

1 IN THE HOUSE

BY ROSE

CS
2 HOUSE BILL NO. 480

3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Office of Administrative
7 Adjudication."

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

9 * Section 1. AS 44.62 is amended by adding new sections to read:

10 Sec. 44.62.351. OFFICE OF ADMINISTRATIVE ADJUDICATION. There is
11 created the Office of Administrative Adjudication in the Alaska court
12 system.

13 Sec. 44.62.352. PRESIDING OFFICER. (a) The Office of Adminis-
14 trative Adjudication is under the direction and control of an executive
15 officer who shall be known as the presiding officer.

16 (b) The presiding officer shall have the same qualifications as a
17 hearing officer and shall be appointed by the governor from two or more
18 nominations submitted by the Judicial Council.

19 Sec. 44.62.353. HEARING OFFICERS. (a) The presiding officer
20 shall appoint and maintain a staff of hearing officers qualified under
21 this section which is sufficient to fill the needs of the various state
22 agencies.

23 (b) A hearing officer shall have been admitted to the practice of
24 law for at least two years immediately before his employment.

25 (c) The presiding officer shall assign a hearing officer for any
26 proceeding arising under secs. 330 - 630 of this chapter and upon re-
27 quest from any agency may assign a hearing officer to conduct other
28 administrative proceedings not arising under those sections. A hearing
29 officer so assigned is considered an employee of the office and not of

1 the agency to which he is assigned. When not engaged in hearing cases,
2 hearing officers may be assigned by the presiding officer to perform
3 other duties of the office including those under sec. 354 of this
4 chapter.

5 Sec. 44.62.354. DUTIES OF OFFICE. All hearings of state agencies
6 boards, commissions, and officers required to be conducted under this
7 chapter shall be conducted by hearing officers on the staff of the
8 office. The office shall maintain a staff of technical and clerical
9 personnel as is necessary to carry out the duties of the office. The
10 office shall study the subject of administrative law and procedure in
11 all its aspects; submit its suggestions to the various agencies in the
12 interest of fairness, uniformity and the expedition of business; and
13 report its recommendations to the governor and legislature at the be-
14 ginning of each session. All departments, agencies, officers and
15 employees of the state shall give the office ready access to their
16 records and full information and reasonable assistance in any matter of
17 research requiring recourse to them or to data within their knowledge
18 or control.

19 * Sec. 2. AS 44.62.410 is amended to read:

20 Sec. 44.62.410. TIME AND PLACE OF HEARING. The agency shall con-
21 sult the office, and, subject to the availability of the office's staff,
22 shall determine the time and place of hearing. The hearing shall be
23 held in Juneau or Ketchikan, whichever is closer to the place where the
24 transaction occurred or where the respondent resides, if the transaction
25 occurred in or the respondent resides in the Southeastern Senate Dis-
26 trict; in Anchorage if the transaction occurred or the respondent re-
27 sides within the South Central Senate District; in Fairbanks or Nome,
28 whichever is closer to the place where the transaction occurred or where
29 the respondent resides, if the transaction occurred in or the respondent

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

7 * Sec. 3. AS 44.62.430(a) is amended to read:

8 (a) Before the hearing begins the agency or the assigned hearing
9 officer shall issue subpoenas and subpoenas duces tecum at the request
10 of a party in accordance with the rules of civil procedure. After the
11 hearing begins the agency hearing a case or a hearing officer sitting
12 alone may issue subpoenas and subpoenas duces tecum.

13 * Sec. 4. AS 44.62.430(b) is amended to read:

14 (b) A subpoena issued under (a) of this section extends to all
15 parts of the state and shall be served in accordance with the rules of
16 civil procedure. No witness is obliged to attend at a place out of the
17 election district in which he resides unless the distance is less than
18 100 miles from his place of residence, except that the agency or the
19 assigned hearing officer, upon affidavit of a party showing that the
20 testimony of the witness is material and necessary, may endorse on the
21 subpoena an order requiring the attendance of the witness.

22 * Sec. 5. AS 44.62.500(c) is amended to read:

23 (c) If the proposed decision is not adopted as provided in (b) of
24 this section the agency may decide the case upon the record, including
25 the transcript, with or without taking additional evidence, or may re-
26 fer the case to the same or another hearing officer to take additional
27 evidence. If the proposed decision is not adopted, the agency shall
28 state in writing its reasons for not adopting the decision. If the
29 case is so assigned to a hearing officer he shall prepare a proposed

1 decision as provided in (b) of this section upon the additional evidence
2 and the transcript and other papers which are part of the record of the
3 earlier hearing. A copy of the proposed decision shall be furnished to
4 each party and his attorney as prescribed by (b) of this section. The
5 agency may not decide a case provided for in this subsection without
6 giving the parties the opportunity to present either oral or written
7 argument before the agency. If additional oral evidence is introduced
8 before the agency, no agency member may vote unless he has heard the
9 additional oral evidence.

10 * Sec. 6. AS 44.62 is amended by adding a new section to read:

11 Sec. 44.62.515. DECISION TIME LIMITS. (a) The hearing officer
12 shall render a decision in a case which he hears within 90 days of the
13 conclusion of the hearings on the case.

14 (b) If an agency takes no action on a hearing officer's decision
15 within 30 days of the rendering of that decision, it is the final
16 decision of the agency.

17 * Sec. 7. AS 44.62.590(a) is amended to read:

18 (a) In a proceeding before an agency, the agency or the assigned
19 hearing officer shall certify the facts to the superior court in the
20 judicial district where the proceeding is held if a person in the
21 proceeding

- 22 (1) disobeys or resists a lawful order;
- 23 (2) refuses to respond to a subpoena;
- 24 (3) refuses to take oath or affirmation as a witness;
- 25 (4) refuses to be examined; or
- 26 (5) is guilty of misconduct at a hearing or so near the
27 hearing as to obstruct the proceeding.

28 * Sec. 8. AS 44.62.640(b)(3) is amended to read:

- 29 (3) "hearing officer" means a hearing officer qualified

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under sec. 353 [350] of this chapter;

* Sec. 9. AS 44.62.640(b) is amended by adding a new paragraph to read:

(6) "office" means the Office of Administrative Adjudication.

* Sec. 10. AS 44.62.350 is repealed.