

1 IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL

2 HOUSE BILL NO. 10

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to judicial review of final
7 decisions regarding employment security
8 awards and workmen's compensation orders."

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

10 * Section 1. AS 23.20.445 is amended to read:

11 Sec. 23.20.445. ✓ NOTICE OF DECISION OF DEPARTMENT AND
12 JUDICIAL REVIEW. Each party, including the properly desig-
13 nated representative of the department, shall be promptly
14 given a copy of the decision and the supporting findings and
15 conclusions of the department. The decision is final unless
16 a party initiates judicial review by filing a notice of
17 appeal [AN ACTION] in the superior court [FOR REVIEW] within
18 30 days after the department's decision has been mailed to
19 each party at his last known address, or delivered to him.
20 Judicial review and scope of judicial review of all decisions
21 of the department shall be in accord with AS 44.62.560 - 44.-
22 62.570. For the purpose of judicial review, an appeal
23 tribunal's decision from which an application for appeal has
24 been denied by the department is considered the decision of
25 the department, except that the time for initiating judicial
26 review runs from the date of the mailing or delivery of the
27 notice of the denial of the application for appeal by the
28 department. ✓

29 * Sec. 2. AS 23.30.125(c) is amended to read:

1 (c) Judicial review and scope of judicial review of a
2 compensation order shall be in accord with AS 44.62.560 -
3 44.62.570. An interested party may seek judicial review of
4 a compensation order by filing a notice of appeal in the
5 superior court within 30 days after the board's decision upon
6 review of an order, as provided in (b) of this section, has
7 been mailed to each party at his last known address, or
8 delivered to him. [IF NOT IN ACCORDANCE WITH LAW, A COMPEN-
9 SATION ORDER MAY BE SUSPENDED OR SET ASIDE, IN WHOLE OR IN
10 PART, THROUGH INJUNCTION PROCEEDINGS BROUGHT BY A PARTY IN
11 INTEREST AGAINST THE BOARD IN THE SUPERIOR COURT.] The pay-
12 ment of the amounts required by an award may not be stayed
13 pending final decision on [IN] the appeal [PROCEEDING] unless
14 upon application for an interlocutory injunction the court
15 on hearing, after not less than three days' notice to the
16 parties in interest and the board, allows the stay of payment,
17 in whole or in part, where irreparable damage would otherwise
18 ensue to the employer. The order of the court allowing a
19 stay shall contain a specific finding, based upon evidence
20 submitted to the court and identified by reference to it,
21 that irreparable damage would result to the employer, and
22 specifying the nature of the damage.

23 * Sec. 3. AS 44.62.330(a) is amended to read:

24 (a) The procedure of the state boards, commissions,
25 and officers listed in this subsection or of their successors
26 by reorganization under the constitution shall be conducted
27 under the provisions of secs. 330 - 630 of this chapter.
28 This procedure, including, but not limited to, accusations
29 and statements of issues, service, notice and time and place

1 of hearing, subpoenas, depositions, matters concerning
2 evidence and decisions, conduct of hearing, judicial review
3 and scope of judicial review, continuances, reconsideration,
4 reinstatement or reduction of penalty, contempt, mail vote,
5 oaths, impartiality, and similar matters shall be governed
6 by this chapter, notwithstanding similar provisions in the
7 statutes dealing with the state boards, commissions, and
8 officers listed. Where indicated, the procedure that shall
9 be conducted under secs. 330 - 630 of this chapter is limited
10 to named functions of the agency.

11 Board of Barber Examiners
12 Board of Chiropractic Examiners
13 Board of Dental Examiners
14 Board of Engineers and Architects Examiners
15 Board of Examiners in Basic Sciences
16 Board of Examiners in Optometry
17 Board of Hairdressing and Beauty Culture Examiners
18 State Medical Board
19 Division of Lands under Alaska Land Act where applicable
20 Board of Nursing
21 Board of Pharmacy
22 Board of Public Accountancy
23 [DEPARTMENT OF LABOR AS TO FUNCTIONS RELATING TO EMPLOY-
24 MENT SECURITY ONLY AS PROVIDED IN (C) OF THIS SECTION]
25 Alaska Real Estate Examining Board
26 [ALASKA WORKMEN'S COMPENSATION BOARD, WHERE PROCEDURES
27 ARE NOT OTHERWISE EXPRESSLY PROVIDED BY THE ALASKA WORKMEN'S
28 COMPENSATION ACT]
29 Department of Public Works, as to functions relating to

- 1 aeronautics and communications
- 2 Alcoholic Beverage Control Board
- 3 Department of Natural Resources, as to functions relat-
- 4 ing to the conservation of oil and gas
- 5 Department of Commerce, under Alaska Small Loans Act
- 6 Department of Revenue, under Cigarette Tax Act
- 7 Department of Commerce, as to functions under Alaska
- 8 Banking Code
- 9 Board of Governors of the Alaska Bar
- 10 Department of Public Safety, as to suspension, etc., of
- 11 driver's licenses
- 12 Department of Health and Welfare, under AS 47.35.010 -
- 13 47.35.080, relating to boarding and foster homes for children
- 14 Department of Education, as to nonretention of teachers,
- 15 AS 14.20.130 - 14.20.210
- 16 Department of Health and Welfare, under Radiation Pro-
- 17 tection Act (AS 18.60.470 - 18.60.570)
- 18 Department of Health and Welfare under Alaska Food,
- 19 Drug, and Cosmetic Act (AS 17.20), and in connection with
- 20 the licensing of embalmers under AS 08.44.010
- 21 Department of Health and Welfare and the Hospital Advi-
- 22 sory Council, under AS 18.20.010 - 18.20.130
- 23 Department of Health and Welfare, under Alaska Water
- 24 Pollution Control Act (AS 46.05)
- 25 Department of Health and Welfare, under AS 18.35.010 -
- 26 18.35.090, concerning the regulation of tourist and trailer
- 27 camps, motor courts, and motels
- 28 Department of Commerce, in relation to insurance com-
- 29 panies under AS 21.05.010 - 21.05.040, except as to procedure

1 in respect to the filing of rates, and the approval or dis-
2 approval and administrative and judicial review of the rates,
3 as provided in AS 21.10.745 - 21.10.780, 21.10.785(a) - (c),
4 21.10.790, 21.10.800, and 21.10.850

5 * Sec. 4. AS 44.62.330(c) is amended to read:

6 (c) Judicial review and scope of judicial review of
7 all final decisions of the commissioner of labor on an appeal
8 to employment security, and of all final decisions of the
9 Alaska Workmen's Compensation Board on an appeal relating to
10 workmen's compensation shall be in accord with secs. 560 and
11 570 of this chapter [NOTWITHSTANDING ANYTHING TO THE CONTRARY
12 IN THE ALASKA EMPLOYMENT SECURITY ACT (AS 23.20). ALL OTHER
13 PROCEDURES OF THE DEPARTMENT OF LABOR RELATING TO EMPLOYMENT
14 SECURITY SHALL BE AS PROVIDED IN THE ALASKA EMPLOYMENT
15 SECURITY ACT AND THE REGULATIONS UNDER THE ALASKA EMPLOYMENT
16 SECURITY ACT].

17 * Sec. 5. AS 44.62.560(a) is amended to read:

18 (a) Judicial review by the superior court of a final
19 administrative order may be had by filing a notice of appeal
20 in accordance with the applicable rules of court governing
21 appeals in civil matters. Except as otherwise provided in
22 this section, AS 23.20.445, and AS 23.30.125(c), the notice
23 of appeal shall be filed within 30 days after the last day
24 on which reconsideration can be ordered, and served on each
25 party to the proceeding. The right to appeal is not affected
26 by the failure to seek reconsideration before the agency.

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