

**EXECU-**

**TIVE**

**ORDER**

**116**

<TARGET><BILL></BILL><SUBJECT>EXECUTIVE ORDER  
116</SUBJECT><COMM>HSTA27</COMM></TARGET>

STATE CAPITOL  
PO Box 110001  
Juneau, Alaska 99811-0001  
907-465-3500  
fax: 907-465-3532



550 West 7th Avenue #1700  
Anchorage, Alaska 99501  
907-269-7450  
fax 907-269-7463  
[www.Gov.Alaska.Gov](http://www.Gov.Alaska.Gov)  
Governor@Alaska.Gov

Governor Sean Parnell  
STATE OF ALASKA

January 13, 2012

The Honorable Mike Chenault  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Chenault,

Under the authority of Article III, Section 23 of the Alaska Constitution, and in accordance with AS 24.08.210, I am transmitting Executive Order 116 to transfer certain hearing and appeal functions of the Department of Health and Social Services to the Office of Administrative Hearings in the Department of Administration.

The Office of Administrative Hearings (OAH) was created in 2004 in the Department of Administration to provide greater coordination and expertise in the conduct of administrative hearings. OAH has provided additional confidence to the public that final administrative decisions on appeal are fairly reached, being heard before a neutral decision maker. The Department of Health and Social Services (DHSS) is currently responsible for a large number of the administrative hearings and appeals, and its decisions affect many Alaskans. Moving DHSS hearing and appeal functions to a neutral and independent adjudicatory body such as OAH will benefit the public by adding to the impartiality and professionalism of the decisions issued.

This Executive Order is intended to increase public confidence and to consolidate functions to make a more efficient State government.

Sincerely,

A handwritten signature in black ink that reads "Sean Parnell".

Sean Parnell  
Governor

Enclosure

Introduced in the Senate: 1/17/12  
Referred: State Affairs, Health and Social Services

Introduced in the House: 1/17/12  
Referred: State Affairs, Finance

### EXECUTIVE ORDER NO. 116

1 Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance  
2 with AS 24.08.210, I order the following:

3 \* **Section 1. FINDING.** As governor, I find that the transfer of certain hearing and appeal  
4 functions of the Department of Health and Social Services to the office of administrative  
5 hearings (AS 44.64.010) in the Department of Administration would be in the best interest of  
6 efficient administration. This action will further the development of coordinated central  
7 administrative hearing process in the state.

8 \* **Sec. 2.** AS 18.07.081(a) is amended to read:

9 (a) The department, a member of the public who is substantially affected by  
10 activities authorized by the certificate, or another applicant for a certificate of need  
11 may initiate a hearing **conducted by the office of administrative hearings**  
12 **(AS 44.64.010)** to obtain modification, suspension, or revocation of an existing  
13 certificate of need by filing an accusation with the commissioner as prescribed under  
14 AS 44.62.360. A revocation, modification, or suspension of an outstanding certificate  
15 may not be undertaken unless it is in accordance with AS 44.62.330 - 44.62.630.

16 \* **Sec. 3.** AS 18.20.330(a) is amended to read:

17 (a) Notwithstanding AS 44.62.330 - 44.62.630, the department, by regulation,  
18 shall establish a hearing procedure by which a nursing facility may present evidence to  
19 refute a deficiency found by the department, and by which it may appeal, **in a hearing**  
20 **conducted by the office of administrative hearings (AS 44.64.010)**, a sanction  
21 imposed by order of the department under AS 18.20.310. A request for a hearing shall  
22 be made in writing within 10 days after service of the department's order on the  
23 nursing facility. Except for an order that takes effect immediately under  
24 AS 18.20.310(b)(1), a request under this subsection has the effect of staying the  
25 department's order until the hearing is concluded and the department makes a final

1 determination.

2 \* **Sec. 4.** AS 44.64.030(a)(40) is amended to read:

3 (40) AS 47.45.050 [AS 47.45] (longevity bonuses).

4 \* **Sec. 5.** AS 44.64.030(a) is amended by adding new paragraphs to read:

5 (41) AS 18.07 (certificate of need program);

6 (42) AS 18.20 (hospitals and nursing facilities);

7 (43) AS 47.05 (assistance programs);

8 (44) AS 47.07 (medical assistance for needy persons);

9 (45) AS 47.25 (public assistance);

10 (46) AS 47.27 (Alaska temporary assistance program);

11 (47) AS 47.37.130 (alcohol safety action program);

12 (48) AS 47.37.140 (treatment facilities);

13 (49) AS 47.45.306 (Alaska senior benefits payment program).

14 \* **Sec. 6.** AS 47.05.010 is amended to read:

15 **Sec. 47.05.010. Duties of department.** The Department of Health and Social  
16 Services shall

17 (1) administer adult public assistance, the Alaska temporary assistance  
18 program, and all other assistance programs, and receive and spend money made  
19 available to it;

20 (2) adopt regulations necessary for the conduct of its business and for  
21 carrying out federal and state laws granting adult public assistance, temporary cash  
22 assistance, diversion payments, or self-sufficiency services for needy families under  
23 the Alaska temporary assistance program, and other assistance;

24 (3) establish minimum standards for personnel employed by the  
25 department and adopt necessary regulations to maintain those standards;

26 (4) require those bonds and undertakings from persons employed by it  
27 that, in its judgment, are necessary, and pay the premiums on them;

28 (5) cooperate with the federal government in matters of mutual  
29 concern pertaining to adult public assistance, the Alaska temporary assistance  
30 program, and other forms of public assistance;

31 (6) make the reports, in the form and containing the information, that

1 the federal government from time to time requires;

2 (7) cooperate with the federal government, its agencies, or  
3 instrumentalities in establishing, extending, and strengthening services for the  
4 protection and care of homeless, dependent, and neglected children in danger of  
5 becoming delinquent, and receive and expend funds available to the department by the  
6 federal government, the state, or its political subdivisions for that purpose;

7 (8) cooperate with the federal government in adopting state plans to  
8 make the state eligible for federal matching in appropriate categories of assistance, and  
9 in all matters of mutual concern, including adoption of the methods of administration  
10 that are found by the federal government to be necessary for the efficient operation of  
11 welfare programs;

12 (9) adopt regulations, not inconsistent with law, defining need,  
13 prescribing the conditions of eligibility for assistance, and establishing standards for  
14 determining the amount of assistance that an eligible person is entitled to receive; the  
15 amount of the assistance is sufficient when, added to all other income and resources  
16 available to an individual, it provides the individual with a reasonable subsistence  
17 compatible with health and well-being; an individual who meets the requirements for  
18 eligibility for assistance shall be granted the assistance promptly upon application for  
19 it;

20 (10) grant to a person claiming or receiving assistance and who is  
21 aggrieved because of the department's action or failure to act, reasonable notice and an  
22 opportunity for a fair hearing by the office of administrative hearings  
23 (AS 44.64.010) [DEPARTMENT], and the department shall adopt regulations relative  
24 to this;

25 (11) enter into reciprocal agreements with other states relative to  
26 public assistance, welfare services, and institutional care that are considered advisable;

27 (12) establish the requirements of residence for public assistance,  
28 welfare services, and institutional care that are considered advisable, subject to the  
29 limitations of other laws of the state, or law or regulation imposed as conditions for  
30 federal financial participation;

31 (13) establish the divisions and local offices that are considered

1 necessary or expedient to carry out a duty or authority assigned to it and appoint and  
 2 employ the assistants and personnel that are necessary to carry on the work of the  
 3 divisions and offices, and fix the compensation of the assistants or employees, except  
 4 that a person engaged in business as a retail vendor of general merchandise, or a  
 5 member of the immediate family of a person who is so engaged, may not serve as an  
 6 acting, temporary, or permanent local agent of the department, unless the  
 7 commissioner of health and social services certifies in writing to the governor, with  
 8 relation to a particular community, that no other qualified person is available in the  
 9 community to serve as local welfare agent; for the purposes of this paragraph, a  
 10 "member of the immediate family" includes a spouse, child, parent, brother, sister,  
 11 parent-in-law, brother-in-law, or sister-in-law;

12 (14) provide education and health-related services and referrals  
 13 designed to reduce the number of out-of-wedlock pregnancies and the number of  
 14 induced pregnancy terminations in the state;

15 (15) investigate reports of abuse, neglect, or misappropriation of  
 16 property by certified nurse aides in facilities licensed by the department under  
 17 AS 47.32;

18 (16) establish state policy relating to and administer federal programs  
 19 subject to state control as provided under 42 U.S.C. 3001 - 3058ee (Older Americans  
 20 Act of 1965), as amended, and related federal regulations;

21 (17) administer the older Alaskans service grants under AS 47.65.010 -  
 22 47.65.050 and the adult day care and family respite care grants under AS 47.65.100.

23 \* **Sec. 7.** AS 47.07.075(a) is amended to read:

24 (a) Actions of the department regarding health facility payment rates under  
 25 this chapter and AS 47.25.120 - 47.25.300 are subject to provisions of AS 44.62  
 26 (Administrative Procedure Act) except as provided in (b) of this section, **and the**  
 27 **hearing for an appeal must be conducted by the office of administrative hearings**  
 28 **(AS 44.64.010).**

29 \* **Sec. 8.** AS 47.25.180 is amended to read:

30 **Sec. 47.25.180. Appeal.** An applicant whose application is not acted upon or is  
 31 denied, discontinued, or modified by the department shall be granted an opportunity

1 for fair hearing before the office of the administrative hearings (AS 44.64.010) [A  
 2 REPRESENTATIVE OF THE DEPARTMENT APPOINTED FOR THAT  
 3 PURPOSE]. The hearing shall be held within a reasonable time after demand for it.  
 4 The conduct of [A REPRESENTATIVE DESIGNATED TO CONDUCT] the  
 5 hearing shall be governed by the regulations adopted for that purpose by the  
 6 department.

7 \* **Sec. 9.** AS 47.25.460(c) is amended to read:

8 (c) A recipient whose award is proposed to be modified or terminated, or an  
 9 applicant whose application is denied by the department, shall be granted an  
 10 opportunity for a hearing before the office of administrative hearings  
 11 (AS 44.64.010) [A REPRESENTATIVE OF THE DEPARTMENT APPOINTED  
 12 FOR THAT PURPOSE]. The hearing shall be held promptly after a request for  
 13 hearing is made. The hearing shall be conducted in accordance with regulations  
 14 adopted by the department.

15 \* **Sec. 10.** AS 47.25.624 is amended to read:

16 **Sec. 47.25.624. Appeal rights.** Except as provided in AS 47.25.626(e), an  
 17 individual who receives a determination from the department that denies, limits, or  
 18 modifies home heating payments under AS 47.25.621 - 47.25.626, other than a  
 19 determination based on insufficient funding of the program, may request a hearing  
 20 before the office of administrative hearings (AS 44.64.010) [DEPARTMENT] under  
 21 regulations adopted by the department.

22 \* **Sec. 11.** AS 47.27.080(a) is amended to read:

23 (a) An applicant or participant who receives a determination from the  
 24 department that denies, limits, or modifies the cash assistance, diversion payment, or  
 25 self-sufficiency services provided under this chapter may request a hearing before the  
 26 office of administrative hearings (AS 44.64.010) [DEPARTMENT OR A  
 27 REPRESENTATIVE OF THE DEPARTMENT APPOINTED FOR THAT  
 28 PURPOSE]. The office of administrative hearings (AS 44.64.010) [IF A  
 29 REPRESENTATIVE IS APPOINTED, THE REPRESENTATIVE] shall conduct the  
 30 hearing under the regulations adopted by the department. The appeal is not subject to  
 31 AS 44.62.330 - 44.62.630.

1 \* **Sec. 12.** AS 47.37.130(j) is amended to read:

2 (j) The department, after holding a hearing conducted by the office of  
 3 administrative hearings (AS 44.64.010) under the provisions of AS 44.62  
 4 (Administrative Procedure Act), may suspend, revoke, limit, restrict, or refuse to grant  
 5 an approval for an alcohol safety action program for failure to meet standards  
 6 established under (b) of this section.

7 \* **Sec. 13.** AS 47.37.140(e) is amended to read:

8 (e) The department, after holding a hearing conducted by the office of  
 9 administrative hearings (AS 44.64.010) under the provisions of the Administrative  
 10 Procedure Act (AS 44.62), may suspend, revoke, limit, restrict, or refuse to grant an  
 11 approval for a treatment facility, for failure to meet its standards.

12 \* **Sec. 14.** AS 47.45.306 is amended to read:

13 **Sec. 47.45.306. Appeal rights.** An individual who receives a determination  
 14 from the department that denies, limits, or modifies a cash benefit under AS 47.45.301  
 15 - 47.45.309, other than a determination under AS 47.45.301(c) to reduce or eliminate  
 16 benefits, may request a hearing before the office of administrative hearings  
 17 (AS 44.64.010) [DEPARTMENT] under regulations adopted by the department.

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

20 CERTAIN DEPARTMENT OF HEALTH AND SOCIAL SERVICES EMPLOYEES  
 21 AFFECTED BY THIS ORDER. (a) Employees of the Department of Health and Social  
 22 Services who, on June 30, 2012, performed functions transferred to the office of  
 23 administrative hearings (AS 44.64.010) by this Order may apply for and be considered for any  
 24 employment openings created as a result of this Order.

25 (b) Nothing in this section may be construed as guaranteeing continued employment  
 26 rights to any state employee.

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

29 OTHER TRANSITION PROVISIONS. (a) Litigation, hearings, investigations, and  
 30 other proceedings pending under a law amended by this Order, or in connection with  
 31 functions transferred by this Order continue in effect and may be continued and completed

1 notwithstanding a transfer or amendment provided in this Order.

2 (b) Regulations adopted to implement statutes amended by this Order and in effect on  
 3 the effective date of this Order, remain in effect and may continue to be implemented and  
 4 enforced, consistent with the changes made by this Order, until amended or repealed. The  
 5 Department of Health and Social Services and the office of administrative hearings  
 6 (AS 44.64.010) may adopt regulations necessary to implement their respective provisions of  
 7 this Order. The regulations take effect under AS 44.62 (Administrative Procedure Act), but  
 8 not before July 1, 2012.

9 (c) Contracts, rights, liabilities, and obligations created by or under a law amended by  
 10 this Order, and in effect on the effective date of this Order, remain in effect notwithstanding  
 11 this Order's taking effect. Records, equipment, appropriations, and other property of an  
 12 agency of the state whose functions are transferred under this Order shall be transferred to  
 13 implement the provisions of this Order.

14 \* **Sec. 17. CONDITIONAL EFFECT.** Section 14 of this Order takes effect only if a bill is  
 15 passed during the Second Session of the Twenty-Seventh Alaska State Legislature and  
 16 enacted into law, so that AS 47.45.306 is in effect on July 1, 2012.

17 \* **Sec. 18.** This Order takes effect July 1, 2012.

DATED: \_\_\_\_\_

---

Sean Parnell  
 Governor

**3/20/2012**

**Executive Order #116**

3/20/12 3:08am ci from Jean. She talked with Deb Behr and they are sure there is no problem.

Ci from Jean Micheal 2:58pm Section 17 is a mistake. 47.45.306 was extended in the first session of this legislature. She doesn't know why they would have a condition effect in section 14. In the first session, they extended it. Chapter 6 Section 5 of the 2007 SLA. The whole senior care program was temporary and then we codified it in 2008 or 09. Setting it up as four-year reviews to sunset.

Last session we extended the 2011 delayed repeal to 2015. The need to make the repeal provision effective July 2, 2012 has already happened.

Section 14 did not take affect. It passed in the first session.

3/20/2012 Rep Gruenberg came in and wondered if we should have done something with Executive order #116 concerning Page 7 Line 14 talking about the Conditional Effect. The legislature had – at another time – put in a repealer (repealing this section as of June 30, 2011) to this Section (see Page 6) Section 14.45.306 “Appeal rights.” The Governor’s office was being nice to say that unless you (the legislature) does more, don’t expect this section to go with it (won’t be transferring to a neutral and independent adjudicatory body such as OAH”– meaning Section 14 is no longer effective as of June 30, 2011.)

Nancy spoke with Doug Gardner to help me understand this issue.

# FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

Bill Version EO 116  
Fiscal Note Number 1  
(S) Publish Date 1/17/12

Identifier (file name) LL0604-DHSS-HA-01-13-12 Dept. Affected Health & Social Services  
Title Transfer of certain hearing and appeal functions of DHSS to the office of admin. Hearings in DOA Appropriation Departmental Support Services  
Allocation Hearings and Appeals  
Sponsor \_\_\_\_\_  
Requester Rules by Request of the Governor OMB Component Number 1434

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>	<b>FY13</b>	<b>FY13</b>					
Personal Services	(745.4)	745.4					
Travel	(44.0)	44.0					
Services	(249.4)	249.4					
Commodities	(45.1)	45.1					
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>(1,083.9)</b>	<b>1,083.9</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE** (Thousands of Dollars)

1002	Federal Receipts	(497.7)	497.7					
1003	GF Match	(586.2)	586.2					
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
<b>TOTAL</b>		<b>(1,083.9)</b>	<b>1,083.9</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS**

Full-time	-5	5					
Part-time							
Temporary							

**CHANGE IN REVENUES**

--	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required, discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required, discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial version.

Prepared by Laura Baker, Deputy Director  
Division Finance & Management Services  
Approved by Nancy Rolfzen, Assistant Commissioner  
Finance & Management Services

Phone 465-1631  
Date/Time 1/13/12 2:00 PM  
Date 1/13/2012

FISCAL NOTE #1

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. EO 116

**Analysis**

This executive order transfers the Department of Health and Social Services' administrative hearing functions presently performed by a five-person, in-house hearing unit (referred to as the "office of hearings and appeals") to the state's central hearing panel, the office of administrative hearings (OAH). OAH was created by AS 44.64.010 in 2004 as an independent agency operating within the Department of Administration to conduct hearings and other proceedings, and provide alternative dispute resolution services, across nearly all departments of the executive branch. The overall fiscal impact of this transfer will be to reduce state costs after the initial transition.

OAH has mandatory jurisdiction to conduct hearings and other proceedings in more than 40 categories of executive branch cases, including some Health and Social Services categories. In transferring the remaining Health and Social Services hearing functions to OAH, the executive order adds nine case categories to OAH's mandatory jurisdiction effective July 1, 2012. OAH anticipates that, over time, the transfer will result in cost savings, as efficiencies are achieved by flexibly managing the combined caseloads with fewer personal services resources than would be needed to navigate the spikes and dips in separate caseloads handled by separate agencies.

The cost to OAH of performing the hearing functions transferred would be recovered from Health and Social Services through interagency receipts, based on the time required for the hearings and other proceedings, and related work, using a charge back rate calculated under the federally-approved cost-allocation methodology. The Department of Health and Social Services would receive Federal Receipts and GF Match to cover the interagency receipts charges, based on OAH's billings for the services through the DHSS Administrative Services Support component.

# FISCAL NOTE

**STATE OF ALASKA**  
**2012 LEGISLATIVE SESSION**

Bill Version EO 116  
 Fiscal Note Number 2  
 (S) Publish Date 1/17/12

Identifier (file name) LL0604-DHSS-AS-01-13-12 Dept. Affected Health & Social Services  
 Title Transfer of certain hearing and appeal functions of DHSS to the office of admin. Hearings in DOA Appropriation Departmental Support Services  
 Allocation Administrative Support Services  
 Sponsor \_\_\_\_\_ OMB Component Number 320  
 Requester Rules by Request of the Governor

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services	1,083.9		872.0	872.0	872.0	872.0	872.0	872.0
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>1,083.9</b>	<b>0.0</b>	<b>872.0</b>	<b>872.0</b>	<b>872.0</b>	<b>872.0</b>	<b>872.0</b>	<b>872.0</b>

<b>FUND SOURCE</b>		(Thousands of Dollars)						
1002	Federal Receipts	497.7		401.2	401.2	401.2	401.2	401.2
1003	GF Match	586.2		470.8	470.8	470.8	470.8	470.8
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
	<b>TOTAL</b>	<b>1,083.9</b>	<b>0.0</b>	<b>872.0</b>	<b>872.0</b>	<b>872.0</b>	<b>872.0</b>	<b>872.0</b>

<b>POSITIONS</b>								
Full-time								
Part-time								
Temporary								

<b>CHANGE IN REVENUES</b>								

Estimated **SUPPLEMENTAL (FY12) operating costs** 0.0 (separate supplemental appropriation required;  
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** 0.0 (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**Why this fiscal note differs from previous version (if initial version, please note as such)**

Initial version.

Prepared by Laura Baker, Deputy Director  
 Division Finance & Management Services  
 Approved by Nancy Rolfzen, Assistant Commissioner  
Finance & Management Services

Phone 465-1631  
 Date/Time 1/13/12 2:00 PM  
 Date 1/13/2012

## FISCAL NOTE #2

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. EO 116

### Analysis

This executive order transfers the Department of Health and Social Services' administrative hearing functions presently performed by a five-person, in-house hearing unit (referred to as the "office of hearings and appeals") to the state's central hearing panel, the office of administrative hearings (OAH). OAH was created by AS 44.64.010 in 2004 as an independent agency operating within the Department of Administration to conduct hearings and other proceedings, and provide alternative dispute resolution services, across nearly all departments of the executive branch. The overall fiscal impact of this transfer will be to reduce state costs after the initial transition.

OAH has mandatory jurisdiction to conduct hearings and other proceedings in more than 40 categories of executive branch cases, including some Health and Social Services categories. In transferring the remaining Health and Social Services hearing functions to OAH, the executive order adds nine case categories to OAH's mandatory jurisdiction effective July 1, 2012. OAH anticipates that, over time, the transfer will result in cost savings, as efficiencies are achieved by flexibly managing the combined caseloads with fewer personal services resources than would be needed to navigate the spikes and dips in separate caseloads handled by separate agencies.

The cost to OAH of performing the hearing functions transferred would be recovered from Health and Social Services through interagency receipts, based on the time required for the hearings and other proceedings, and related work, using a charge back rate calculated under the federally-approved cost-allocation methodology. The Department of Health and Social Services would receive Federal Receipts and GF Match to cover the interagency receipts charges, based on OAH's billings for the services through the DHSS Administrative Services Support component.

This fiscal note reflects cost pool funding for billed services to pay the Department of Administration, OAH.

# FISCAL NOTE

STATE OF ALASKA cost # codes  
2012 LEGISLATIVE SESSION

Bill Version EO 116  
Fiscal Note Number 3  
Publish Date 1/17/12 - (S)

Identifier (file name) 0604-DOA-OAH-1-13-12 Dept. Affected Administration  
Title Executive Order - Transfer Hearings to OAH Appropriation Centralized Administrative Services  
Allocation Office of Administrative Hearings  
Sponsor Rules by Request of the Governor  
Requester Governor OMB Component Number 2771

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>								
Personal Services	745.4		650.0	650.0	650.0	650.0	650.0	650.0
Travel	44.0		22.0	22.0	22.0	22.0	22.0	22.0
Services	249.4		175.0	175.0	175.0	175.0	175.0	175.0
Commodities	45.1		25.0	25.0	25.0	25.0	25.0	25.0
Capital Outlay	0.0		0.0	0.0	0.0	0.0	0.0	0.0
Grants, Benefits	0.0		0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0		0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>1,083.9</b>	<b>0.0</b>	<b>872.0</b>	<b>872.0</b>	<b>872.0</b>	<b>872.0</b>	<b>872.0</b>	<b>872.0</b>

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1007	I/A Rcpts (Other)	1,083.9		872.0	872.0	872.0	872.0	872.0
<b>TOTAL</b>		<b>1,083.9</b>	<b>0.0</b>	<b>872.0</b>	<b>872.0</b>	<b>872.0</b>	<b>872.0</b>	<b>872.0</b>

POSITIONS								
Full-time		5.0	0.00	4	4	4	4	4
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not Applicable. Initial version.

Prepared by Terry L. Thurbon, Chief Administrative Law Judge  
Division Office of Administrative Hearings  
Approved by John Cramer, Deputy Commissioner  
Department of Administration

Phone 465-1886  
Date/Time 1/13/12 2:00 PM  
Date 1/13/2012

**Analysis**

This executive order transfers the Department of Health and Social Services' administrative hearing functions presently performed by a five-person, in-house hearing unit (referred to as the "office of hearings and appeals") to the state's central hearing panel, the office of administrative hearings (OAH). OAH was created by AS 44.64.010 in 2004 as an independent agency operating within the Department of Administration to conduct hearings and other proceedings, and provide alternative dispute resolution services, across nearly all departments of the executive branch. The overall fiscal impact of this transfer will be to reduce state costs after the initial transition.

OAH has mandatory jurisdiction to conduct hearings and other proceedings in more than 40 categories of executive branch cases, including some Health and Social Services categories. In transferring the remaining Health and Social Services hearing functions to OAH, the executive order adds nine case categories to OAH's mandatory jurisdiction effective July 1, 2012. OAH anticipates that, over time, the transfer will result in cost savings, as efficiencies are achieved by flexibly managing the combined caseloads with fewer personal services resources than would be needed to navigate the spikes and dips in separate caseloads handled by separate agencies.

Though it is difficult to predict when, and how much, any caseload will spike and dip, OAH anticipates that it should be able to maintain capacity to handle the combined mandatory jurisdiction cases, plus a quantity of voluntary referral cases similar to that of the past few years, with approximately ten administrative law judge positions. OAH currently has eight, including judges with supervisory and management responsibilities. The Health and Social Services in-house unit has four hearing officer positions. Absent a large, sustained increase in overall caseload, a reduction of one to two positions likely would be possible in the out years.

For FY 13, any personal services cost reduction or efficiency savings likely would be smaller than in the out years due to time commitments and costs associated with cross training and co-locating the transferred functions with the existing OAH operations. The appropriation request above for FY 13, therefore, is identical to that in the Health and Social Services' budget for the in-house hearing unit, but the out-year cost estimates show reductions, from anticipated cost savings in personal services and other expenditure categories, totaling in excess of \$200,000.

The cost to OAH of performing the hearing functions transferred would be recovered from Health and Social Services through interagency receipts, based on the time required for the hearings and other proceedings, and related work, using a charge back rate calculated under the federally-approved cost-allocation methodology. Health and Social Services would receive Federal Receipts and GF Match to cover the interagency receipts charges, based on OAH's billings for the services.