officers. Statutory provisions concerning penalties, criminal
7 or civil; concerning additional relief by injunction or restrain-
8 ing order; concerning penalty provisions relating to suspension,
9 revocation, reissuance, and other similar matters, of licenses,
10 permits, leases, concessions, and other similar matters; and re-
11 lated matters which in their context do not relate to procedure,
12 shall not be affected by the provisions of this Act except in cases
13 of reinstatement or reduction of penalty. In certain instances,
14 where indicated, the procedure that shall be conducted pursuant to
15 this chapter is limited to certain functions of the agency.

16 Board of Barber Examiners

17 Board of Chiropractic Examiners

18 Board of Dental Examiners

19 Board of Engineers and Architects Examiners

20 Board of Examiners in Basic Sciences

21 Board of Examiners in Optometry

22 Board of Hairdressing and Beauty Culture Examiners

23 Territorial Medical Board

24 Land Board under Land Act where applicable

25 Board of Nursing

26 Board of Pharmacy

27 Board of Public Accountancy

28 Alaska Employment Security Commission

29 Alaska Real Estate Commission

1 Alaska Industrial Board
2 Alaska Aeronautics and Communications Commission
3 Board of Liquor Control
4 Oil and Gas Conservation Commission
5 Director of Finance, pursuant to Alaska Small Loans Act of
6 1955
7 Tax Commissioner, under Cigarette Tax Act of 1955
8 Banking Board of the Territory of Alaska
9 Board of Governors of the Alaska Bar
10 Alaska Highway & Public Works Board, as to suspension etc.
11 of drivers' licenses
12 Department of Public Welfare, under Boarding and Foster
13 Homes for Children Act of 1951 (Chap. 17, SLA 1951)
14 Territorial Board of Education, as to Discharge of Teachers
15 (Chap. 71, SLA 1957)
16 Alaska Department of Health, under "Radiation Protection
17 Act" of 1957 (Chap. 66, SLA 1957)
18 Commissioner of Health, under "Alaska Food, Drug & Cosmetic
19 Act" of 1949 (Chap. 129, SLA 1949 as amended) and in
20 connection with the licensing of embalmers per Sec. 11,
21 Chap. 119, SLA 1949.
22 Department of Health and its "Advisory Hospital Council"
23 under Hospital Act of 1947 (40-6-1 et seq as amended)
24 Water Pollution Control Board, under Alaska Water Pollution
25 Control Act of 1949 (Chap. 117, SLA 1949)
26 Board of Health, under Act of 1955 Regulating Tourist and
27 Trailer Camps, Motor Courts and Motels (Chap. 100, SLA
28 1955)
29 Alaska Insurance Commission

1 Commissioner of Labor, as to Employment Agencies (Chap. 34,
2 SLA 1953 as amended)

3 (2) The procedure of any other agency shall be con-
4 ducted pursuant to the provisions of this Chapter only as to
5 those functions to which this chapter is made applicable by the
6 statutes relating to the particular agency.

7 (3) Hearings under the Alaska Employment Security Act
8 including, those involving coverage determination, appeals from
9 initial determination regarding benefit entitlement, appeals from
10 initial determinations as to recovery of benefit payments, all
11 those of Appeal Tribunals, all those involving review by the
12 Commission, shall be conducted in accord with this Act.

13 Judicial review and scope of judicial review of all final de-
14 cisions of the Employment Security Commission or its Appeal Tri-
15 bunal, including those relating to coverage, decisions on appeals
16 from initial determination regarding benefit entitlement, decisions
17 on appeals from initial determinations as to recovery of benefit
18 payments shall be in accord with this Act notwithstanding anything
19 to the contrary appearing in the Employment Security Act.

20 Sec. 3. APPOINTMENT OF HEARING OFFICERS. The Governor shall
21 assign a qualified unbiased and impartial hearing officer, with
22 experience in the general practice of law, to conduct hearings
23 pursuant to this Act; said hearing officer may perform other duties
24 in connection with the administration hereof and of other laws.
25 Agencies with hearing officers may be permitted to continue their
26 employment as such on an unbiased and impartial basis within the
27 particular agency and may hire additional officers and prescribe
28 additional qualifications but all such officers hired after the
29 effective date hereof shall have been admitted to practice law for

1 at least two (2) years immediately preceding their appointment.

2 Sec. 4. ACCUSATION. A hearing to determine whether a right,
3 authority, license or privilege should be revoked, suspended,
4 limited or conditioned shall be initiated by filing an accusation.
5 The accusation shall be a written statement of charges which shall
6 set forth in ordinary and concise language the acts or omissions
7 with which the respondent is charged, to the end that the respondent
8 will be able to prepare his defense. It shall specify the statutes
9 and rules which the respondent is alleged to have violated, but
10 shall not consist merely of charges phrased in the language of such
11 statute and rules. The accusation shall be verified unless made by
12 a public officer acting in his official capacity or by an employee
13 of the agency on whose behalf the proceeding is to be held. The
14 verification may be on information and belief.

15 Sec. 5. STATEMENT OF ISSUES. A hearing to determine whether
16 a right, authority, license or privilege should be granted, issued
17 or renewed shall be initiated by filing a statement of issues.
18 The statement of issues shall be a written statement specifying
19 the statutes and rules with which the respondent must show compliance
20 by producing proof at the hearing, and in addition any particular
21 matters which have come to the attention of the initiating party
22 and which would authorize a denial of the agency action sought.
23 The statement of issues shall be verified unless made by a public
24 officer acting in his official capacity or by an employee of the
25 agency before which the proceeding is to be held. The verification
26 may be on information and belief. The statement of issues shall be
27 served in the same manner as an accusation; provided, that if the
28 hearing is held at the request of the respondent, the provisions of
29 Sections 6 and 7 shall not apply, and the statement of issues

1 together with the notice of hearing shall be delivered or mailed
2 to the parties as provided in Section 10.

3 Sec. 6. (1) SERVICE OF ACCUSATION: WHAT INCLUDED. Upon
4 the filing of the accusation, the agency shall serve a copy
5 thereof on the respondent as provided in subdivision (3). The
6 agency may include with the accusation any information which it
7 deems appropriate, but it shall include a post card or other form
8 entitled Notice of Defense which, when signed by or on behalf of
9 the respondent and returned to the agency, will acknowledge
10 service of the accusation and constitute a notice of defense
11 under Section 7. The copy of the accusation shall include or be
12 accompanied by a statement that respondent may request a hearing
13 by filing a notice of defense as provided in Section 7 within 15
14 days after service upon him of the accusation, and that failure
15 to do so will constitute a waiver of his right to a hearing.

16 (2) STATEMENT TO RESPONDENT. The statement to
17 respondent shall be substantially in the following form:

18 Unless a written request for a hearing signed by or on
19 behalf of the person named as respondent in the accompanying
20 accusation is delivered or mailed to the agency within 15 days
21 after the accusation was personally served on you or mailed to
22 you, (here insert name of agency) may proceed upon the accusation
23 without a hearing. The request for a hearing may be made by
24 delivering or mailing the enclosed form entitled Notice of Defense
25 or by delivering or mailing a notice of defense as provided by
26 Section 7 of Chapter 2 of the Administrative Procedure Act to:
27 (here insert name and address of agency).

28 (3) MANNER OF SERVICE. The accusation and all accom-
29 panying information may be sent to respondent by any means

1 selected by the agency. But no order adversely affecting the
2 rights of the respondent shall be made by the agency in any case
3 unless the respondent shall have been served personally or by
4 registered mail as provided herein, or shall have filed a notice
5 of defense or otherwise appeared. Service may be proved in the
6 manner authorized in civil actions. Service by registered mail
7 shall be effective if a statute or agency rule requires respondent
8 to file his address with the agency and to notify the agency
9 of any change, and if a registered letter containing the accusa-
10 tion and accompanying material is mailed, addressed to respondent
11 at the latest address on file with the agency.

12 Sec. 7. NOTICE OF DEFENSE. (1) Within 15 days after
13 service upon him of the accusation, the respondent may file with
14 the agency a notice of defense in which he may:

15 (a) Request a hearing;

16 (b) Object to the accusation upon the ground that
17 it does not state acts or omissions upon which the agency may
18 proceed;

19 (c) Object to the form of the accusation on the
20 ground that it is so indefinite or uncertain that he cannot
21 identify the transaction or prepare his defense;

22 (d) Admit the accusation in whole or in part;

23 (e) Present new matter by way of defense.

24 Within the time specified respondent may file one or more
25 notices of defense upon any or all of these grounds but all such
26 notices shall be filed within that period unless the agency in
27 its discretion authorizes the filing of a later notice.

28 (2) The respondent shall be entitled to a hearing on
29 the merits if he files a notice of defense, and any such notice

1 shall be deemed a specific denial of all parts of the accusation
2 not expressly admitted. Failure to file such notice shall con-
3 stitute a waiver of respondent's right to a hearing, but the
4 agency in its discretion may nevertheless grant a hearing. Unless
5 objection is taken as provided in subdivision (1) (c), all
6 objections to the form of the accusation shall be deemed waived.

7 (3) The notice of defense shall be in writing signed
8 by or on behalf of the respondent and shall state his mailing
9 address. It need not be verified or follow any particular form.

10 Sec. 8. AMENDED OR SUPPLEMENTAL ACCUSATION. At any time
11 before the matter is submitted for decision the agency may file
12 or permit the filing of an amended or supplemental accusation.
13 All parties shall be notified thereof. If the amended or supple-
14 mental accusation presents new charges the agency shall afford
15 respondent a reasonable opportunity to prepare his defense
16 thereto, but he shall not be entitled to file a further pleading
17 unless the agency in its discretion so orders. Any new charges
18 shall be deemed controverted, and any objections to the amended
19 or supplemental accusation may be made orally and shall be noted
20 in the record.

21 Sec. 9. TIME AND PLACE OF HEARING. The agency shall
22 determine the time and place of hearing. The hearing shall be
23 held in Juneau or Ketchikan, whichever is closer to the place
24 where the transaction occurred or where the respondent resides. If
25 the transaction occurred or the respondent resides within the
26 Southeastern Senatorial District; in Anchorage if the transaction
27 occurred or the respondent resides within the South Central
28 Senatorial District; in Fairbanks or Nome, whichever is closer,
29 to the place where the transaction occurred or where the

1 respondent resides if the transaction occurred or the respondent
2 resides within the Central or Northwestern Senatorial Districts.
3 The agency may, if the transaction occurred in a senatorial
4 district other than that of respondent's residence, select the
5 place of hearing appropriate for either district; the agency may
6 select a different place nearer the place where the transaction
7 occurred or the respondent resides; or the parties by agreement
8 may select any place within the State.

9 Sec. 10. FORM OF NOTICE OF HEARING. The agency shall deliver
10 or mail a notice of hearing to all parties at least 10 days prior
11 to the hearing. The hearing shall not be prior to the expiration
12 of the time within which the respondent is entitled to file a
13 notice of defense.

14 The notice to respondent shall be substantially in the
15 following form but may include other information:

16 You are hereby notified that a hearing will be held before
17 (here insert name of agency) at (here insert place of hearing)
18 upon the _____ day of _____, 19____, at the hour of _____,
19 upon the charges made in the accusation served upon you. You
20 may be present at the hearing, may be but need not be represented
21 by counsel, may present any relevant evidence, and will be given
22 full opportunity to cross-examine all witnesses testifying
23 against you. You are entitled to the issuance of subpoenas to
24 compel the attendance of witnesses and the production of books,
25 documents or other things by applying to (here insert appropriate
26 office of agency).

27 Sec. 11. (1) SUBPENAS. Before the hearing has commenced
28 the agency shall issue subpoenas and subpoenas duces tecum at the
29 request of any party in accordance with the applicable provisions

1 of Rule 45 of the Federal rules of Civil Procedure or such rules
2 as may be prescribed by the Supreme Court of the State of Alaska.
3 After the hearing has commenced the agency itself hearing a case
4 or a hearing officer sitting alone may issue subpoenas and subpoenas
5 duces tecum.

6 (2) WITNESSES FROM MORE THAN 100 MILES. The process
7 issued pursuant to subdivision (1) shall extend to all parts of
8 the State and shall be served in accordance with the provisions
9 of Rule 45 (c) of the Federal Rules of Civil Procedure, except the
10 words "State of Alaska" shall be substituted in the third sentence
11 for the words "United States", or such rules as may be prescribed
12 by the Supreme Court of the State of Alaska. No witness shall
13 be obliged to attend at a place out of the election district
14 in which he resides unless the distance be less than 100 miles
15 from his place of residence, except that the agency, upon
16 affidavit of any party showing that the testimony of such witness
17 is material and necessary, may endorse on the subpoena an order
18 requiring the attendance of such witness.

19 (3) WITNESS FEES AND EXPENSES. All witnesses appearing
20 pursuant to subpoena, other than the parties or officers or
21 employees of the State or any political subdivision thereof,
22 shall receive fees, and all witnesses appearing pursuant to
23 subpoena, except the parties, shall receive mileage in the same
24 amount and under the same circumstances as prescribed by law for
25 witnesses in civil actions in a superior court. Witnesses
26 appearing pursuant to subpoena, except the parties, who attend
27 hearings at points so far removed from their residences as to
28 prohibit return thereto from day to day shall be entitled in
29 addition to fees and mileage to a per diem compensation of \$15.00

1 for expenses of subsistence for each day of actual attendance and
2 for each day necessarily occupied in traveling to and from the
3 hearing. Fees, mileage and expenses of subsistence shall be paid
4 by the party at whose request the witness is subpoenaed.

5 Sec. 12. DEPOSITIONS. On verified petition of any party,
6 an agency may order that the testimony of any material witness
7 residing within or without the State be taken by deposition in the
8 manner prescribed by law for depositions in civil actions. The
9 petition shall set forth the nature of the pending proceeding;
10 the name and address of the witness whose testimony is desired;
11 a showing of the materiality of his testimony; a showing that the
12 witness will be unable or cannot be compelled to attend; and shall
13 request an order requiring the witness to appear and testify before
14 an officer named in the petition for that purpose. Where the
15 witness resides outside the State and where the agency has ordered
16 the taking of his testimony by deposition, the agency shall obtain
17 an order of court to that effect by filing a petition therefor in
18 the superior court nearest to the principal office of the agency.
19 The proceedings thereon shall be in accordance with provisions
20 governing the taking of depositions in the Superior Courts of the
21 State in civil actions or by the applicable provisions of the
22 Federal Rules of Civil Procedure until the creation of the State
23 courts.

24 Sec. 13. (1) HEARING OFFICER TO PRESIDE. Every hearing in
25 a contested case shall be presided over by a hearing officer. The
26 agency itself shall determine whether the hearing officer is to
27 hear the case alone or whether the agency itself is to hear the
28 case with the hearing officer.

29 (2) POWERS OF HEARING OFFICER. When the agency itself

1 hears the case the hearing officer shall preside at the hearing,
2 rule on the admission and exclusion of evidence, and advise the
3 agency on matters of law; the agency itself shall exercise all
4 other powers relating to the conduct of the hearing, but may
5 delegate any or all of them to the hearing officer. When the
6 hearing officer alone hears a case, he shall exercise all powers
7 relating to the conduct of the hearing.

8 (3) DISQUALIFICATION OF HEARING OFFICER AND AGENCY
9 MEMBERS. A hearing officer or agency member shall voluntarily
10 disqualify himself and withdraw from any case in which he cannot
11 accord a fair and impartial hearing or consideration. Any party
12 may request the disqualification of any hearing officer or agency
13 member by filing an affidavit, prior to the taking of evidence
14 at a hearing, stating with particularity the grounds upon which
15 it is claimed that a fair and impartial hearing cannot be accorded.
16 Where the request concerns an agency member the issue shall be
17 determined by the other members of the agency. Where the request
18 concerns the hearing officer, the issue shall be determined by
19 the agency itself if the agency itself hears the case with the
20 hearing officer, otherwise the issue shall be determined by the
21 hearing officer. No agency member shall withdraw voluntarily
22 or be subject to disqualification if his disqualification would
23 prevent the existence of a quorum qualified to act in the
24 particular case.

25 (4) REPORTER. The proceedings at the hearing shall
26 be reported by a phonographic reporter or recorder, or other
27 adequate means of assuring an accurate record.

28 Sec. 14. EVIDENCE RULES. (1) Oral evidence shall be taken
29 only on oath or affirmation.

1 (2) Each party shall have these rights: to call and
2 examine witnesses; to introduce exhibits; to corss-examine
3 opposing witnesses on any matter relevant to the issues even
4 though that matter was not covered in the direct examination; to
5 impeach any witness regardless of which party first called him
6 to testify; and to rebut the evidence against him. If respondent
7 does not testify in his own behalf he may be called and examined
8 as if under cross-examination.

9 (3) ADMISSIBILITY OF EVIDENCE. The hearing need not
10 be conducted according to technical rules relating to evidence
11 and witnesses. Any relevant evidence shall be admitted if it is
12 the sort of evidence on which responsible persons are accustomed
13 to rely in the conduct of serious affairs, regardless of the
14 existence of any common law or statutory rule which might make
15 improper the admission of such evidence over objection in civil
16 actions. Hearsay evidence may be used for the purpose of
17 supplementing or explaining any direct evidence but shall not be
18 sufficient in itself to support a finding unless it would be
19 admissible over objection in civil actions. The rules of privilege
20 shall be effective to the same extent that they are now or here-
21 after may be recognized in civil actions, and irrelevant and
22 unduly repetitious evidence shall be excluded.

23 (4) Nothing herein shall be construed to alter the
24 ordinary rules of burden of proof of judicial proceedings in
25 Alaska.

26 Sec. 15. EVIDENCE BY AFFIDAVIT. (1) At any time 10 or
27 more days prior to a hearing or a continued hearing, any party
28 may mail or deliver to the opposing party a copy of any affidavit
29 which he proposes to introduce in evidence, together with a

1 notice as provided in subdivision (2). Unless the opposing party,
2 within seven days after such mailing or delivery, mails or
3 delivers to the proponent a request to cross-examine an affiant,
4 his right to cross-examine such affiant is waived and the
5 affidavit, if introduced in evidence, shall be given the same
6 effect as if the affiant had testified orally. If an opportunity
7 to cross-examine an affiant is not afforded after request therefor
8 is made as herein provided, the affidavit may be introduced in
9 evidence, but shall be given only the same effect as other
10 hearsay evidence.

11 (2) The notice referred to in subdivision (1) shall
12 be substantially in the following form:

13 The accompanying affidavit of (here insert name of affiant)
14 will be introduced as evidence at the hearing in (here insert
15 title of proceeding). (Here insert name of affiant) will not
16 be called to testify orally and you will not be entitled to
17 question him unless you notify (here insert name of proponent
18 or his attorney) at (here insert address) that you wish to
19 cross-examine him. To be effective your request must be mailed
20 or delivered to (here insert name of proponent or his attorney)
21 on or before (here insert a date seven days after the date of
22 mailing or delivering the affidavit to the opposing party).

23 Sec. 15. OFFICIAL NOTICE. In reaching a decision official
24 notice may be taken, either before or after submission of the
25 case for decision, of any generally accepted technical or
26 scientific matter within the agency's special field, and of any
27 fact which may be judicially noticed by the courts of this State.
28 Parties present at the hearing shall be informed of the matters
29 to be noticed, and those matters shall be noted in the record,

1 referred to therein, or appended thereto. Any such party shall
2 be given a reasonable opportunity on request to refute the
3 officially noticed matters by evidence or by written or oral
4 presentation of authority, the manner of such refutation to be
5 determined by the agency.

6 Sec. 17. AMENDMENT OF ACCUSATION AFTER SUBMISSION. The
7 agency may order amendment of the accusation after submission of
8 the case for decision. Each party shall be given notice of the
9 intended amendment and opportunity to show that he will be
10 prejudiced thereby unless the case is reopened to permit the
11 introduction of additional evidence in its behalf. If such
12 prejudice is shown the agency shall reopen the case to permit the
13 introduction of additional evidence.

14 Sec. 18. (1) DECISION. If a contested case is heard before
15 an agency itself the hearing officer who presided at the hearing
16 shall be present during the consideration of the case and if
17 requested, shall assist and advise the agency. Where a contested
18 case is heard before an agency itself, no member thereof who did
19 not hear the evidence shall vote on the decision.

20 (2) ADOPTION OF PROPOSED DECISION OF HEARING OFFICER.
21 If a contested case is heard by a hearing officer alone, he shall
22 prepare a proposed decision in such form that it may be adopted
23 as the decision in the case. A copy of the proposed decision
24 shall be filed by the agency as a public record with the Secretary
25 of State and a copy of the proposed decision shall be served by
26 the agency on each party in the case and his attorney. The agency
27 itself may adopt the proposed decision in its entirety, or may
28 reduce the proposed penalty and adopt the balance of the proposed
29 decision.

1 (3) PROCEDURE UPON FAILURE TO ADOPT PROPOSED DECISION.

2 If the proposed decision is not adopted as provided in subdivision
3 (2) the agency itself may decide the case upon the record,
4 including the transcript, with or without taking additional
5 evidence, or may refer the case to the same or another hearing
6 officer to take additional evidence. If the case is so assigned
7 to a hearing officer he shall prepare a proposed decision as
8 provided in subdivision (2) upon the additional evidence and the
9 transcript and other papers which are part of the record of the
10 prior hearing. A copy of such proposed decision shall be furnished
11 to each party and his attorney as prescribed by subdivision (2).
12 The agency itself shall decide no case provided for in this sub-
13 division without affording the parties the opportunity to present
14 either oral or written argument before the agency itself. If
15 additional oral evidence is introduced before the agency itself
16 no agency member may vote unless he heard the additional oral
17 evidence.

18 Sec. 19. FORM OF DECISION: RETROACTIVE EFFECT. The
19 decision shall be in writing and shall contain findings of fact,
20 a determination of the issues presented and the penalty, if
21 any. The findings may be stated in the language of the pleadings
22 or by reference thereto. Copies of the decision shall be
23 delivered to the parties personally or sent to them by registered
24 mail. The decision in a primarily judicial proceeding shall have
25 retroactive effect in the same manner as a decision of the courts
26 of Alaska.

27 Sec. 20. EFFECTIVE DATE OF DECISION. (1) The decision
28 shall become effective 30 days after it is delivered or mailed
29 to respondent unless: A reconsideration is ordered within that

1 time, or the agency itself orders that the decision shall become
2 effective sooner, or a stay of execution is granted for a
3 particular purpose and not to postpone judicial review.

4 (2) A stay of execution may be included in the decision
5 or if not included therein may be granted by the agency at any
6 time before the decision becomes effective. The stay of execution
7 provided herein may be accompanied by an express condition that
8 respondent comply with specified terms of probation; provided,
9 however, that the terms of probation shall be just and reasonable
10 in the light of the findings and decision.

11 (3) If respondent was required to register with any
12 public officer, a notification of any suspension or revocation
13 shall be sent to such officer after the decision has become
14 effective.

15 Sec. 21. DEFAULTS. If the respondent fails to file a notice
16 of defense or to appear at the hearing, the agency itself may take
17 action based upon the respondent's express admissions or upon
18 other evidence, and affidavits may be used as evidence without any
19 notice to respondent; and where the burden of proof is on the
20 respondent to establish that he is entitled to the agency action
21 sought, the agency may act without taking evidence. Nothing
22 herein shall be construed to deprive the respondent of the right
23 to make any showing by way of mitigation.

24 Sec. 22. RECONSIDERATION (1) The agency itself may order
25 a reconsideration of all or part of the case on its own motion
26 or on petition of any party. The power to order a reconsideration
27 shall expire 30 days after the delivery or mailing of a decision
28 to respondent. If no action is taken on a petition within the
29 time allowed for ordering reconsideration, the petition shall be

1 deemed denied.

2 (2) The case may be reconsidered by the agency itself
3 on all the pertinent parts of the record and such additional
4 evidence and argument as may be permitted, or may be assigned
5 to a hearing officer. A reconsideration assigned to a hearing
6 officer shall be subject to the procedure provided in Section 18.
7 If oral evidence is introduced before the agency itself, no
8 agency member may vote unless he heard the evidence.

9 Sec. 23. PETITION FOR REINSTATEMENT OR REDUCTION OF PENALTY.

10 A person whose license has been revoked or suspended may petition
11 the agency for reinstatement or reduction of penalty after a
12 period of not less than one year has elapsed from the effective
13 date of the decision or from the date of the denial of a similar
14 petition. The agency shall give notice to the Attorney General
15 of the filing of the petition, and the Attorney General and the
16 petitioner shall be afforded an opportunity to present either
17 oral or written argument before the agency itself. The agency
18 itself shall decide the petition, and the decision shall include
19 the reasons therefor. This section shall not apply if the
20 statutes dealing with the particular agency contain different
21 provisions for reinstatement or reduction of penalty.

22 Sec. 24. JUDICIAL REVIEW. (1) Judicial review by the
23 Superior Court of any final administrative order may be had by
24 filing a notice of appeal in accordance with applicable rules
25 of court governing appeals in civil matters. Except as otherwise
26 provided in this section, any such notice shall be filed within
27 30 days after the last day on which reconsideration can be
28 ordered, and served on each party to the proceeding. The right
29 to appeal shall not be affected by the failure to seek reconsid-

1 eration before the agency. The complete record of the proceedings,
2 or such parts thereof as are designated by the appellant, shall
3 be prepared by the agency; a copy shall be delivered to all parties
4 participating in the appeal, and the original filed in Superior
5 Court within 30 days after designation of the record, and payment
6 by appellant of the estimated cost of preparation of the complete
7 or designated record, or filing a corporate surety bond equal to
8 said estimated cost. The complete record includes the pleadings,
9 all notices and orders issued by the agency, any proposed decision
10 by a hearing officer, the final decision, a transcript of all
11 testimony and proceedings, the exhibits admitted or rejected, the
12 written evidence, and all other documents in the case. Upon order
13 of the Superior Court, appeals may be taken on the original record
14 or parts thereof; the record may be typewritten or duplicated by
15 any standard process. Analogous rules of court governing appeals
16 in civil matters shall be followed where this Act is silent, and
17 when not in conflict herewith.

18 (2) Superior Courts are empowered to enjoin at any
19 stage of an agency proceeding agency action in excess of consti-
20 tutional or statutory authority; if agency action is unlawfully
21 withheld or unreasonably withheld, the Superior Court shall have
22 jurisdiction to compel the agency to initiate action.

23 Sec. 25. SCOPE OF REVIEW. (1) All appeals shall be heard
24 by the Superior Court sitting without a jury.

25 (2) The inquiry in such a case shall extend to the
26 questions whether the agency has proceeded without, or in excess
27 of jurisdiction; whether there was a fair hearing; and whether
28 there was any prejudicial abuse of discretion. Abuse of dis-
29 cretion is established if the agency has not proceeded in the

1 manner required by law, the order or decision is not supported by
2 the findings, or the findings are not supported by the evidence.

3 (3) The Court is authorized and empowered to exercise
4 its independent judgment on the evidence and where it is claimed
5 that the findings are not supported by the evidence, abuse of
6 discretion is established if the court determines that the
7 findings are not supported by the weight of the evidence; or not
8 supported by substantial evidence in the light of the whole
9 record.

10 (4) Where the court finds that there is relevant
11 evidence which, in the exercise of reasonable diligence, could
12 not have been produced or which was improperly excluded at the
13 hearing, it may enter judgment as provided in subdivision (5)
14 of this section remanding the case to be reconsidered in the
15 light of such evidence; or, the court may admit such evidence at
16 the appellate hearing without remanding the case. Superior Courts
17 shall on appeal have the right to augment the agency record in
18 whole or in part, even to the extent of holding a hearing de novo.

19 (5) The court shall enter judgment either setting
20 aside, modifying, remanding, or affirming the order or decision,
21 without limiting or controlling in any way the discretion legally
22 vested in the agency.

23 (6) The Superior Court in which proceedings under this
24 section are instituted may stay the operation of the administra-
25 tive order or decision pending the judgment of the court, or
26 until the filing of a notice of further appeal from the judgment,
27 or until the expiration of the time for filing such notice;
28 provided that no such stay shall be imposed or continued if the
29 court is satisfied that it is against the public interest. If

1 further appeal is taken, the Supreme Court may stay the Superior
2 Court judgment or agency order, in its discretion. Where any
3 final administrative order or decision is the subject of pro-
4 ceedings under this section, if the appeal shall have been filed
5 while the penalty imposed is in full force and effect, the
6 determination shall not be considered to have become moot in
7 cases where the penalty imposed by the administrative agency has
8 been completed or complied with during the pendency of such
9 proceedings.

10 Sec. 26. CONTINUANCES. The agency may grant continuances.
11 When a hearing officer has been assigned to such hearing, no
12 continuance may be granted except by him for good cause shown.

13 Sec. 27. CONTEMPT. If any person in proceedings before an
14 agency disobeys or resists any lawful order or refuses to respond
15 to a subpoena, or refuses to take the oath, or affirmation as a
16 witness or thereafter refuses to be examined, or is guilty of
17 misconduct during a hearing or so near the place thereof as to
18 obstruct the proceeding, the agency shall certify the facts to
19 the Superior Court in and for the division where the proceedings
20 are held. The court shall thereupon issue an order directing
21 the person to appear before the court and show cause why he
22 should not be punished as for contempt. The order and a copy of
23 the certified statement shall be served on the person. Thereafter
24 the court shall have jurisdiction of the matter. The same
25 proceedings shall be had, the same penalties may be imposed and
26 the person charged may purge himself of the contempt in the same
27 way as in the case of a person who has committed a contempt in
28 the trial of a civil action before a Superior Court.

29 Sec. 28. MAIL VOTE. The members of an agency qualified to

1 vote on any question may vote by mail.

2 Sec. 29. CHARGE. Any sums authorized to be expended under
3 this chapter by any agency shall be a legal charge against the
4 appropriations of the agency.

5 Sec. 30. POWER TO ADMINISTER OATHS. In any proceedings
6 under this chapter any agency, agency member, secretary of an
7 agency or hearing officer has power to administer oaths and
8 affirmations and to certify to official acts.

9 Sec. 31. IMPARTIALITY. The functions of hearing officers,
10 as well as those officers participating in decisions, shall be
11 conducted in an impartial manner with due regard for the rights
12 of all parties as well as the facts and the law, and consistent
13 with the orderly and prompt dispatch of proceedings. Such
14 officers, except to the extent required for the disposition of
15 ex parte matters authorized by law, shall not engage in interviews
16 with, or receive evidence or argument from, any party directly
17 or indirectly, except upon opportunity for all other parties to
18 be present. Copies of all communications with such officers
19 shall be served upon all parties.

20 Sec. 32. REPEALER. All laws inconsistent or in conflict
21 with this Act shall be deemed repealed or amended in accordance
22 with the provisions herein.

23 Sec. 33. TERM "SUPERIOR COURT" INCLUDES DISTRICT COURTS.
24 Wherever herein the term "Superior Court" is used it also
25 refers to the District Court of Alaska and its divisions for so
26 long as the latter court has jurisdiction.
27
28
29