

ALASKA LEGISLATURE

2697

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

Mr. Felter explained that the lack of such details and inflated costs is not uncommon when states have not attempted to consolidate and centralize their hearing office functions. Many officers serve many different masters and in many cases have not been asked to keep track of and report specific costs of their hearing related duties.

One of the most important reasons states find to centralize their hearing officers is to reduce cost and be better able to track the behavior and efficiency of hearing officers.

Legislatures appreciate the ability to budget directly for centralized and well reported hearing office functions. Elected officials find it much easier to hold those they budget to high standards when performance is easily tracked.

When it became quite clear that Governor Knowles would veto HB 232, many legislators were uncomfortable with investing a lot of time and effort only to see the measure rejected by the Governor. There were also overtures by the Department of Law to work with the legislature to improve the hearing officer system. These good will gestures evaporated after the legislative session ended.

In an effort to avoid a future veto and to build a more active base of support for independent hearings among Alaskans, Representative Ogan elected to introduce in the 21st Legislature, a constitutional amendment requiring independent hearing officers through HJR-18.

Not only did this strategy involve a much cleaner and easy to understand document, it also quickly got the attention of the Governor's political advisors. It was much more difficult to raise fiscal objections since the resolution did not require a particular type of centralized effort. Throughout the 21st session, the administration vacillated between new promises of cooperation and fiscal warnings. In the end the effort for HJR - 18 was lost amidst a host of other budget driven priorities and failed to attract the attention it needed within the House leadership to achieve passage.

With new leadership in the House and the Senate and a new administration of the same party and persuasion, the opportunity to more cooperatively establish independent hearing office functions has vastly improved.

Addressing One of the Main Objections to Independent Hearing Officers

The In-house (agency) Expertise Issue.

- *Note: During hearings in the Alaska Legislature, one of the first issues that in-house hearing office advocates raised is the value of in-house expertise. Agencies desire hearing officers well versed in agency regulations and policy.*
- *Of course our state and federal constitutions recognize just the opposite in protecting due process. It would be unthinkable to allow a judge to be employed by an agency of the administration or the legislature.*
- *Results based data shows that impartial, well-trained hearing officers actually deliver higher quality, fairer, and more legally sustainable decisions if they are not under the watchful eye of a commissioner or director.*

A national expert counters the in-house expertise argument this way.

Agency expertise may actually cause impairment in the adjudication process. Judge Edwin Felter includes the following remarks in his written presentation to the Colorado Bar. *"Even though a hearing officer may exhibit an attitude completely independent from the agency and its staff, physical location and continuous relationships with only the personnel of the employing agency may bias his analytical capacities, or they may contribute to an inclination to narrow his perspectives to only those social problems and regulatory objectives sought by this one agency."*

Another commentator considers *"the unavoidable appearances of bias"* when a hearing officer, attached to an agency, presides in litigation by that agency against a private party.

Mr. Felter goes on to say that *"there are two competing concepts in administrative law. One is the concept that adjudicators should be separate from the regulatory agencies they serve. The second is what the author calls administrative law. The proponents of the latter concept maintain that adjudicators by the agency are a necessary part of statutory mandated policy formulation. In contrast, the opponents of agency law hold that the best approach to policy formulation is the adoption of rules and regulations by the agency."*

One proponent of Central Panels states that, *"the vast majority of hearings now consist of large numbers of fairly fungible cases which involve private rights rather than proceedings in which the agency has a major stake in a policy making issue. Antiquated ideas that for decades have controlled administrative practice and procedure must give way to a more practical and economic system if the public and Congress are to continue to accept this means of dispute resolution."*

V. Options to Consider

The following options are provided for legislators and administration officials as they consider how best to improve Alaska's administrative hearing functions.

If a consensus can be reached on the good government principle of fair, efficient, timely, cost effective hearings that achieve the highest possible due process standards, then the only question remaining is how to do so in a responsible and affordable manner.

Reform through Central Panel

The following primary issues in Central Panel reform are location of hearing officers, their qualifications, standards and duties within the central office, panel reporting requirements, and training of hearing officers.

Location

The degree of separation from agencies can vary but the goals for such separations are consistent.

Hearing officers should not have ex-parte contact with agency people. Physically removing them to a central office avoids the easy temptation through the normal fraternization that occurs in office settings. To physically relocate is not absolutely necessary if cost becomes too large a consideration and other acceptable mitigation measures can be taken.

Qualifications

Standards of conduct, qualifications, and standards of performance for hearing officers can all be established by the legislature.

Duties

Better guidelines for hearing functions, including efficiency and atmosphere, can also be established by the legislature. Providing hearings in a timely manner, avoiding endless cycles of remanding decisions within agencies, and carrying out duties in a judicial setting can also be established by the legislature.

Standards

Establishing fair and balanced hearing rules and procedures can be accomplished through legislative action, as can other avenues of relief if the hearing process has not performed in a timely and responsible manner.

VI. Three Main Focal Points of Interest

1. Public.

Delivery to the citizen of the most efficient, fair, professional, due process hearings possible.

2. Business.

The ability to help establish a more secure and inviting business climate through consistent, efficient, and fair hearings.

3. Government.

The upfront costs of relocation of hearing officers and functions are real. Less costly, time consuming, better prepared and defensible hearing dockets should offset these.

VII. Mechanics

To Establish Professional Hearing Offices

- | | |
|-------------------------------|--|
| 1. <u>Ethical conduct.</u> | Judicial Cannon should be applied to the hearing officer function. |
| 2. <u>Mission statements.</u> | The legislative branch of government should establish high expectations. |
| 3. <u>Oversight.</u> | The legislature should establish a person to be responsible for hearing officer oversight. |
| 4. <u>Training.</u> | The legislature should establish training requirements as well as cross training. |

To Provide Facilitation and Accountability

1. Central location. The legislature shall establish where hearing office functions occur and centralize them to whatever extent affordable.
2. Judicial atmosphere. Some states require hearing officers to robe and conduct their hearings in a judicial setting.
3. Reporting. The legislature can require the type of budgeting and reporting they deem best as well as performance evaluations and regular audits.

VIII. Various Solutions For Consideration

The following options are arranged to provide policy makers the ability to weigh major considerations, both real and political, into their decision process. They are obviously open for alteration and exist to stimulate further discussion and ideas.

Plan A *Just change the rules*

1. Current hearing officers would basically remain in place and in their present locations at their same pay range.
2. New guidelines would be established by the legislature.
3. New budgeting procedures would be established for a more consolidated budget increment.
4. The legislature would place someone in an oversight position over all hearing officers that would be responsible for reporting to the legislature.

5. Annual performance reports would be required-including public surveys of how the hearing process is working.
6. Protections would be provided as an insulating factor to eliminate retribution fears from the agency they are operating in.
7. Establish basic professional standards for hearing officers including cross training and on going educational requirements. Allow a transition time for present hearing officers to gain that level of excellence.

Positive:

- a) Favorable public approval
- b) Least upsetting to agencies
- c) Least costly overall.

Negative:

- a) Results will happen slowly.
- b) Most vulnerable to internal bureaucratic resistance.
- c) Most dependent on pro-active (cooperative) administration.

Plan B *Create an affordable model with select officers*

1. Establish model system on a small scale
2. Determine what functions and hearing officers would be put into a central location.
3. As the new model succeeds, add in other hearing officers and functions as budgets allow.
4. Use the new model as an oversight office and a training facility for all hearing officers as well as a clearinghouse for adjudication cases that are not being handled well in the non-central locations.

Positive:

- a) Very few displacements of employees.

- b). Creation of an affordable model to demonstrate success.
- c). A new standard of expertise and autonomy for other hearing officers to work toward.

Negative:

- a) Some upfront costs of moving and office set up.
- b) Only a partial solution.
- c) Susceptible to administrative pressure if not carefully protected by the legislature.

Plan C

A Select Central Panel

1. Create a new central panel model and include all hearing office functions except those determined by the legislature to leave in place as is for the time being. Reasons for allowing an opt out provision would be established by the legislature and could include such items as cost, efficiency, or satisfaction with how the hearing officers are performing.

** New model will be complete with all the training and standards in place including professional qualifications.*

Positive:

- a) Faster results.
- b) Higher public satisfaction through better service.
- c) Less risk to agencies and less contested cases to the court system.

Negative:

- a) More resistance from bureaucrats
- b) Higher cost
- c) More complex and therefore more difficult to administer and set up.

Plan D

All hearing officers and functions included with all standards in place

1. Create the new model with an administrator, training requirements, professional qualifications, oversight, budget process, audit requirements, and performance requirements.

Positive:

- a) Highest public approval
- b) Fastest results in all sectors.
- c) The least likely to be undone by non-supportive administrations.
- d) greatest savings down-line

Negative:

- a) Highest upfront costs
- b) Most legislatively complex.
- c) Most threatening to bureaucracy.

Plan E

Amend the State Constitution

1. Define the issue and put it before voters for approval as an amendment to our state constitution.
2. Constitutional approach would not require dealing with the details until the public approved the reform through the voting process.
3. An example of constitutional language could be, "*Administrative hearing functions shall be separate and independent from all agencies of government.*"

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- a) Governor's signature not required.
 - b) Public ultimately affirms issue.
 - c) No specific costs or mandates on how to work out the details.
4. Likely to stimulate voters.

Negative:

- a) Subject to campaign distortion.
- b) Subject to unrealistic cost projections.
- c) Results will take longer.

Plan F *Request the Administration to undertake the reform*

1. Give the new administration the option of coming up with a plan to accomplish the objectives of central panels.

Positive:

- a) Demonstrates a high degree of trust and confidence in the administration.
- b) Relieves the legislature of being directly involved in the details.
- c) Allows the administration to accomplish a good government goal.

Negative:

- a) Absent legislative initiative, Central Panels will have to be of the highest priority to overcome the internal resistance to the concept.
- b) The task might become needlessly bogged down and many legislators would then be reluctant to push the Governor.

VII. Staff Recommendations

After several years of research and assessing the dynamics involved in implementing Central Panels, a few key suggestions are respectfully offered.

Cooperation and common goals

To achieve the least costly and best system of Central Panels, the Administration must be thoroughly involved and willing to stay focused on the broad based common goal of achieving the best possible hearing office function in Alaska. To enlist such support, the Legislature must be well informed and willing to share their support for reform with the Administration emphasizing a cooperative effort. This will necessitate a thorough presentation of a plan from concept to implementation as performed in other states and municipal governments.

Build public support through a bi-partisan good government approach

Central Panels are supported nationally without political boundaries. Liberals and conservatives support the formation of Central Panels albeit occasionally for slightly different reasons. The well-established facts are that fair, due process-oriented hearings, serve protectors of society and commerce very well. In addition they restore faith in government and make life easier for Commissioners and those who need to concentrate their efforts on purely administrative duties. Once the effectiveness and efficiencies of Central Panels are in place, in-house adjudication is a burden most agency officials are happy to have off their plate.

Reduce costs and errors through expertise

There is so much enthusiasm and interest in reforming Administrative Law and the adjudication on a national basis that many experts in the field are offering their assistance to government entities embarking on the reform. With each new state bringing about this reform, improved models are being offered and efficiencies of legislation and application improve. Alaska needs to avail itself to this expertise.

X. Primary National and State Contacts

National

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Senior Administrative law Judge
Colorado Division of Administrative Hearings
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Retired Chief Administrative Law Judge
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Mr. Bob Boerner / National Conference of State Legislators
Denver, Colorado
303-764-1417 bob.boerner@ncsl.org

Mr. Thomas Dewberry / Chief ALJ / Maryland Office of Administrative Hearings
Hunt Valley, Maryland
410-229-4105

Alaska

Mr. Ed Hein
Independent Hearing Officer
National Marine Fisheries / Juneau
Board of Directors / Alaska Association of Administrative Law Judges
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Dave Stancliff / Administrative Regulation Review Committee (ARRC) Staff
Room 429 State Capitol
907-465-3444 dave_stancliff@legis.state.ak.us

SB

203

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 2/9/04

MAR 03 2004

FURTHER:

DATE TURNED
IN TO OFFICE: March 3, 2004

Finance Committee considered

SENATE BILL NO. 203

SB 203 OFFICE OF ADMINISTRATIVE HEARINGS

"An Act relating to certain administrative hearings; and establishing the office of administrative hearings and relating to that office."

and recommends:

- be replaced with _____ CS SB 203 (FIN)
- adopt previous _____ CS CS FORTH COMING
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#
ADM	3/2	✓			6
ADM	3/2	✓			7
LWF	2/27		✓		8
DPS	2/27	✓			9
HSS	2/25		✓		10

APPROPRIATION - no fiscal note

NEW FISCAL NOTE(S):

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#
CEO	2/27	✓			16
LAW	2/12		✓		17
EED	3/1		✓		18
REV	3/2	✓			19
REV	3/2	✓			20

FISCAL NOTES CONTINUED ON

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

NEXT PAGE
A total of 15 New Fiscal Notes

SENATE FINANCE COMMITTEE REPORT

DATE: 2/9/04

FURTHER:

DATE TURNED
IN TO OFFICE: March 3, 2004

Finance Committee considered SENATE BILL NO. 203

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and recommends:

- be replaced with _____ CS SB
- adopt previous _____ CS CS For
- attached amendment(s)
- adopt Letter of Intent by _____
- further referral to _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	Indet.	FN#
ADM	3/2	✓			6
ADM	3/2	✓			7
LWF	2/27		✓		8
DPS	2/27	✓			9
HSS	2/25		✓		10

Department	Date	Fiscal	Indet.	Zero	FN#
GOV	2/27	✓			11
CEO	2/27		✓		12
EE D	3/1			✓	13
DEC	2/24			✓	14
CEO	3/1	✓			15

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

MAY 03 2004

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSSB203 (JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Office of Administrative Appeals RDU Centralized Administrative Services
Component Office of Administrative Appeals
Sponsor Senate Rules
Requester Senate Finance Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	446.8	791.9	791.9	791.9	791.9	791.9
Travel	4.3	8.6	8.6	8.6	8.6	8.6
Contractual	44.9	89.8	89.8	89.8	89.8	89.8
Supplies	4.6	9.2	9.2	9.2	9.2	9.2
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	500.6	899.5	899.5	899.5	899.5	899.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1050 Permanent Fund Div. Fund	52.4	104.8	104.8	104.8	104.8	104.8
1133 CSED Admin	128.3	256.6	256.6	256.6	256.6	256.6
1004 GF	181.1	260.4	260.4	260.4	260.4	260.4
1005 GF/Program Receipts						
1007 Interagency Receipts	138.9	277.7	277.7	277.7	277.7	277.7
Other (Specify Type--Do not abbreviate)						
TOTAL	500.6	899.5	899.5	899.5	899.5	899.5

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	9	9	9	9	9	9
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB 203 establishes the Office of Administrative Hearings (OAH) in the Department of Administration. The OAH will conduct administrative hearings under the direction of the Chief Administrative Law Judge. FY2005 funding assumes a July 1, 2004 start date for the Chief Administrative Law Judge, and a January 1, 2005 start date for the remainder of the OAH.

This fiscal note includes personal services and associated costs for the new Chief Administrative Law Judge position as well as five additional hearing officer positions and four support staff positions which will be transferred from the Departments of Revenue, Community & Economic Development, and Administration.

Although precise numbers are as yet unknown, budget savings are expected to result from the creation of the OAH. The new office will be able to conduct hearings that otherwise would have been contracted out. Economies of scale may produce additional savings.

Prepared by: Kevin Jardell, Assistant Commissioner Phone 465-5655
Division Commissioner's Office Date/Time 3/2/04 5:01 PM
Approved by: Mike Miller, Commissioner Date 3/2/2004
Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSSB203 (JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Office of Administrative Appeals RDU Centralized Administrative Services
Component Office of Tax Appeals
Sponsor Senate Rules
Requester Senate Finance Component No. 2131

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	(100.0)	(200.0)	(200.0)	(200.0)	(200.0)	(200.0)
Travel	(3.8)	(7.5)	(7.5)	(7.5)	(7.5)	(7.5)
Contractual	(8.4)	(16.7)	(16.7)	(16.7)	(16.7)	(16.7)
Supplies	(1.5)	(3.0)	(3.0)	(3.0)	(3.0)	(3.0)
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(113.6)	(227.2)	(227.2)	(227.2)	(227.2)	(227.2)

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(92.6)	(185.1)	(185.1)	(185.1)	(185.1)	(185.1)
1005 GF/Program Receipts						
1007 Interagency Receipts	(21.1)	(42.1)	(42.1)	(42.1)	(42.1)	(42.1)
Other (Specify Type--Do not abbreviate)						
TOTAL	(113.6)	(227.2)	(227.2)	(227.2)	(227.2)	(227.2)

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	-2	-2	-2	-2	-2	-2
Part-time	-1	-1	-1	-1	-1	-1
Temporary						

ANALYSIS: (Attach a separate page if necessary)
SB 203 establishes the Office of Administrative Hearings (OAH) in the Department of Administration. Existing positions currently in the Office of Tax Appeals as well as existing GF totalling 165.1 (92.6 in the first year) will be transferred to the new OAH.

Prepared by: Kevin Jardell, Assistant Commissioner Phone 465-5655
Division: Commissioner's Office Date/Time 3/2/04 4:49 PM
Approved by: Mike Miller, Commissioner Date 3/2/2004
Agency: Department of Administration

FISCAL NOTE

7203 03 2004

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB203CS-DOLWD-OSH-02-27-04
() Publish Date: _____

Revision Date/Time: 02/27/04 9:20AM Revised Department: Labor and Workforce Development
Title: Office of Administrative Hearings RDU: Labor Standards and Safety
Sponsor: Rules Committee Component: Occupational Safety and Health
Requester: Senate FIN Component Number: 970

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: None
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See Attached Analysis.

Prepared by: Grey Mitchell, Director Phone 465-4855
Division: Labor Standards and Safety Date/Time 2/27/04 9:20 AM
Approved by: Greg O'Clary, Commissioner Date 2/27/2004
Agency: Department of Labor and Workforce Development

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL VERSION: SB203CS-DOLWD-OSH-02-27-04

ANALYSIS: (continued)

The Occupational Safety and Health (OSH) component currently contracts with a private attorney to act as a hearing officer for OSH Review Board cases under AS 18.60. The current contract, awarded through the competitive procurement process, establishes an hourly rate of \$125 and an annual amount of \$40,000.

This contract hearing officer has been the same individual for more than 15 years. The cases, which include workplace fatalities and serious injuries, require detailed understanding of a large body of complex federal regulations and interpretations. Due to the experience and efficiency of the current OSH Review Board contract hearing officer, significant cost increases are likely under this legislative proposal. The funding source of the OSH program is 50% federal funds and 50% Worker Safety Account. If hearing responsibility is transferred to the new Office of Administrative Hearings, the division will pay for hearing services through a reimbursable services agreement.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB203CS-DPS-ABC-2-27-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title An act related to administrative hearings, to RDU Statewide Support
hearing officers, and to administrative law... Component ABC Board
Sponsor Senate Rules Committee by Request
Requester S. Finance Component No. 2690

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill establishes the Office of Administrative Hearings in the Department of Administration. The office would conduct all adjudicative administrative hearings to include alcoholic beverage licensing.

The number and cost of administrative hearings for the Alcoholic Beverage Control Board (ABC Board) can vary from year to year. Very often, a licensee will decide to settle their claim after their first meeting with a hearing officer.

Hearing officers are requested when the ABC Board takes action against a licensee or potential licensee and the matter cannot be resolved informally. Due process affords licensees or prospective licensees a formal hearing under the Administrative Procedures Act. These actions include, but are not limited to: Denial of a new license or renewal or sanctions against a licensee (fines, closure of business for a specified period of time, conditions on operating a license, etc.). Typically, the ABC Board budgets \$5,000 each year for this purpose. In FY 02 the ABC Board spent \$2,900 and in FY 03 it spent \$2,340. A decrement for \$5,000 is a fair estimate.

Prepared by: Douglas B. Griffin, Director Phone 269-4532
Division: ABC Board Date/Time 2/27/04 4:52 PM
Approved by: Commissioner William Tandeske Date 2/27/2004
Agency: Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB203CS(JUD)-DHSS-DAS-02-25-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Health & Social Services

Title: CONSOLIDATING CERTAIN ADMINISTRATIVE HEARING FUNCTIONS

RDU: Departmental Support Services

Component: Commissioner's Office

Sponsor: SENATE(RLS)

Requester: SENATE (FIN)

Component No. 317

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: _____
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
Certain administrative hearings under the following programs in the Department of Health and Social Services would be conducted by the Office of Administrative Hearings: 1) hospice licensure; 2) hospital and nursing home licensure; 3) assisted living home licensure; and 4) child care facility licensure. These functions are currently located in four separate divisions within the department.

Formal adjudicatory hearings in these areas are infrequent and the costs immaterial. For example in the Office of Children's Services for FY 03 and the first half of FY 04 the Office consumed 11 hours of hearing officer services for a total cost of approximately \$1,250.

Therefore, the department is submitting a zero fiscal note.

Prepared by: Sherry Hill, Special Assistant Phone 465-1618
Division: Office of the Commissioner Date/Time 02/25/2004
Approved by: Joel S. Gilbertson, Commissioner Date 02/25/2004
Agency: Department of Health and Social Services

FISCAL NOTE

MAR 03 2004

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS SB203(JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: OOG
Title: "An Act relating to administrative RDU
hearings, hearing officers and administrative law..." Component: Human Rights Commission
Sponsor: Senate Rules Committee
Requester: Senate Finance Committee Component No. 1

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	(22.5)	(22.5)	(22.5)	(22.5)	(22.5)	(22.5)
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(22.5)	(22.5)	(22.5)	(22.5)	(22.5)	(22.5)

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(22.5)	(22.5)	(22.5)	(22.5)	(22.5)	(22.5)
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	(22.5)	(22.5)	(22.5)	(22.5)	(22.5)	(22.5)

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Human Rights Commission will reduce its expenditures for contract hearing examiners if hearings are conducted by the Office of Administrative Hearings without a Reimbursable Services Agreement.

Prepared by: Paula M. Haley, Executive Director Phone (907) 276-7474x241
Division: Alaska State Human Rights Commission Date/Time 2/27/04 3:23 PM
Approved by: Linda J. Perez, Administrative Director Date 2/27/2004
Agency: Office of the Governor

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSSB 203(JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Office of Administrative Hearings RDU Banking, Securities & Corporations (115)
Component Banking, Securities & Corporations
Sponsor Rules by Request
Requester Senate Finance Component No. 1233

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**	**	**	**	**	**

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY2004) cost: **
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

POSITIONS	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation establishes an Office of Administrative Hearings in the Department of Administration. This new office would conduct hearings for banking (AS 06), securities (AS 45.55) and corporations (AS 10.06). The office will also conduct any hearings under the Uniform Partnership Act (AS 32.06) and for limited liability corporations (AS 10.50.408). The division has few hearings in any of these areas making it difficult to estimate, with any degree of reliability, the cost of hearings. Based upon the division's experience, there may be no hearings for several years. Last year there was a single hearing that cost \$75.0. The cost of hearings is a function of the complexity, level of expertise, and amount of time required to hear the case.

Prepared by: Mark Davis, Director Phone (907) 465-2521
Division Division of Banking, Securities & Corporations Date/Time 2/27/04 12:04 PM
Approved by: Edgar Blatchford, Commissioner Date 2/27/2004
Agency Department of Community & Economic Development

FISCAL NOTE

MAY 2004

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB203SCS(JUD)-EED-ACPE-3-1-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Education
Title An Act relating to administrative hearing officers, and to administrative law judges;... RDU ACPE
Sponsor (S)Rules Component Program Administration & Operations
Requester (S)FIN Component No. 2738

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
It has been at least fifteen years since an Alaska postsecondary institution requested a hearing under AS 14.48. The Alaska Commission on Postsecondary Education anticipates that any future costs related to this process would be diminimus and will not seek related budget authority.

Prepared by: Sheila King, Finance Officer Phone 465-6757
Division: Finance Date/Time 3/1/04 8:37 AM
Approved by: Diane Barrans, Executive Director Date 3/1/2004
Agency: Alaska Commission on Postsecondary Education

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB203-CS-JUD-EC-AWQ-2-24-04
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Environmental Conservation
Title Office of Administrative Hearings RDU All
Component All
Sponsor Rules Committee by Request
Requester Senate Finance Committee Component No. 633

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	*	*	*
Travel	0.0	0.0	0.0	*	*	*
Contractual	0.0	0.0	0.0	*	*	*
Supplies	0.0	0.0	0.0	*	*	*
Equipment	0.0	0.0	0.0	*	*	*
Land & Structures	0.0	0.0	0.0	*	*	*
Grants & Claims	0.0	0.0	0.0	*	*	*
Miscellaneous	0.0	0.0	0.0	*	*	*
TOTAL OPERATING	0.0	0.0	0.0	*	*	*

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	*	*	*
1003 GF Match	0.0	0.0	0.0	*	*	*
1004 GF	0.0	0.0	0.0	*	*	*
1005 GF/Program Receipts	0.0	0.0	0.0	*	*	*
1037 GF/Mental Health	0.0	0.0	0.0	*	*	*
Other (Specify Type-Do not abbreviate)	0.0	0.0	0.0	*	*	*
TOTAL	0.0	0.0	0.0	*	*	*

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Due to the delayed effective implementation date of this bill of July 1, 2007 there is no fiscal impact on the Department through FY2007. * Impact in FY2008 and beyond is unknown at this time.

Prepared by: Tom Chapple Phone 269-7686
Division Air & Water Quality Date/Time 2/24/04 6:18 PM
Approved by: Kurt Fredriksson, Deputy Commissioner Date 2/24/2004
Agency Department of Environmental Conservation

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSSB 203 (JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Office of Administrative Hearings RDU Insurance (116)
Component Insurance
Sponsor Rules by Request
Requester Senate Finance Component No. 354

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	38.3	84	92.5	101.8	112.0	123.2
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	38.3	84.1	92.5	101.8	112.0	123.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1004)	38.3	84.1	92.5	101.8	112.0	123.2
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156 - Receipt Supported Services	38.3	84.1	92.5	101.8	112.0	123.2
TOTAL	38.3	84.1	92.5	101.8	112.0	123.2

Estimate of any current year (FY2004) cost: 90.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation establishes an Office of Administrative Hearings in the Department of Administration. This new office would conduct hearings for insurance (AS 21.06.180-230, AS 21.14.010 and AS 44.62.310 and 3 AAC 25.040). The division estimates needing additional funds to contract with the Department of Administration for 1,020 hours for six hearings. On average, a hearing can involve 170 hours at a cost of \$75.00/hour. Hours are expected to increase by 10% annually. Due to a variety of circumstances the number of hearings conducted in any year can vary.

The fund source for these hearings are receipt supported services (RSS) from licensing fees. When the funds are transferred to the new office on or after January 1, 2005, it is anticipated that receipts for licensing fees totaling \$38.3 (half of the total annual amount) will be transmitted via Inter-Agency Receipts to support the hearing services requested by the division.

Prepared by: Linda S. Hall, Director Phone (907) 269-7900
Division Insurance Date/Time 3/1/04 4:15 PM
Approved by: Edgar Blatchford, Commissioner Date 3/1/2004
Agency Community & Economic Development

FISCAL NOTE

MAY 13 2004

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSSB 203 (JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Office of Administrative Hearings RDU Occupational Licensing (117)
Component Occupational Licensing
Sponsor Rules by Request
Requester Senate Finance Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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SOURCE (Thousands of Dollars)

SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156 - Receipt Supported Services						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 153.9
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

POSITIONS	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full-time	-2					
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSSB 203 (JUD) establishes an Office of Administrative Hearings in the Department of Administration. Under the new Office of Administrative Hearings, the Division of Occupational Licensing would transfer its current Hearing Examiner (PCN 08-1040) and Law Office Assistant (PCN 08-1038) to the Department of Administration, included in the FY05 budget request.

The fund source for these positions are receipt supported services (RSS) from licensing fees. When the positions are transferred to the new office in FY05, it is anticipated that receipts from licensing fees (RSS) totaling \$159.5 will be transmitted via Inter-Agency Receipts to support the hearing services requested by Occupational Licensing.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
Division Occupational Licensing Date/Time 2/27/04 8:46 AM
Approved by: Edgar Blatchford, Commissioner Date 2/27/2004
Agency Department of Community and Economic Development

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: SB203-LAW-L&SA-2-12-1
Bill Version: CSHB 203
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to administrative hearings, to RDU CIVIL
hearing officers, and to administrative law judges;..." Component Labor & State Affairs
Sponsor Senate Rules
Requester Senate Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	*****	*****	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill establishes the Office of Administrative Hearings in the Department of Administration. The office will conduct all adjudicative administrative hearings for an extensive list of state programs, including alcoholic beverage licensing, charitable gaming, banking, occupational licensing, and oil and gas exploration, production, and pipeline transportation property taxes, among others.

The fiscal impact on the Department of Law will be during the first year or two of transition from the current structure of agency hearing officers to the centralized Office of Administrative Hearings. Hundreds of pages of regulations directing how the current adjudicative process is handled will need to be rewritten to implement the new process. Boards, commissions and agency staff will need to be trained. Whether or not the new workload can be absorbed with existing staff will depend on how

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
Division Administrative Services Date/Time 2/12/04 2:03 PM
Approved by: Kathryn Daughhete & Gregg D. Renkes, Attorney General Date 2/12/2004
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. _____

ANALYSIS CONTINUATION

quickly the revised regulations need to be implemented. This will likely vary from agency to agency. If any of the regulations projects assume an urgency that existing staff cannot meet, outside contract counsel may be necessary to handle them. Given the uncertainty, we cannot estimate what the potential cost might be.

FISCAL NOTE

MARCH 11 8 2004

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSSB203(JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: EED
Title ADMINISTRATIVE HEARINGS RDU _____
Component Various _____
Sponsor RLS by Request _____
Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2004) cost: _____
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The annual cost for a centralized hearing office is indeterminate as the number of hearings is unpredictable from year-to-year.

Prepared by: Karen J. Rehfeld Phone 465-2802
Division Education Support Services Date/Time 3/1/04 5:41 PM
Approved by: _____ Date 3/1/2004
Agency _____

FISCAL NOTE

3/2/04

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS SB203 (Jud)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Office of Administrative Hearings RDU Revenue Programs & Services
Component Commissioner's Office
Sponsor Rules Committee
Requester Senate Finance Component No. 123

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	(198.1)	(396.2)	(396.2)	(396.2)	(396.2)	(396.2)
Travel	(1.8)	(3.5)	(3.5)	(3.5)	(3.5)	(3.5)
Contractual	(2.9)	(5.8)	(5.8)	(5.8)	(5.8)	(5.8)
Supplies	(0.8)	(1.5)	(1.5)	(1.5)	(1.5)	(1.5)
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(203.6)	(407.0)	(407.0)	(407.0)	(407.0)	(407.0)

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(22.9)	(45.6)	(45.6)	(45.6)	(45.6)	(45.6)
1005 GF/Program Receipts						
1037 GF/Mental Health						
1133 CSED Admin	(128.3)	(256.6)	(256.6)	(256.6)	(256.6)	(256.6)
1007 Interagency Receipts	(52.4)	(104.8)	(104.8)	(104.8)	(104.8)	(104.8)
TOTAL	(203.6)	(407.0)	(407.0)	(407.0)	(407.0)	(407.0)

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	-5	-5	-5	-5	-5	-5
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would transfer the Department of Revenue's three hearing examiners and two support staff positions to the newly created Office of Administrative Hearings at the Department of Administration. Department of Revenue hearing examiners currently hear appeals of child support orders and modifications, Permanent Fund dividend eligibility cases and charitable gaming license cases. The fiscal note shows the transfer of five positions and the accompanying funding for those positions. The CSED Admin funding source is federal money allocated to the Department of Revenue as reimbursement for the cost of hearing child support cases. The Inter-agency receipt funding is the amount of the cost of hearing dividend eligibility cases. The general funds provide for the cost of other hearings such as charitable gaming, special racing events or unclaimed property. This fiscal note reflects the change in effective date from June 1, 2004, to January 1, 2005.

Prepared by: Steve Porter, Deputy Commissioner Phone 465-2365
Division Department of Revenue Date/Time 3/2/04 9:54 AM
Approved by: Steve Porter, Deputy Commissioner Date 3/2/2004
Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS SB203 (Jud)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Office of Administrative Hearings RDU Revenue Programs & Services
Component Permanent Fund Dividend
Sponsor Rules Committee
Requester Senate Finance Component No. 981

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	(52.4)	(104.8)	(104.8)	(104.8)	(104.8)	(104.8)
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(52.4)	(104.8)	(104.8)	(104.8)	(104.8)	(104.8)

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1050 Permanent Fund Dividend Fund	(52.4)	(104.8)	(104.8)	(104.8)	(104.8)	(104.8)
TOTAL	(52.4)	(104.8)	(104.8)	(104.8)	(104.8)	(104.8)

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Permanent Fund Dividend division currently contracts with the Department of Revenue Commissioner's Office for hearing officer services. The cost to PFD is \$104.8 for FY 2004. Under this legislation, these hearing officers would be transferred to the new Office of Administrative Hearings. This fiscal note reflects the change in effective date from July 1, 2004, to January 1, 2005.

Prepared by: Sharon Barton Phone 465-4785
Division Permanent Fund Dividend Date/Time 3/2/04 9:50 AM
Approved by: Steve Porter, Deputy Commissioner Date 3/2/2004
Agency Department of Revenue

23-LS0903VZ
Cook
2/25/04

CS FOR SENATE BILL NO. 203()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to administrative hearings, to hearing officers, and to administrative
2 law judges; establishing the office of administrative hearings and relating to that office;
3 and providing for an effective date."

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

5 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 PUFPOSE AND INTENT. The purpose of this Act is to increase the separation
8 between the adjudicatory functions of executive branch agencies and the agencies'
9 investigatory, prosecutory, and policy-making functions. The legislature intends by this Act
10 to

11 (1) provide for the delivery of high quality adjudication services in a timely,
12 efficient, and cost-effective manner;

13 (2) ensure respect for the dignity of the individuals whose cases are being
14 adjudicated;

1 (3) foster open and clearly explained agency decisions and improve public
2 access to the process of administrative adjudication;

3 (4) guarantee protection of all parties' due process rights, increase the public
4 parties' perception of fairness in administrative adjudication, and foster acceptance of final
5 administrative decisions by the public and affected parties;

6 (5) protect the integrity of the process of administrative adjudication and
7 decisional independence of administrative adjudicators; and

8 (6) increase consistency in administrative procedures and decisions.

9 * **Sec. 2.** AS 44.21 is amended by adding new sections to read:

10 **Article 9. Office of Administrative Hearings.**

11 **Sec. 44.21.510. Office created.** (a) There is created in the Department of
12 Administration an independent office of administrative hearings under the direction of
13 the chief administrative law judge.

14 (b) The chief administrative law judge must

15 (1) be a resident of the state;

16 (2) have experience in administrative law;

17 (3) be licensed to practice law in this state and have been admitted to
18 practice law in this state for at least five years; and

19 (4) have experience representing clients in administrative or judicial
20 proceedings.

21 (c) The chief administrative law judge is appointed to a five-year term of
22 office by the governor. An individual may serve not more than three full or partial
23 terms as chief administrative law judge. The governor may remove the chief
24 administrative law judge from office only for good cause and after a hearing
25 conducted by the attorney general. The basis for removal shall be stated in writing. A
26 vacancy in the office of chief administrative law judge shall be filled by the governor
27 and the individual appointed serves for the remainder of the term to which appointed.

28 (d) The chief administrative law judge shall receive a monthly salary that is
29 not less than Step A nor more than Step F, Range 27, of the salary schedule in
30 AS 39.27.011(a) for Juneau, Alaska. The chief administrative law judge is in the
31 partially exempt service.

1 **Sec. 44.21.520. Powers and duties of chief administrative law judge.** The
2 chief administrative law judge shall

3 (1) supervise the office;

4 (2) employ administrative staff, who shall be in the classified service;

5 (3) employ administrative law judges, who shall be in the partially
6 exempt service;

7 (4) preside over administrative hearings handled by the office or, based
8 upon the qualifications and expertise of the administrative law judges, assign
9 administrative law judges to preside over hearings, and protect, support, and enhance
10 the decisional independence of the administrative law judges;

11 (5) establish and implement performance standards, including
12 provision for timeliness, and peer review programs for administrative law judges
13 employed or retained by the office;

14 (6) make available and facilitate training and continuing education
15 programs and services in administrative procedure, administrative adjudication,
16 substantive law, alternate dispute resolution, and technical matters for administrative
17 law judges and other administrative adjudicators;

18 (7) survey administrative hearing participants and use other methods to
19 monitor the quality of administrative hearings held by the office and other state
20 agencies, and submit to the governor and the legislature on January 31 of each year the
21 results of the survey along with a report that includes a description of the activities of
22 the office and recommendations for statutory changes that may be needed in relation
23 to the administrative hearings held by the office or other state agencies;

24 (8) review and comment on regulations proposed by state agencies to
25 govern procedures in administrative hearings;

26 (9) enter into contracts as necessary to carry out the functions of the
27 office;

28 (10) annually prepare and submit to the commissioner of
29 administration a budget for the office for the next fiscal year that shall include and
30 separately identify funding for training and continuing education; a copy of the budget
31 submitted to the commissioner under this paragraph shall also be submitted to the

1 Finance Committee of each house of the legislature; and

2 (11) after consulting with affected agencies, adopt regulations under
3 AS 44.62 (Administrative Procedure Act) to carry out the duties of the office and
4 implement this chapter.

5 * Sec. 3. AS 44.21 is amended by adding new sections to read:

6 Sec. 44.21.530. **Jurisdiction of the office.** (a) The office shall conduct all
7 adjudicative administrative hearings required under the following statutes or under
8 regulations adopted to implement the statutes:

- 9 (1) AS 04.11.510(b)(1) and (c) (alcoholic beverages license);
10 (2) AS 05.15 (charitable gaming);
11 (3) AS 05.20 (recreational devices);
12 (4) AS 05.90.001 (special racing events);
13 (5) AS 06 (banks and financial institutions);
14 (6) AS 08 (occupational licensing), other than AS 08.08 and
15 AS 08.62.046;
16 (7) AS 10.06 (Alaska Corporations Code);
17 (8) AS 10.13 (Alaska BIDCO Act);
18 (9) AS 10.25.375 (Electric and Telephone Cooperative Act);
19 (10) AS 10.50.408 (limited liability companies);
20 (11) AS 14.11.016 (education-related facility grants);
21 (12) AS 14.18 (discrimination in public education);
22 (13) AS 14.20.030 (teacher certificates);
23 (14) AS 14.30 (educational programs);
24 (15) AS 14.48 (postsecondary educational institutions);
25 (16) AS 17.20 (Alaska Food, Drug, and Cosmetic Act), other than
26 AS 17.20.060 and 17.20.360;
27 (17) AS 18.18.030 (hospice licenses);
28 (18) AS 18.20 (hospitals and nursing facilities), other than
29 AS 18.20.180;
30 (19) AS 18.35.040 (tourist accommodations);
31 (20) AS 18.60 (safety);

- 1 (21) AS 18.67.040 (Violent Crimes Compensation Board);
2 (22) AS 18.80 (State Commission for Human Rights);
3 (23) AS 21 (insurance), other than AS 21.06.180(a);
4 (24) AS 25.27 (child support enforcement);
5 (25) AS 32.06 (Uniform Partnership Act);
6 (26) AS 34.45 (unclaimed property);
7 (27) AS 34.55.024 and 34.55.026 (Uniform Land Sales Practices Act);
8 (28) AS 36.30 (State Procurement Code), other than
9 AS 36.30.627(a)(2);
10 (29) AS 38.05.065 (contracts for sale of state land);
11 (30) AS 39.52 (Alaska Executive Branch Ethics Act);
12 (31) AS 43.23 (permanent fund dividends);
13 (32) AS 43.70 (Alaska Business License Act);
14 (33) AS 44.77 (claims against the state);
15 (34) AS 45.30.040 (mobile homes);
16 (35) AS 45.55 (Alaska Securities Act);
17 (36) AS 45.57 (Takeover Bid Disclosure Act);
18 (37) AS 47.33 (assisted living homes);
19 (38) AS 47.35 (child care);
20 (39) AS 47.45 (longevity bonuses).

21 (b) An agency may request the office to conduct an administrative hearing of
22 that agency or to conduct several administrative hearings under statutes not listed in
23 (a) of this section. The office may provide the service after entering into a written
24 agreement with the agency describing the services to be provided and providing for
25 reimbursement by the agency to the office of the costs incurred by the office in
26 providing the services.

27 (c) To the extent otherwise permitted by law, the agency may delegate to the
28 administrative law judge assigned to conduct the hearing on behalf of the agency the
29 authority to make a final agency decision in the matter. The final decision may be
30 appealed to the superior court by any party.

31 (d) Nothing in AS 44.21.510 - 44.21.599 may be construed to create a right to

1 a hearing or to require a hearing that is not required under other law.

2 **Sec. 44.21.540. Administrative law judges.** (a) An administrative law judge
3 must be admitted to practice law in this state and must have been admitted to practice
4 in this state for at least two years before being employed or retained with the office.
5 The chief administrative law judge shall establish additional qualifications for
6 administrative law judges employed or retained by the office and for those
7 administrative law judges that may be assigned to particular types of cases.
8 Notwithstanding AS 39.25.120(b), full-time administrative law judges employed by
9 the office are subject to the personnel rules adopted under AS 39.25.150(7), (15), and
10 (16).

11 (b) An administrative law judge employed or retained by the office may, in
12 conducting an administrative hearing for an agency, exercise the powers authorized by
13 law for exercise by that agency in the performance of its duties in connection with the
14 hearing. An administrative law judge may

15 (1) engage in alternative dispute resolution under regulations adopted
16 by the chief administrative law judge that is in addition to any alternate dispute
17 resolution procedure used by an agency before the case is referred to the office;

18 (2) order a party, a party's attorney, or another authorized
19 representative of a party to pay reasonable expenses, including attorney fees, incurred
20 by another party as a result of actions done in bad faith or as a result of tactics used
21 frivolously or solely intended to cause unnecessary delay;

22 (3) perform other necessary and appropriate acts in the performance of
23 official duties.

24 (c) An administrative law judge employed by the office must devote full time
25 to the duties of the office unless appointed to a position that is less than full-time. An
26 administrative law judge employed by the office may not perform duties inconsistent
27 with the duties and responsibilities of an administrative law judge.

28 (d) The office may enter into a contract with an individual who meets the
29 qualifications established in (a) of this section to serve as an administrative law judge
30 in a particular administrative hearing or in several hearings of the same type. The
31 individual is subject to AS 39.52 (Alaska Executive Branch Ethics Act).

1 Notwithstanding AS 36.30.015(d), the office may contract for or hire an
2 administrative law judge without notifying or securing the approval of the Department
3 of Law.

4 **Sec. 44.21.550. Code of hearing officer conduct.** (a) The chief
5 administrative law judge shall, subject to AS 39.52.920 and by regulation, adopt a
6 code of hearing officer conduct. The code shall apply to the chief administrative law
7 judge, administrative law judges of the office, and hearing officers of each other
8 agency.

9 (b) Except as provided in (d) of this section, the chief administrative law judge
10 shall receive and consider all complaints against administrative law judges or hearing
11 officers employed or retained by the office or another agency alleging violations of the
12 code. If the chief administrative law judge determines that the conduct alleged, if true,
13 would constitute a violation of the code, the chief administrative law judge shall
14 deliver the complaint to the attorney general.

15 (c) If the attorney general determines that a violation has occurred, the
16 attorney general shall submit written findings to the agency that employed or retained
17 the administrative law judge or hearing officer who is the subject of the complaint
18 together with recommendations for corrective or disciplinary action. If the
19 administrative law judge is employed or retained by the office, the chief administrative
20 law judge shall take appropriate corrective or disciplinary action.

21 (d) The attorney general shall, by regulation, establish procedures to
22 implement (c) of this section, including procedures for investigating and holding
23 hearings on complaints. The attorney general shall receive and consider any
24 complaint filed against the chief administrative law judge under this section, and may
25 investigate or hold a hearing on the complaint in compliance with the regulations
26 adopted under this subsection.

27 **Sec. 44.21.555. Reimbursement agreements.** The office may enter into
28 agreements for reimbursement for services related to an administrative hearing from a
29 school district, municipality, or other governmental entity if the reimbursement is
30 authorized by other law.

31 **Sec. 44.21.560. Procedure for hearings.** (a) The chief administrative law

1 judge shall, by regulation, establish procedures for administrative hearings conducted
2 by the office. Each administrative hearing under the jurisdiction of the office or that
3 has been transferred to the office by an agency shall be conducted in accordance with
4 statutes that apply to that hearing, including, if applicable, AS 44.62 (Administrative
5 Procedure Act). In case of conflict between this section and another applicable statute
6 establishing procedures for administrative hearings, the other statute prevails.
7 However, to the extent regulations adopted by an agency for the conduct of an
8 administrative hearing conflict with regulations adopted by the chief administrative
9 law judge under this subsection, the regulations adopted by the chief administrative
10 law judge control to the maximum extent possible without conflicting with applicable
11 statutes.

12 (b) When an agency receives a request for a hearing that will be conducted by
13 the office under AS 44.21.530, the agency shall immediately notify the office. The
14 agency shall, within 10 days, compile and transmit to the office a copy of the request
15 for a hearing, the names, addresses, and telephone numbers of all parties and their
16 representatives, and the agency's decision, if any, together with the record relied on to
17 support the decision. Any information provided to the office that is confidential by
18 law shall be identified by the agency as confidential and shall be kept confidential by
19 the office.

20 (c) If requested by the agency that will make the final decision, the chief
21 administrative law judge may permit that agency to participate in an administrative
22 hearing. The chief administrative law judge shall determine the degree of
23 participation by the agency and may terminate that participation at any time.
24 However, a representative of an agency that participates under this subsection may not
25 serve as the administrative law judge or preside during the hearing.

26 (d) An administrative law judge employed or retained by the office shall,
27 within 120 days after the date the agency received the request for a hearing, prepare a
28 proposed decision, unless another time period is provided by law or agreed to by the
29 parties and the chief administrative law judge. The administrative law judge shall
30 immediately submit the proposed decision to the agency.

31 (e) A proposed decision in an administrative hearing shall be in a form that

1 may be adopted as the final decision by the agency with authority to make the final
2 decision. The proposed decision is a public record. A copy of the proposed decision
3 shall be served by the office on each party in the case or on the attorneys representing
4 those parties in the hearing. The agency with authority to make a final decision in the
5 case retains agency discretion in the final disposition of the case and shall, within 30
6 days after the date the proposed decision is served or at the next regularly scheduled
7 meeting that occurs at least 30 days after the proposed decision is served, do one or
8 more of the following:

9 (1) adopt the proposed decision as the final agency decision;

10 (2) return the case to the administrative law judge to take additional
11 evidence or make additional findings or for other specific proceedings, in which case
12 the administrative law judge shall complete the additional work and return the revised
13 proposed decision to the agency within 30 days after the original decision was
14 returned under this paragraph;

15 (3) exercise its discretion by revising the proposed enforcement action,
16 determination of best interests, order, award, remedy, sanction, penalty, or other
17 disposition of the case, and adopt the proposed decision as revised;

18 (4) in writing, reject, modify, or amend a factual finding in the
19 proposed decision by specifying the affected finding and identifying the testimony and
20 other evidence relied on by the agency for the rejection, modification, or amendment
21 of the finding, and issue a final agency decision;

22 (5) in writing, reject, modify, or amend an interpretation or application
23 in the proposed decision of a statute or regulation directly governing the agency's
24 actions by specifying the reasons for the rejection, modification, or amendment, and
25 issue a final agency decision.

26 (f) If a final decision is not issued timely in accordance with (e) of this section,
27 the administrative law judge's proposed decision is the final agency decision.

28 **Sec. 44.21.570. Disqualification of administrative law judge.** (a) The chief
29 administrative law judge or an administrative law judge employed or retained by the
30 office is disqualified from a case in which the administrative law judge cannot accord
31 a fair and impartial hearing or for other reasons established in the code of hearing

1 officer conduct.

2 (b) A party may request the disqualification of the chief administrative law
3 judge or another administrative law judge by filing an affidavit, before the taking of
4 evidence at a hearing, stating with particularity the grounds upon which it is claimed
5 that a fair and impartial hearing cannot be accorded by that administrative law judge.
6 Notwithstanding AS 44.62.450(c), upon receipt of the affidavit, the administrative law
7 judge assigned to the administrative hearing shall make a determination. If the affiant
8 objects to the decision, the matter shall be decided by the chief administrative law
9 judge, whose decision is final, or if the hearing is assigned to the chief administrative
10 law judge, by the attorney general, whose decision is final.

11 (c) In addition to disqualification of an administrative law judge under (a) and
12 (b) of this section, each side is entitled to change the assigned administrative law judge
13 once. Two or more parties aligned on the same side of an action shall be treated as
14 one side for purposes of this subsection, but the chief administrative law judge may
15 allow an additional change to a party whose interests are adverse to the interests of
16 another party on the same side. A party wishing to exercise the right to change the
17 administrative law judge shall give notice to the chief administrative law judge within
18 five days after notice is given that the case has been assigned. A party waives the
19 right to a change in the assigned administrative law judge by participating before that
20 administrative law judge in any proceeding or conference involving the case.

21 **Sec. 44.21.580. Agency cooperation.** (a) All agencies shall cooperate with
22 the chief administrative law judge and with other administrative law judges of the
23 office in the matters involving the duties of the office.

24 (b) Except as provided under AS 44.21.570 or by regulation adopted under
25 this chapter, an agency may not select or reject a particular administrative law judge
26 for assignment to an administrative hearing.

27 (c) After an administrative hearing is referred by an agency to the office for
28 hearing, the agency may not take further adjudicatory action in the case, except as a
29 party litigant or to render a final decision as provided by law. This subsection does
30 not otherwise limit the agency's authority to take action affecting a party to the case.

31 **Sec. 44.21.590. Administrative hearing records.** (a) The office shall

1 acquire and organize statistical and other information relating to administrative
2 hearings of the office and of other agencies. The office shall acquire and organize
3 copies of proposed and final agency decisions in contested cases and copies of court
4 decisions resulting from those contested cases. The information and decisions shall be
5 made available to the public, agencies, and legislature. The office shall make final
6 agency decisions available online through an electronic data base.

7 (b) This section does not apply to records that are confidential or privileged.

8 **Sec. 44.21.595. Federal requirements.** Federal requirements applicable to an
9 administrative hearing prevail to the extent they conflict with any provision of
10 AS 44.21.510 - 44.21.599.

11 **Sec. 44.21.599. Definitions.** In AS 44.21.510 - 44.21.599,

12 (1) "administrative hearing" means a quasi-judicial hearing before an
13 agency, but does not include an informal conference or review held by an agency
14 before a final decision is issued;

15 (2) "administrative law judge" means a hearing officer who presides
16 over the conduct of an administrative hearing and who is retained or employed by an
17 agency for that purpose;

18 (3) "agency" means an agency of the executive branch of state
19 government, including an officer, a division, or another subunit of an agency, a board
20 or commission, a public corporation, and the University of Alaska;

21 (4) "office" means the office of administrative hearings established in
22 AS 44.21.510.

23 * **Sec. 4.** AS 04.11.510(b) is amended to read:

24 (b) The board may review an application for the issuance, renewal, transfer of
25 location, or transfer to another person of a license without affording the applicant
26 notice or hearing, except

27 (1) if an application is denied, the notice of denial shall be furnished
28 the applicant immediately in writing stating the reason for the denial in clear and
29 concise language; the notice of denial must inform the applicant that the applicant is
30 entitled to an informal conference with either the director or the board, and that, if not
31 satisfied by the informal conference, the applicant is then entitled to a formal hearing

1 conducted by the office of administrative hearings (AS 44.21.510) [BEFORE THE
2 BOARD]; if the applicant requests a formal hearing, the office of administrative
3 hearings [BOARD] shall adhere to AS 44.62.330 - 44.62.630 (Administrative
4 Procedure Act); all interested persons may be heard at the hearing and unless waived
5 by the applicant and the board, the formal hearing shall be held in the area for which
6 the application is requested;

7 (2) the board may, on its own initiative or in response to an objection
8 or protest, hold a hearing to ascertain the reaction of the public or a local governing
9 body to an application if a hearing is not required under this subsection; the board
10 shall send notice of a hearing conducted under this paragraph 20 days in advance of
11 the hearing to each community council established within the municipality and to each
12 nonprofit community organization entitled to notification under AS 04.11.310(b);

13 (3) if a petition containing the signatures of 35 percent of the adult
14 residents having a permanent place of abode outside of but within two miles of an
15 incorporated city or an established village is filed with the board, the board shall hold
16 a public hearing on the question of whether the issuance, renewal, or transfer of the
17 license in the city or village would be in the public interest;

18 (4) if a protest to the issuance, renewal, transfer of location or transfer
19 to another person of a license made by a local governing body is based on a question
20 of law, the board shall hold a public hearing.

21 * Sec. 5. AS 05.20.080 is amended to read:

22 Sec. 05.20.080. Application of Administrative Procedure Act. The
23 procedure for review of the orders or actions of the department, its agents or
24 employees, is the same as that contained in AS 44.62 (Administrative Procedure Act).
25 Administrative hearings on contested cases shall be conducted by the office of
26 administrative hearings (AS 44.21.510).

27 * Sec. 6. AS 06.01.030(f) is amended to read:

28 (f) Hearings required or authorized under this title are not subject to
29 AS 44.62.330 - 44.62.630, except as required by AS 44.62.560 and 44.62.570. The
30 department shall adopt regulations, consistent with the provisions of this title,
31 establishing procedures for hearings held under this section. Administrative

1 hearings on contested cases shall be conducted by the office of administrative
2 hearings (AS 44.21.510).

3 * Sec. 7. AS 08.01.075(c) is amended to read:

4 (c) A board may summarily suspend a licensee from the practice of the
5 profession before a final hearing is held or during an appeal if the board finds that the
6 licensee poses a clear and immediate danger to the public health and safety. A person
7 is entitled to a hearing conducted by the office of administrative hearings
8 (AS 44.21.510) [BEFORE THE BOARD] to appeal the summary suspension within
9 seven days after the order of suspension is issued. A person may appeal an adverse
10 decision of the board on an appeal of a summary suspension to a court of competent
11 jurisdiction.

12 * Sec. 8. AS 08.01.087(b) is amended to read:

13 (b) If it appears to the commissioner that a person has engaged in or is about
14 to engage in an act or practice in violation of a provision of this chapter or a regulation
15 adopted under it, or a provision of AS 43.70, or a provision of this title or regulation
16 adopted under this title dealing with an occupation or board listed in AS 08.01.010, the
17 commissioner may, if the commissioner considers it in the public interest, and after
18 notification of a proposed order or action by telephone, telegraph, or facsimile to all
19 board members, if a board regulates the act or practice involved, unless a majority of
20 the members of the board object within 10 days,

21 (1) issue an order directing the person to stop the act or practice;
22 however, reasonable notice of and an opportunity for a hearing must first be given to
23 the person, except that the commissioner may issue a temporary order before a hearing
24 is held; a temporary order remains in effect until a final order affirming, modifying, or
25 reversing the temporary order is issued or until 15 days after the person receives the
26 notice and has not requested a hearing by that time; a temporary order becomes final if
27 the person to whom the notice is addressed does not request a hearing within 15 days
28 after receiving the notice; the office of administrative hearings (AS 44.21.510)
29 [COMMISSIONER OR THE COMMISSIONER'S DESIGNEE] shall conduct [BE
30 THE HEARING OFFICER AT] the hearing and shall issue a proposed decision
31 [FINAL ORDER] within 10 days after the hearing;

1 (2) bring an action in the superior court to enjoin the acts or practices
2 and to enforce compliance with this chapter, a regulation adopted under it, an order
3 issued under it, or with a provision of this title or regulation adopted under this title
4 dealing with business licenses or an occupation or board listed in AS 08.01.010;

5 (3) examine or have examined the books and records of a person
6 whose business activities require a business license or licensure by a board listed in
7 AS 08.01.010, or whose occupation is listed in AS 08.01.010; the commissioner may
8 require the person to pay the reasonable costs of the examination; and

9 (4) issue subpoenas for the attendance of witnesses, and the production
10 of books, records, and other documents.

11 * Sec. 9. AS 08.11.090(c) is amended to read:

12 (c) The department may summarily suspend a license before final hearing or
13 during the appeals process if the department finds that the licensee poses a clear and
14 immediate danger to the public welfare and safety if the licensee continues to practice.
15 An individual whose license is suspended under this subsection is entitled to a hearing
16 conducted by the office of administrative hearings (AS 44.21.510) not
17 [DEPARTMENT NO] later than seven days after the effective date of the order. The
18 individual may appeal the suspension after the hearing to the superior court.

19 * Sec. 10. AS 08.32.171(c) is amended to read:

20 (c) The board may summarily suspend the license of a licensee who refuses to
21 submit to a physical or mental examination under AS 08.36.070(b)(1). A person
22 whose license is suspended under this section is entitled to a hearing conducted by the
23 office of administrative hearings (AS 44.21.510) [BOARD] within seven days after
24 the effective date of the order. If, after a hearing, the board upholds the suspension,
25 the licensee may appeal the suspension to a court of competent jurisdiction.

26 * Sec. 11. AS 08.36.320(c) is amended to read:

27 (c) The board may summarily suspend the license of a licensee who refuses to
28 submit to a physical or mental examination under AS 08.36.070(b)(1). A person
29 whose license is suspended under this section is entitled to a hearing conducted by the
30 office of administrative hearings (AS 44.21.510) [BOARD] within seven days after
31 the effective date of the order. If, after a hearing, the board upholds the suspension,

1 the licensee may appeal the suspension to a court of competent jurisdiction.

2 * Sec. 12. AS 08.40.170(f) is amended to read:

3 (f) The department may summarily suspend a license before a final hearing is
4 held or during an appeal if the department finds that the licensee poses a clear and
5 immediate danger to the public health and safety. A person is entitled to a hearing
6 conducted by [BEFORE] the office of administrative hearings (AS 44.21.510)
7 [DEPARTMENT] to appeal the summary suspension within seven days after the order
8 of suspension is issued. A person may appeal an adverse decision of the department
9 on an appeal of a summary suspension to a court of competent jurisdiction.

10 * Sec. 13. AS 08.40.320(f) is amended to read:

11 (f) The department may summarily suspend a license before a final hearing is
12 held or during an appeal if the department finds that the licensee poses a clear and
13 immediate danger to the public health and safety. A person is entitled to a hearing
14 conducted by [BEFORE] the office of administrative hearings (AS 44.21.510)
15 [DEPARTMENT] to appeal the summary suspension within seven days after the order
16 of suspension is issued. A person may appeal an adverse decision of the department
17 on an appeal of a summary suspension to a court of competent jurisdiction.

18 * Sec. 14. AS 08.45.070(c) is amended to read:

19 (c) The division may summarily suspend a license before final hearing or
20 during the appeals process if the division finds that the licensee poses a clear and
21 immediate danger to the public health and safety if the licensee continues to practice.
22 A licensee whose license is suspended under this section is entitled to a hearing
23 conducted by the office of administrative hearings (AS 44.21.510) not [DIVISION
24 NO] later than seven days after the effective date of the order. The licensee may
25 appeal the suspension after a hearing to a court of competent jurisdiction.

26 * Sec. 15. AS 08.54.710(i) is amended to read:

27 (i) The department may summarily suspend a licensee from practice of the
28 profession under this chapter, for a period of not more than 30 days, before a final
29 hearing is held or during an appeal if the department finds that the licensee poses a
30 clear and immediate danger to the public health and safety. A person is entitled to a
31 hearing conducted by [BEFORE] the office of administrative hearings

1 (AS 44.21.510) [DEPARTMENT] to appeal the summary suspension within seven
2 days after the order of suspension is issued. A person may appeal an adverse decision
3 of the department on an appeal of summary suspension to a court of competent
4 jurisdiction.

5 * Sec. 16. AS 08.55.140(c) is amended to read:

6 (c) The department may summarily suspend a license before final hearing or
7 during the appeals process if the department finds that the licensee poses a clear and
8 immediate danger to the public welfare and safety if the licensee continues to practice.
9 A person whose license is suspended under this subsection is entitled to a hearing
10 conducted by the office of administrative hearings (AS 44.21.510) not
11 [DEPARTMENT NO] later than seven days after the effective date of the order. The
12 person may appeal the suspension after the hearing to the superior court.

13 * Sec. 17. AS 08.64.331(c) is amended to read:

14 (c) The board may summarily suspend a license before final hearing or during
15 the appeals process if the board finds that the licensee poses a clear and immediate
16 danger to the public health and safety if the licensee continues to practice. A person
17 whose license is suspended under this section is entitled to a hearing conducted by the
18 office of administrative hearings (AS 44.21.510) not [BOARD NO] later than seven
19 days after the effective date of the order and the person may appeal the suspension
20 after a hearing to a court of competent jurisdiction.

21 * Sec. 18. AS 08.65.120(c) is amended to read:

22 (c) The board may summarily suspend a license before final hearing or during
23 the appeals process if the board finds that the licensee poses a clear and immediate
24 danger to the public health and safety if the licensee continues to practice. A person
25 whose license is suspended under this section is entitled to a hearing conducted by the
26 office of administrative hearings (AS 44.21.510) not [BOARD NO] later than seven
27 days after the effective date of the order and the person may appeal the suspension
28 after a hearing to a court of competent jurisdiction.

29 * Sec. 19. AS 08.68.275(c) is amended to read:

30 (c) The board may summarily suspend a license before final hearing or during
31 the appeals process if the board finds that the licensee poses a clear and immediate

1 danger to the public health and safety. A person whose license is suspended under this
2 section is entitled to a hearing conducted by the office of administrative hearings
3 (AS 44.21.510) [BOARD] within seven days after the effective date of the order. If,
4 after a hearing, the board upholds the suspension, the licensee may appeal the
5 suspension to a court of competent jurisdiction.

6 * Sec. 20. AS 08.86.204(b) is amended to read:

7 (b) The board may summarily suspend the license of a licensee who refuses to
8 submit to a physical or mental examination under AS 08.86.075. A person whose
9 license is suspended under this subsection is entitled to a hearing conducted by the
10 office of administrative hearings (AS 44.21.510) [BOARD] within seven days after
11 the effective date of the order. If, after the [A] hearing, the board upholds the
12 suspension, the licensee may appeal the suspension to a court of competent
13 jurisdiction.

14 * Sec. 21. AS 08.88.460(b) is amended to read:

15 (b) A copy of a claim filed with the commission under (a) of this section shall
16 be sent to each real estate licensee alleged to have committed the misconduct resulting
17 in losses, to the principal real estate broker employing a licensee alleged to have
18 committed the conduct resulting in losses, and to any other real estate licensee
19 involved in the transaction at least 20 days before any hearing held on the claim by the
20 office of administrative hearings (AS 44.21.510) [COMMISSION].

21 * Sec. 22. AS 08.88.460(d) is amended to read:

22 (d) A claimant under this section shall pay a filing fee of \$250 to the
23 commission at the time the claim is filed. The filing fee shall be refunded if the

24 (1) [THE] commission makes an award to the claimant from the real
25 estate surety fund;

26 (2) [THE] claim is dismissed under (c) of this section; or

27 (3) [THE] claim is withdrawn by the claimant before the office of
28 administrative hearings (AS 44.21.510) [COMMISSION] holds a hearing on the
29 claim.

30 * Sec. 23. AS 08.88.472(c) is amended to read:

31 (c) The commission may contract under AS 36.30 (State Procurement Code)

1 with a person for the person to perform [HEARING AND] legal services for the
2 commission with regard to a claim against the real estate surety fund. The contract
3 may cover one or more claims.

4 * Sec. 24. AS 08.92.040(c) is amended to read:

5 (c) If the department determines that a person is acting as a promoter in
6 violation of this chapter, the department may order the person to stop the violation.
7 Upon receipt of the order, the person affected has the right to be heard and to present
8 proof to the office of administrative hearings (AS 44.21.510) [DEPARTMENT] that
9 the violation has not occurred. Upon [IN THE DEPARTMENT'S DISCRETION OR
10 UPON] application made by the recipient of the order, the office of administrative
11 hearings may [DEPARTMENT SHALL] schedule a hearing at the earliest possible
12 time. After the hearing the department may affirm, modify, or set aside the order.

13 * Sec. 25. AS 10.06.633(b) is amended to read:

14 (b) A corporation may not be dissolved under this section unless the
15 commissioner has given the corporation written notice of its delinquency, failure, or
16 noncompliance by mail as provided by (i) of this section. If the corporation fails,
17 within 60 days after the requirements of (i) of this section have been satisfied, to
18 contest the alleged neglect, omission, delinquency, or noncompliance by a written
19 request for a hearing conducted by [BEFORE] the office of administrative hearings
20 (AS 44.21.510) [COMMISSIONER] or fails to correct the asserted neglect, omission,
21 delinquency, or noncompliance, it may be dissolved under (d) of this section.

22 * Sec. 26. AS 10.06.865 is amended to read:

23 **Sec. 10.06.865. Cancellation of certificates issued and filings accepted.**
24 The commissioner may, within one year after a filing, and after written notice to the
25 corporation or individual making the filing, cancel a certificate issued or filing
26 accepted under this chapter, on any ground existing at the time of issuance or filing for
27 which the commissioner could have originally refused to issue the certificate or accept
28 the filing. The notice of cancellation must state the reason for the cancellation. A
29 corporation or individual may request a hearing conducted by [BEFORE] the office
30 of administrative hearings (AS 44.21.510) [COMMISSIONER] within 90 days after
31 receipt of the notice. Cancellation becomes final if the corporation or individual does

1 not request a hearing within 90 days after receipt of notice. Notice of cancellation
2 shall be sent by certified mail with return receipt requested. If the return receipt is not
3 received by the department within a reasonable time and the department has made
4 diligent inquiry as to the address of the corporation, notice may be made by
5 publication in a newspaper of general circulation in the vicinity of the registered office
6 of the corporation or the address of the individual who made the filing, and the
7 cancellation becomes final 60 days after publication of the notice if the person or
8 corporation does not request a hearing.

9 * Sec. 27. AS 10.13.770(b) is amended to read:

10 (b) If the department fails to promptly notify the office of administrative
11 hearings (AS 44.21.510) of the application and the office fails to begin a hearing
12 within 15 business days after the application is filed or within a longer period to which
13 the licensee or subject person consents, the order shall be considered rescinded.

14 * Sec. 28. AS 14.11.016(b) is amended to read:

15 (b) A district may appeal an adverse decision of the department under (a) of
16 this section by filing a written notice of appeal with the commissioner within 15 days
17 after the date of the department's decision. The notice of appeal must state the legal
18 and factual basis for the appeal and the precise relief sought. The failure of the district
19 to include an issue in a notice of appeal constitutes a waiver of the right to have the
20 issue considered. Not later than 10 days after receipt by the commissioner of a notice
21 of appeal, the chief administrative law judge of the office of administrative
22 hearings (AS 44.21.510) [COMMISSIONER] shall appoint an administrative law
23 judge [A HEARING OFFICER] who is qualified under AS 44.62.350(c) to serve as
24 hearing officer and consider the appeal. If the hearing officer finds that the notice of
25 appeal does not raise a reasonable issue of fact or law, the hearing officer shall issue a
26 written decision denying the appeal. Denial of an appeal by hearing officer is a final
27 decision that may be appealed under (d) of this section. If the hearing officer finds
28 that the notice of appeal raises a reasonable issue of fact or law, the hearing officer
29 shall conduct a hearing on those issues and recommend a decision to the board. The
30 hearing officer shall issue a decision on the appeal not later than 60 days after being
31 appointed. The board shall consider the recommended decision of the hearing officer

1 at its next regularly scheduled meeting and may adopt all, part, or none of the
2 recommended decision or may remand the issue to the hearing officer for further
3 hearings. The board shall issue its decision in writing within 10 days after
4 consideration of the hearing officer's decision.

5 * Sec. 29. AS 14.18.090(a) is amended to read:

6 (a) The board shall enforce compliance by school districts and regional
7 educational attendance areas with the provisions of this chapter and the regulations
8 and procedures adopted under it by appropriate order made in accordance with
9 AS 44.62. After a hearing conducted by the office of administrative hearings
10 (AS 44.21.510) and a finding by the board that a district or a regional educational
11 attendance area is not in compliance with this chapter and is not actively working to
12 come into compliance, the board shall institute appropriate proceedings to abate the
13 practices found by the board to be a violation of this chapter.

14 * Sec. 30. AS 14.30.193(b) is amended to read:

15 (b) If a due process hearing is requested by either a school district or a parent,
16 the school district shall contact the office of administrative hearings (AS 44.21.510)
17 [DEPARTMENT] to request appointment of an administrative law judge to serve as
18 [A] hearing officer. The chief administrative law judge [DEPARTMENT] shall
19 select a hearing officer through a random selection process, from a list maintained by
20 the office [DEPARTMENT] under (g) of this section. Within five working days after
21 receipt of the request, the chief administrative law judge [DEPARTMENT] shall
22 provide to the school district and the parent a notice of appointment, including the
23 name and a statement of qualifications, of the hearing officer who [THAT THE
24 DEPARTMENT DETERMINES] is available to conduct the hearing.

25 * Sec. 31. AS 14.30.193(c) is amended to read:

26 (c) The school district and the parent each have the right to reject, without
27 stating a reason, one hearing officer appointed under this section. The rejecting party
28 shall notify the office of administrative hearings [DEPARTMENT] of that rejection
29 in writing within five days after receipt of the [DEPARTMENT'S] notice of
30 appointment. If a hearing officer is rejected under this subsection, the chief
31 administrative law judge [DEPARTMENT] shall, within five working days after

1 receipt of the written rejection, provide a notice of appointment, including the name
2 and a statement of qualifications, of another hearing officer who [THAT THE
3 DEPARTMENT DETERMINES] is available to conduct the hearing. Each
4 appointment is subject to a right of rejection under this subsection by a party who has
5 not previously rejected an appointment.

6 * Sec. 32. AS 14.30.193(g) is amended to read:

7 (g) The department [SHALL MAINTAIN A LIST OF QUALIFIED
8 HEARING OFFICERS AND] shall provide for training [QUALIFICATION] of
9 hearing officers through a training program in the office of administrative hearings
10 [THAT IS OPEN TO ALL INDIVIDUALS WHO MEET THE CRITERIA SET BY
11 THE DEPARTMENT BY REGULATION. THE LIST OF QUALIFIED HEARING
12 OFFICERS SHALL BE MAINTAINED AS A PUBLIC RECORD].

13 * Sec. 33. AS 14.48.130(b) is amended to read:

14 (b) The commission shall investigate the complaint and may attempt to effect
15 a settlement by persuasion and conciliation. A [THE COMMISSION MAY
16 CONSIDER A] complaint may be considered after 30 days [DAYS] written notice
17 by registered mail to the institution or agent, or both, giving notice of a time and place
18 for hearing on the complaint. The hearing shall be conducted in accordance with
19 AS 44.62 (Administrative Procedure Act) by the office of administrative hearings
20 (AS 44.21.510).

21 * Sec. 34. AS 18.18.030(b) is amended to read:

22 (b) The department may, without a hearing, summarily suspend a license of a
23 hospice program if it finds that the actions or deficiencies of the program have caused,
24 or present an immediate threat of causing, serious injury to a hospice program client.
25 A licensee is entitled to a hearing conducted by the office of administrative
26 hearings (AS 44.21.510) [BEFORE THE DEPARTMENT] to appeal the summary
27 suspension within seven days after the order of suspension is issued. A licensee may
28 appeal an adverse decision of the department on an appeal of a summary suspension to
29 the superior court. A summary suspension remains in effect until the department finds
30 that the actions or deficiencies are corrected, the license is revoked, or the licensee is
31 successful in appealing the suspension.

1 * Sec. 35. AS 18.18.030(c) is amended to read:

2 (c) The department may, without a hearing, reduce a hospice license to a
3 provisional license for a period of time established by the department if the department
4 finds that the licensee is temporarily unable to comply with 18.18.005 - 18.18.390 or
5 is in the process of becoming decertified under the Medicare program but is taking
6 appropriate steps to bring the program into compliance with 18.18.005 - 18.18.390 or
7 Medicare certification requirements. A licensee is entitled to a hearing conducted by
8 the office of administrative hearings [BEFORE THE DEPARTMENT] to appeal a
9 reduction to a provisional license under this subsection within seven days after the
10 order to reduce the license is issued. A licensee may appeal an adverse decision of the
11 department on an appeal of the order reducing the license to a provisional license to
12 the superior court. A program with a provisional license under this subsection may
13 not accept new clients. If the program fails to correct its deficiencies and does not
14 successfully appeal the order reducing the license to provisional status within the
15 period stipulated in the provisional license, the department shall revoke the license.

16 * Sec. 36. AS 18.60.093(f) is amended to read:

17 (f) If an employer fails without good cause to appear at a hearing held under
18 this section after receiving proper notice of the hearing, the OSHA Review Board may
19 order the employer to pay all reasonable expenses incurred by the board or the office
20 of administrative hearings (AS 44.21.510) for the hearing, including the board's
21 actual travel expenses and per diem and actual travel expenses and per diem for the
22 administrative law judge.

23 * Sec. 37. AS 18.67.040(a) is amended to read:

24 (a) Upon application made under the provisions of this chapter, the board shall
25 consider the application and rule on it. The board may, upon its own motion, order a
26 hearing, specifying the time and place it is to be held after consulting with the office
27 of administrative hearings (AS 44.21.510). If [; IF] a hearing is ordered, the board
28 shall give notice to the applicant. If, after consideration without a hearing, the
29 decision is unfavorable to the applicant, in whole or in part, the board shall furnish the
30 applicant a written statement of the reason for the ruling. If, within 30 days after
31 receipt of this statement, the applicant requests a hearing on the application, the board

1 shall specify a time and place for a hearing after consulting with the office of
2 administrative hearings, and shall give notice to the applicant. If a request for a
3 hearing is not made within the specified time, the decision of the board is final.

4 * Sec. 38. AS 18.67.040(b) is amended to read:

5 (b) For the purpose of carrying out the provisions of this chapter, the office of
6 administrative hearings (AS 44.21.510) shall [BOARD OR ITS HEARING
7 OFFICER MAY] hold the hearings, sit and act at the times and places, and take the
8 testimony that the administrative law judge serving as [BOARD OR] the hearing
9 officer considers advisable. The [BOARD OR ITS] hearing officer may administer
10 oaths or affirmations to witnesses. The hearing officer [BOARD] has full powers of
11 subpoena and compulsion of attendance of witnesses and production of documents [,
12 BUT A SUBPOENA MAY NOT BE ISSUED EXCEPT UNDER THE SIGNATURE
13 OF A MEMBER OF THE BOARD]. Application to a court for aid in enforcing the
14 subpoena may be made in the name of the office of administrative hearings
15 [BOARD ONLY BY A BOARD MEMBER]. Subpoenas are served by any person
16 designated by the hearing officer [BOARD].

17 * Sec. 39. AS 18.67.040(c) is amended to read:

18 (c) The applicant and any other person having a substantial interest in a
19 proceeding may appear and be heard, produce evidence, and cross-examine witnesses
20 in person or by an attorney. The [BOARD OR ITS] hearing officer also may hear
21 other persons who, in the judgment of the [BOARD OR THE] hearing officer may
22 have relevant evidence to submit.

23 * Sec. 40. AS 18.80.060(c) is amended to read:

24 (c) A commissioner or an employee authorized by the commission may
25 administer oaths, certify to all official acts, and issue subpoenas, subpoenas duces
26 tecum, and other process to compel the attendance of witnesses and the production of
27 testimony, records, papers, accounts, and documents in any inquiry or [.] investigation
28 [, HEARING, OR PROCEEDING] before the commission in the state. The
29 administrative law judge of the office of administrative hearings (AS 44.21.510)
30 serving as hearing officer may administer oaths, certify to all official acts, and
31 issue subpoenas, subpoenas duces tecum, and other process to compel the

1 attendance of witnesses and the production of testimony, records, papers,
2 accounts, and documents in any hearing held under this chapter. The
3 commission, a commissioner, or an employee authorized by the commission may
4 petition a court of this state to enforce its subpoenas, subpoenas duces tecum, and
5 other process. The hearing officer may petition a court of this state to enforce
6 subpoenas, subpoenas duces tecum, and other process issued by the hearing
7 officer.

8 * Sec. 41. AS 18.80.120 is amended to read:

9 **Sec. 18.80.120. Hearing.** If the informal efforts to eliminate the alleged
10 discrimination are unsuccessful, the executive director shall inform the commission of
11 the failure, and the commission shall provide the respondent and the complainant with
12 notice of the failure and shall serve written notice, together with a copy of the
13 complaint, requiring the person, employer, labor organization, or employment agency
14 charged in the complaint to answer the allegations of the complaint at a hearing
15 [BEFORE THE COMMISSION]. The hearing shall be held by the office of
16 administrative hearings (AS 44.21.510) [COMMISSION] at the location of the
17 [COMMISSION] office unless a party requests a change of venue for good cause
18 shown, and the office [COMMISSION] grants the request. The case in support of the
19 complaint shall be presented before the office [COMMISSION] by the executive
20 director of the commission or a designee who shall be a bona fide resident of the
21 state. The person charged in the complaint may file a written answer to the complaint
22 and may appear at the hearing in person or otherwise, with or without counsel, and
23 submit testimony. The executive director has the power reasonably and fairly to
24 amend the complaint, and the person charged has the power reasonably and fairly to
25 amend the answer. The office of administrative hearings [COMMISSION] is not
26 bound by the strict rules of evidence prevailing in courts of law or equity. The
27 testimony taken at the hearing shall be under oath and shall be recorded.

28 * Sec. 42. AS 18.80.145(b) is amended to read:

29 (b) If, within the period allowed, [THE COMMISSION CONDUCTS] a
30 hearing is conducted and [REACHES] a decision is reached under AS 18.80.120 and
31 18.80.130, the decision of the commission is binding on the parties to the court action

1 as to all issues resolved in the hearing but not as to any issues not resolved in the
2 hearing.

3 * Sec. 43. AS 18.80.145(c) is amended to read:

4 (c) When proceedings in the superior court are deferred for a hearing and
5 decision [BY THE COMMISSION] under this section, the plaintiff may proceed, after
6 the decision of the commission, as an aggrieved party for the purpose of obtaining
7 judicial review under AS 18.80.135, whether or not the person was a party to, or
8 complainant in, the administrative [COMMISSION] proceedings.

9 * Sec. 44. AS 21.06.170(a) is amended to read:

10 (a) With respect to the subject of an examination or [,] investigation [, OR
11 HEARING] being conducted by the director or an examiner, if general written
12 authority has been given the examiner by the director, the director or the examiner
13 may subpoena witnesses and administer oaths or affirmations and examine any person
14 under oath, and may compel the production of records, books, papers, contracts, and
15 other documents by attachments, if necessary. If, in connection with an examination
16 of an insurer, the director desires to examine an officer, director, or manager who is
17 then outside this state, the director is authorized to conduct and to enforce by
18 appropriate and available means an examination under oath in another state or a
19 territory of the United States in which the officer, director, or manager may then
20 presently be, to the full extent permitted by the laws of the other state or territory, this
21 special authorization considered. An administrative law judge from the office of
22 administrative hearings (AS 44.21.510) conducting a hearing under this title may,
23 in the course of the hearing, exercise the powers granted to the director under
24 this subsection.

25 * Sec. 45. AS 21.06.170(d) is amended to read:

26 (d) If a person disobeys or resists a lawful order of the administrative law
27 judge [DIRECTOR], refuses to respond to a subpoena, refuses to take oath or
28 affirmation as a witness, refuses to be examined, or is guilty of misconduct at a
29 hearing or so near the hearing as to obstruct the proceeding, the administrative law
30 judge [DIRECTOR] shall certify the facts to the superior court where the hearing is
31 held, and, upon certification, the court shall issue an order directing the person to

1 appear before the court and show cause why the person should not be punished for
2 contempt.

3 * **Sec. 46.** AS 21.06.180(b) is amended to read:

4 (b) The office of administrative hearings (AS 44.21.510) [DIRECTOR] shall
5 hold a hearing if required by a provision of this title, or upon written demand to the
6 director by a person aggrieved by an act, threatened act, or failure of the director to
7 act, or by a report, regulation, or order of the director (other than an order for the
8 holding of a hearing, or an order on hearing or under it). A demand must specify the
9 grounds to be relied upon at the hearing as a basis for the relief. Unless postponed by
10 mutual consent or for good cause shown, the hearing shall be held within 30 days after
11 receipt by the director of the written demand.

12 * **Sec. 47.** AS 21.06.200 is amended to read:

13 **Sec. 21.06.200. Notice of hearing.** Not less than 20 days in advance, the
14 administrative law judge [DIRECTOR] shall give notice of the time and place of the
15 hearing, stating the matters to be considered at the hearing. If the persons to be given
16 notice are not specified in the provision under which the hearing is held, the
17 administrative law judge, with assistance from the director, shall give notice to all
18 persons whose pecuniary interests are to be directly and immediately affected by the
19 hearing.

20 * **Sec. 48.** AS 21.06.210(a) is amended to read:

21 (a) The administrative law judge [DIRECTOR] shall allow a party to the
22 hearing to appear in person and by counsel, to be present during the giving of all
23 evidence, to have a reasonable opportunity to inspect all documentary evidence and to
24 examine witnesses, to present evidence in support of the party's interest, and to have
25 subpoenas issued by the administrative law judge [DIRECTOR] to compel
26 attendance of witnesses and production of evidence in the party's behalf.

27 * **Sec. 49.** AS 21.06.210(b) is amended to read:

28 (b) The administrative law judge [DIRECTOR] shall permit to become a
29 party to the hearing by intervention, if timely, any person who was not an original
30 party to the proceeding and whose pecuniary interests are to be directly and
31 immediately affected by the director's order made upon the hearing.

1 * Sec. 50. AS 21.06.210(d) is amended to read:

2 (d) Upon written request seasonably made by a party to the hearing and at that
3 person's expense, the administrative law judge [DIRECTOR] shall cause a full
4 stenographic record of the proceedings to be made by a competent reporter. If
5 transcribed, a copy of the stenographic record shall be furnished to the director,
6 without cost to the director or the state, and shall be a part of the director's record of
7 the hearing. If transcribed, a copy of the stenographic record shall be furnished to any
8 other party to the hearing at the request and expense of the other party. If no
9 stenographic record is made or transcribed, the administrative law judge
10 [DIRECTOR] shall prepare an adequate record of the evidence and of the proceedings.

11 * Sec. 51. AS 21.06.210(f) is amended to read:

12 (f) If the parties agree, the administrative law judge [DIRECTOR] may
13 conduct a hearing under this section by teleconference.

14 * Sec. 52. AS 21.06.210(h) is amended to read:

15 (h) The administrative law judge [DIRECTOR] may close a hearing to the
16 public when the administrative law judge [DIRECTOR] finds the closure is
17 necessary to protect a person against unwarranted injury or is in the public interest.

18 * Sec. 53. AS 21.06.220(a) is amended to read:

19 (a) In conducting the hearing, the administrative law judge [DIRECTOR]
20 shall sit in a quasi-judicial capacity. Within 30 days after termination of the hearing,
21 rehearing, or reargument, the director shall make an order on hearing, covering matters
22 involved in the hearing, rehearing, or reargument, and shall give a copy of the order to
23 the same persons given notice of the hearing.

24 * Sec. 54. AS 24.60.030 is amended by adding a new subsection to read:

25 (i) Except for supplying information requested by the hearing officer or
26 responding to contacts initiated by the hearing officer, a legislator or legislative
27 employee may not attempt to influence the outcome of an administrative hearing by
28 directly or indirectly contacting or attempting to contact the hearing officer assigned to
29 the hearing unless the

30 (1) contact is made in the presence of all parties to the hearing or the
31 parties' representatives and the contact is made a part of the record; or

1 (2) fact and substance of the contact is promptly disclosed by the
2 legislator or legislative employee to all parties to the hearing and the contact is made a
3 part of the record.

4 * Sec. 55. AS 25.27.160(b) is amended to read:

5 (b) Except as provided in (c) of this section, the notice and finding of financial
6 responsibility served under (a) of this section must state

7 (1) the sum or periodic payments for which the alleged obligor is
8 found to be responsible under this chapter;

9 (2) the name of the alleged obligee and the obligee's custodian;

10 (3) that the alleged obligor may appear and show cause in a hearing
11 held by the office of administrative hearings (AS 44.21.510) [AGENCY] why the
12 finding is incorrect, should not be finally ordered, and should be modified or
13 rescinded, because

14 (A) no duty of support is owed; or

15 (B) the amount of support found to be owed is incorrect;

16 (4) that, if the person served with the notice and finding of financial
17 responsibility does not request a hearing within 30 days, the property and income of
18 the person will be subject to execution under AS 25.27.062 and 25.27.230 - 25.27.270
19 in the amounts stated in the finding without further notice or hearing.

20 * Sec. 56. AS 25.27.160(c) is amended to read:

21 (c) If the agency is establishing only a medical support order, the notice and
22 finding of financial responsibility must state

23 (1) that health care insurance shall be provided for the child to whom
24 the duty of support is owed if health care insurance is available to the alleged obligor
25 at a reasonable cost and that the alleged obligor and the other parent shall share
26 equally the cost of the health care insurance and the costs of reasonable health care
27 expenses not covered by insurance;

28 (2) the name of the alleged obligee and the obligee's custodian;

29 (3) that the alleged obligor may appear and show cause in a hearing
30 held by the office of administrative hearings [AGENCY] why the finding is
31 incorrect, should not be finally ordered, and should be modified or rescinded, because

- 1 (A) no duty of support is owed;
- 2 (B) health care insurance for the child is not available to the
- 3 alleged obligor at a reasonable cost;
- 4 (C) adequate health care is available to the child through the
- 5 Indian Health Service or other insurance coverage; or
- 6 (D) there is good cause to allocate the costs of health insurance
- 7 or uninsured health care expenses unequally between the parents;

8 (4) that, if the person served with the notice under this subsection does

9 not request a hearing within 30 days, a copy of the medical support order will be sent

10 to the person's employer under AS 25.27.063(b) without further notice or hearing for

11 inclusion of the child in family health coverage if it is available through the person's

12 employer.

13 * Sec. 57. AS 34.45.400(c) is amended to read:

14 (c) At the formal hearing, the administrative law judge from the office of

15 administrative hearings (AS 44.21.510) [DEPARTMENT] may subpoena witnesses

16 and may administer oaths and make inquiries necessary to determine the validity of

17 the claim. The person aggrieved may present arguments and evidence relevant to the

18 decision or action of the department. If, after the hearing, the department determines

19 that a correction is warranted, the department shall make the correction.

20 * Sec. 58. AS 36.30.015(d) is amended to read:

21 (d) An agency may not contract for the services of legal counsel without the

22 approval of the attorney general. An agency may not contract for the services of a

23 hearing officer or administrative law judge for a administrative, quasi-judicial

24 hearing without the approval of the attorney general and the chief administrative

25 law judge of the office of administrative hearings (AS 44.21.510).

26 * Sec. 59. AS 36.30.615 is amended to read:

27 Sec. 36.30.615. Hearing on protest appeal. A hearing on a protest appeal

28 shall be conducted in accordance with AS 36.30.670 and regulations adopted by the

29 commissioner to the extent the regulations do not conflict with regulations

30 adopted under AS 44.21.560.

31 * Sec. 60. AS 36.30.630(a) is amended to read:

1 (a) Except as provided in (b) of this section, a hearing shall be conducted
2 according to AS 36.30.670 and, to the extent they do not conflict with regulations
3 adopted under AS 44.21.560, regulations adopted by the commissioner of
4 administration on a contract claim appealed to the commissioner of administration or
5 the commissioner of transportation and public facilities or referred to either
6 commissioner under AS 36.30.620(f).

7 * Sec. 61. AS 36.30.635(a) is amended to read:

8 (a) After consultation with the using agency and the attorney general and after
9 a hearing conducted according to AS 36.30.670 and, to the extent they do not
10 conflict with regulations adopted under AS 44.21.560, regulations adopted by the
11 commissioner of administration, the commissioner of administration or the
12 commissioner of transportation and public facilities may debar a person for cause from
13 consideration for award of contracts. Notice of a debarment hearing shall be provided
14 in writing at least seven days before the hearing. The debarment may not be for a
15 period of more than three years.

16 * Sec. 62. AS 36.30.650 is amended to read:

17 Sec. 36.30.650. Hearing on a suspension. (a) A person suspended under
18 AS 36.30.635 is entitled to a hearing conducted according to AS 36.30.670 and, to the
19 extent that they do not conflict with regulations adopted under AS 44.21.560,
20 regulations adopted by the commissioner of administration if the person files a written
21 request for a hearing with the commissioner of administration or the commissioner of
22 transportation and public facilities, as appropriate, within seven days after receipt of
23 the notice of suspension under AS 36.30.645.

24 (b) If a suspended person requests a hearing, the commissioner of
25 administration or the commissioner of transportation and public facilities, as
26 appropriate, after consulting with the office of administrative hearings
27 (AS 44.21.510), shall schedule a prompt hearing unless the attorney general
28 determines that a hearing at the proposed time is likely to jeopardize an investigation.
29 A hearing may not be delayed longer than six months after notice of the suspension is
30 provided under AS 36.30.645.

31 * Sec. 63. AS 36.30.670(a) is amended to read:

1 (a) The chief administrative law judge (AS 44.21.510) [COMMISSIONER
2 OF ADMINISTRATION OR THE COMMISSIONER OF TRANSPORTATION
3 AND PUBLIC FACILITIES] shall assign an administrative law judge to act as a
4 hearing officer [OR APPOINT A HEARING OFFICER] for a hearing conducted
5 under this chapter. The hearing officer shall arrange for a prompt hearing and notify
6 the parties in writing of the time and place of the hearing. The hearing shall be
7 conducted in an informal manner. The provisions of AS 44.62 (Administrative
8 Procedure Act) do not apply to a hearing conducted under this chapter.

9 * Sec. 64. AS 36.30.675(a) is amended to read:

10 (a) The [IF THE COMMISSIONER OF ADMINISTRATION OR THE
11 COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES IS NOT
12 ACTING AS HEARING OFFICER, THE] hearing officer shall recommend a decision
13 to the commissioner of administration or the commissioner of transportation and
14 public facilities, as appropriate, based on the evidence presented. The
15 recommendation must include findings of fact and conclusions of law.

16 * Sec. 65. AS 39.52.120 is amended by adding a new subsection to read:

17 (e) Except for supplying information requested by the hearing officer or
18 responding to contacts initiated by the hearing officer, a public officer may not attempt
19 to influence the outcome of an administrative hearing by directly or indirectly
20 contacting or attempting to contact the hearing officer assigned to the hearing unless
21 the

22 (1) contact is made in the presence of all parties to the hearing or the
23 parties' representatives and the contact is made a part of the record; or

24 (2) fact and substance of the contact is promptly disclosed by the
25 public officer to all parties to the hearing and the contact is made a part of the record.

26 * Sec. 66. AS 39.52.170 is amended by adding a new subsection to read:

27 (d) A public employee who is in a permanent full-time position as a hearing
28 officer or administrative law judge may not accept employment as a hearing officer or
29 enter into a contract to act as a hearing officer, administrative law judge, or judicial
30 officer for the federal government, another state, a municipality, or a Native tribe.

31 * Sec. 67. AS 39.52.350(c) is amended to read:

1 (c) If the subject of the accusation denies that a violation of this chapter has
2 occurred, the attorney general shall refer the matter to the personnel board, which
3 shall notify the chief administrative law judge (AS 44.21.510), who shall appoint
4 an administrative law judge to serve as a hearing officer to conduct a hearing.

5 * Sec. 68. AS 43.23.015(g) is amended to read:

6 (g) If an individual is aggrieved by a decision of the department determining
7 the individual's eligibility for a permanent fund dividend or the individual's authority
8 to claim a permanent fund dividend on behalf of another, the individual may, upon
9 payment of a \$25 appeal fee, request the department to review its decision. Within 12
10 months after the administrative appeal is filed and after a hearing conducted by the
11 office of administrative hearings (AS 44.21.510), the department shall provide the
12 individual with a final written decision. If the individual is aggrieved by the decision
13 of the department after all administrative proceedings, the individual may appeal that
14 decision to the superior court in accordance with AS 44.62.560. An appeal to the court
15 under this section does not entitle the aggrieved individual to a trial de novo. The
16 appeal shall be based on the record of the administrative proceeding from which
17 appeal is taken and the scope of appeal is limited to matters contained in the record of
18 the administrative proceeding. If, as a result of an administrative proceeding or a
19 court appeal, the individual prevails, the \$25 appeal fee shall be returned to the
20 individual by the department.

21 * Sec. 69. AS 43.70.075(m) is amended to read:

22 (m) The department may initiate suspension of a business license endorsement
23 or the right to obtain a business license endorsement under this section by sending the
24 person subject to the suspension a notice by certified mail, return receipt requested, or
25 by delivering the notice to the person. The notice must contain information that
26 informs the person of the grounds for suspension, the length of any suspension sought,
27 and the person's right to administrative review [BEFORE THE DEPARTMENT]. A
28 suspension begins 30 days after receipt of notice described in this subsection unless
29 the person delivers a timely written request for a hearing to the department in the
30 manner provided by regulations of the department. If a hearing is requested under this
31 subsection, a hearing officer of the office of administrative hearings (AS 44.21.510)

1 [DEPARTMENT] shall determine the issues by using the preponderance of the
2 evidence test and shall, to the extent they do not conflict with regulations adopted
3 under AS 44.21.560, conduct the hearing in the manner provided by regulations of the
4 department. A hearing under this subsection is limited to the following questions:

5 (1) was the person holding the business license endorsement, or an
6 agent or employee of the person while acting within the scope of the agency or
7 employment of the person, convicted by plea or judicial finding of violating
8 AS 11.76.100, 11.76.106, or 11.76.107;

9 (2) if the department does not allege a conviction of AS 11.76.100,
10 11.76.106, or 11.76.107, did the person, or an agent or employee of the person while
11 acting within the scope of the agency or employment of the person, violate a provision
12 of (a) or (g) of this section;

13 (3) within the 24 months before the date of the department's notice
14 under this subsection, was the person, or an agent or employee of the person while
15 acting within the scope of the agency or employment of the person, convicted of
16 violating AS 11.76.100, 11.76.106, or 11.76.107 or adjudicated for violating a
17 provision of (a) or (g) of this section.

18 * Sec. 70. AS 43.70.075(q) is amended to read:

19 (q) The department may adopt regulations that do not conflict with
20 regulations adopted under AS 44.21.510 to establish an administrative hearing
21 process for actions taken [BY THE DEPARTMENT] under this section. AS 44.62
22 (Administrative Procedure Act) does not apply to a hearing under this section.

23 * Sec. 71. AS 44.21.530(a), added by sec. 3 of this Act, is amended to read:

24 (a) The office shall conduct all adjudicative administrative hearings required
25 under the following statutes or under regulations adopted to implement the statutes:

26 (1) AS 04.11.510(b)(1) and (c) (alcoholic beverages license);

27 (2) AS 05.15 (charitable gaming);

28 (3) AS 05.20 (recreational devices);

29 (4) AS 05.90.001 (special racing events);

30 (5) AS 06 (banks and financial institutions);

31 (6) AS 03 (occupational licensing), other than AS 08.08 and

- 1 AS 08.62.046;
- 2 (7) AS 10.06 (Alaska Corporations Code);
- 3 (8) AS 10.13 (Alaska BIDCO Act);
- 4 (9) AS 10.25.375 (Electric and Telephone Cooperative Act);
- 5 (10) AS 10.50.408 (limited liability companies);
- 6 (11) AS 14.11.016 (education-related facility grants);
- 7 (12) AS 14.18 (discrimination in public education);
- 8 (13) AS 14.20.030 (teacher certificates);
- 9 (14) AS 14.30 (educational programs);
- 10 (15) AS 14.48 (postsecondary educational institutions);
- 11 (16) AS 17.20 (Alaska Food, Drug, and Cosmetic Act), other than
- 12 AS 17.20.060 and 17.20.360;
- 13 (17) AS 18.18.030 (hospice licenses);
- 14 (18) AS 18.20 (hospitals and nursing facilities), other than
- 15 AS 18.20.180;
- 16 (19) AS 18.35.040 (tourist accommodations);
- 17 (20) AS 18.60 (safety);
- 18 (21) AS 18.67.040 (Violent Crimes Compensation Board);
- 19 (22) AS 18.80 (State Commission for Human Rights);
- 20 (23) AS 21 (insurance), other than AS 21.06.180(a);
- 21 (24) AS 25.27 (child support enforcement);
- 22 (25) AS 32.06 (Uniform Partnership Act);
- 23 (26) AS 34.45 (unclaimed property);
- 24 (27) AS 34.55.024 and 34.55.026 (Uniform Land Sales Practices Act);
- 25 (28) AS 36.30 (State Procurement Code), other than
- 26 AS 36.30.627(a)(2);
- 27 (29) AS 38.05.065 (contracts for sale of state land);
- 28 (30) AS 39.52 (Alaska Executive Branch Ethics Act);
- 29 (31) AS 43.23 (permanent fund dividends);
- 30 (32) AS 43.70 (Alaska Business License Act);
- 31 (33) AS 44.77 (claims against the state);

- 1 (34) AS 45.30.040 (mobile homes);
2 (35) AS 45.55 (Alaska Securities Act);
3 (36) AS 45.57 (Takeover Bid Disclosure Act);
4 (37) AS 46 (water, air, energy, and environmental conservation),
5 other than AS 46.03.820, 46.03.850, AS 46.39, and AS 46.40;
6 (38) AS 47.33 (assisted living homes);
7 (39) [(38)] AS 47.35 (child care);
8 (40) [(39)] AS 47.45 (longevity bonuses).

9 * Sec. 72. AS 44.62.350(a) is amended to read:

10 (a) The governor shall assign a qualified, unbiased, and impartial hearing
11 officer, with experience in the general practice of law, to conduct hearings under this
12 chapter that are not conducted by the office of administrative hearings
13 (AS 44.21.510). A [THE] hearing officer may perform other duties in connection
14 with the administration of this chapter and other laws.

15 * Sec. 73. AS 44.62.450(a) is amended to read:

16 (a) A hearing in a contested case shall be presided over by a hearing officer.
17 Unless the hearing is conducted by the office of administrative hearings
18 (AS 44.21.510), the [THE] agency itself shall determine whether the hearing officer
19 hears the case alone or whether the agency hears the case with the hearing officer.

20 * Sec. 74. AS 44.62.500(b) is amended to read:

21 (b) If a contested case is heard by a hearing officer alone, the hearing officer
22 shall prepare a proposed decision in a form that may be adopted as the decision in the
23 case. A copy of the proposed decision shall be filed by the agency as a public record
24 with the lieutenant governor, and a copy of the proposed decision shall be served by
25 the agency on each party in the case and the party's attorney. Except as otherwise
26 provided in AS 44.21.560(c), for a hearing conducted by the office of
27 administrative hearings, the [THE] agency itself may adopt the proposed decision in
28 its entirety, or may reduce the proposed penalty and adopt the balance of the proposed
29 decision.

30 * Sec. 75. AS 44.62.500(c) is amended to read:

31 (c) If the proposed decision is not adopted as provided in (b) of this section the

1 agency may decide the case upon the record, including the transcript, with or without
2 taking additional evidence, or may refer the case to the same or another hearing officer
3 to take additional evidence. If the case is so assigned the hearing officer shall prepare
4 a proposed decision as provided in (b) of this section upon the additional evidence and
5 the transcript and other papers that are part of the record of the earlier hearing. A copy
6 of the proposed decision shall be furnished to each party and the party's attorney as
7 prescribed by (b) of this section. The agency may not decide a case provided for in
8 this subsection without giving the parties the opportunity to present either oral or
9 written argument before the agency. If additional oral evidence is introduced before
10 the agency, an agency member may not vote unless that member has heard the
11 additional oral evidence. This subsection does not apply to a hearing conducted by
12 the office of administrative hearings.

13 * Sec. 76. AS 44.77.040(a) is amended to read:

14 (a) The Department of Administration, after consulting with the office of
15 administrative hearings (AS 44.21.510), shall fix a time for hearing the appeal and
16 shall notify the claimant and the officer who approved the voucher and give them a
17 reasonable opportunity to be heard. The hearing shall be conducted by the office of
18 administrative hearings.

19 * Sec. 77. AS 45.30.040(c) is amended to read:

20 (c) Whenever it determines that there may be a violation of the provisions of
21 this chapter by a manufacturer or dealer of mobile homes, the department may give
22 notice of hearing, and, within 30 days after giving notice, [HOLD] a hearing shall be
23 held by the office of administrative hearings (AS 44.21.510) to determine whether
24 there has been a violation. After notice and hearing,

25 (1) if the department finds that there has been a violation of the
26 provisions of this chapter, the department may issue an order directing that the person
27 who is violating the provision cure the violation in a reasonable time and in a
28 reasonable manner;

29 (2) if the department determines that violations of the provisions of
30 this chapter are regular and recurring, it may require forfeiture of the bond to the
31 benefit of the state and arrange for distribution of the proceeds of the bond to the

1 mobile home owners injured by the activities of the dealer or manufacturer, or to
2 mobile home dealers injured by the activities of the manufacturer.

3 * Sec. 78. AS 45.55.935 is amended to read:

4 Sec. 45.55.935. **Hearings.** (a) The administrator shall adopt regulations,
5 consistent with the provisions of this chapter and with regulations adopted under
6 AS 44.21.560, governing administrative hearings conducted by the office of
7 administrative hearings (AS 44.21.510) [ADMINISTRATOR OR A DESIGNEE OF
8 THE ADMINISTRATOR] for the following:

9 (1) orders issued under AS 45.55.120, 45.55.900(d), or 45.55.920; in
10 these instances, the administrator shall promptly send a notice of opportunity for
11 hearing to the issuer of the securities and to all persons who have filed with the
12 department a notice of intention to sell the securities; and

13 (2) orders issued under AS 45.55.060; before the administrator enters
14 an order under AS 45.55.060, the administrator shall send to the person involved a
15 notice of opportunity for hearing; if the person involved is an agent or investment
16 adviser representative, then the administrator shall, in addition, notify the employing
17 broker-dealer, state investment adviser, federal covered adviser, or issuer.

18 (b) In conducting a hearing in accordance with (a) of this section, the
19 administrative law judge [ADMINISTRATOR] may issue a subpoena to compel the
20 attendance of any witness or party and to compel production of evidence.

21 * Sec. 79. AS 45.55.950(e) is amended to read:

22 (e) Every hearing in an administrative proceeding shall be public unless the
23 administrative law judge, [ADMINISTRATOR] in the exercise of discretion, grants
24 a request joined in by all the respondents that the hearing be conducted privately.

25 * Sec. 80. AS 45.57.020(a) is amended to read:

26 (a) An offeror may not make a takeover bid unless at least 20 days before the
27 bid the offeror files with the department and with the registered agent of the offeree
28 company a statement containing all the information required by (c) of this section and
29 either

30 (1) within 10 days following the filing no hearing has been ordered by
31 the department or requested by the offeree company; or

1 (2) a hearing has been ordered within that time and, after [UPON] the
2 hearing conducted by the office of administrative hearings (AS 44.21.510), the
3 department has decided [ADJUDICATED] that the offeror proposed to make fair,
4 full, and effective disclosure to offerees of all information material to a decision to
5 accept or reject the offer.

6 * Sec. 81. AS 45.57.020(b) is amended to read:

7 (b) A hearing shall begin within 20 days of the date of filing of the statement,
8 and adjudication shall be made within 30 days of the filing unless extended by the
9 administrative law judge [DEPARTMENT] for the convenience of the parties or
10 protection of the offerees.

11 * Sec. 82. AS 46.15.065(c) is amended to read:

12 (c) The commissioner shall make investigations as necessary of rights asserted
13 by declarations filed under this section and shall determine each existing appropriation
14 and mail a summary of the determination to each person who has filed a declaration
15 with respect to the specified area or source. Any person adversely affected by a
16 determination may file with the commissioner a request for a hearing within 20 days
17 of the date the notice is mailed. If a hearing is requested, the commissioner shall,
18 after consulting with the office of administrative hearings (AS 44.21.510), send a
19 notice of the time and place of the hearing to each person who has filed a declaration.

20 * Sec. 83. AS 47.45.050 is amended to read:

21 Sec. 47.45.050. Department hearing. The Department of Health and Social
22 Services may arrange with the office of administrative hearings (AS 44.21.510) to
23 hold a [DEPARTMENTAL] hearing upon the request of an applicant or recipient who
24 has been disqualified. Before this hearing the department shall by certified mail notify
25 an applicant or recipient in plain and comprehensive language the exact reason for the
26 disqualification. Form letters using only referral to state statutes or department
27 regulations, or otherwise vague in detail, are not considered compliance by the
28 department with this section.

29 * Sec. 84. The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 APPLICABILITY. (a) Sections 1 - 70, 72 - 81, and 83 of this Act apply to

1 administrative proceedings that begin on or after July 1, 2005.

2 (b) Sections 71 and 82 of this Act apply to administrative proceedings that begin on
3 or after July 1, 2007.

4 * Sec. 85. The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 REGULATIONS. The chief administrative law judge and any agency affected by this
7 Act may proceed to adopt regulations to implement this Act. A regulation adopted under this
8 section takes effect under AS 44.62 (Administrative Procedure Act) but not before the
9 effective date of the law implemented by the regulation.

10 * Sec. 86. The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 TRANSITION. (a) Litigation, hearings, investigations, and other proceedings
13 pending under a law amended or repealed by this Act, or in connection with functions
14 transferred by this Act, continue in effect and may be continued and completed,
15 notwithstanding a transfer, amendment, or repeal provided for in this Act.

16 (b) Certificates, orders, and regulations issued or adopted under authority of a law
17 amended or repealed by this Act remain in effect for the term issued, or until revoked,
18 vacated, or otherwise modified under the provisions of this Act.

19 (c) Contracts, rights, liabilities, and obligations created by or under a law amended or
20 repealed on July 1, 2005, by this Act and in effect on July 1, 2005, remain in effect.
21 Contracts, rights, liabilities, and obligations created by or under a law amended or repealed on
22 July 1, 2007, by this Act and in effect on July 1, 2007, remain in effect.

23 (d) Upon the initial appointment of the chief administrative law judge under
24 AS 44.21.510(c), added by sec. 2 of this Act, the chief administrative law judge and the
25 commissioner of administration, the commissioner of community and economic development,
26 the commissioner of revenue, and the governor's office shall identify administrative law
27 judges and support staff to be transferred to the office of administrative hearings on or after
28 January 1, 2005. A state employee who is transferred under this section from another agency
29 to the office of administrative hearings shall continue to be compensated at the same range
30 and step of the salary schedule in AS 39.27.011(a) that the employee was receiving before the
31 transfer, and qualifies for salary increases authorized under AS 39.27.011 and 39.27.022.

1 (e) Procedural regulations of an agency that refers an administrative hearing to the
2 office of administrative hearings shall apply to the hearing until regulations adopted under
3 AS 44.21.560(a), added by sec. 3 of this Act, become effective.

4 * Sec. 87. Sections 1, 2, 85, and 86 of this Act take effect immediately under
5 AS 01.10.070(c).

6 * Sec. 88. Sections 71 and 82 of this Act take effect July 1, 2007.

7 * Sec. 89. Except as provided in secs. 87 and 88 of this Act, this Act takes effect July 1,
8 2005.

Changes included in SB 203 (Fin)

1. Added municipalities to the list of jurisdictions included on page 31, section 66.
2. Expanded the protections for hearing officers from agency and legislative influence to include all state hearing officers. Page 31, section 65
3. Removed the AGC from jurisdiction of bill. Page 4.
4. Added a pre-emptive option for petitioners. Page 10, subsection (c).
5. Clarified definition of administrative hearing. Page 11, line 12.
6. Removed conflict with agency "cease and desist" authority. Page 13, section 8.
7. Made references to ALJ's and hearing officers more consistent. (throughout bill)
8. Page 26. Removed jurisdiction of central panel over certain insurance hearings to be consistent with page 5, line 3. Page 26.

ALASKA STATE LEGISLATURE

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Rep. Bruce Weyhrauch, Vice-Chair
Sen. Lyda Green
Sen. Hollis French
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Administrative Regulation Review Committee

Memorandum

To: Senator Gary Wilken / Co-Chair Senate Finance

From: Dave Stancliff / Staff Admin. Reg. Review

Date: February 27, 2004

Re: Applicability of SB 203 (Fin) to University of Alaska

.....

This memo is to address concerns raised by University interests regarding how SB 203 might affect their usual flow of procedure and business with regard to hearings and appeals.

I asked Mr. Andy Henenway with the administration to determine if University administrative hearings would be transferred to the Central Panel created set out in SB 203 (Fin).

His answer was in the negative. They are exempt from the newly created jurisdiction pursuant to AS 36.30.990 (1) (B) (i).

Additionally I asked the Director of Legislative Legal and the drafter of SB 203 if there was a need based on constitutional concerns to exempt University hearing officers from the same standards of ethics and uniform rules as all other state hearing officers under SB 203.

The answer was in the negative. (see attached memo)

SB 203 (Fin) currently makes all state hearing officers subject to the state ethics act, as well as makes available training, and informational resources, while establishing a centralized database for the records. The goal of course is to insure high quality, fair, and efficient hearings.

I hope this information has been helpful.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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MEMORANDUM

February 27, 2004

SUBJECT: Authority of the legislature to regulate the University of Alaska
(CSSB 203())

TO: Senator Gene Therriault
President of the Senate
Attn: Dave Stancliff

FROM: Tamara Brandt Cook *TBC*
Director

You ask whether the University of Alaska enjoys such a degree of independence under the state constitution that the legislature is precluded from statutorily imposing requirements on the hearing officers of the university.

The University of Alaska is created under Art. VII, sec. 2 of the state constitution as a "body corporate." While it is granted title to its real and personal property, that property is administered and disposed of "according to law." Under Art. VII, sec. 3 the university is governed by a board of regents. The board is charged with formulating policy, but, again, that is done "in accordance with law..." Clearly, the fact that the university is created under the constitution and that it is a public corporation does not make it so independent as to make it exempt from most statutes that are applicable to other state agencies, except when it is exempted under the statutes themselves.

The court has held that the University of Alaska, as an instrumentality of the state, is within the scope of statutes that govern conditional waiver of sovereign immunity. (University of Alaska v. National Aircraft Leasing, LTD., 536 P.2d 121 (Alaska 1975)) University employees are state employees subject to regulations that establish collective bargaining units for state employees. (McGrath v. University of Alaska, 813 P.2d 1370 (Alaska 1991)) The public meetings law applies to the university as it applies to other agencies. (University of Alaska v. Geistauts, 666 P.2d 424 (Alaska 1983); Alaska Community Colleges' Fed'n of Teachers, Local 2404 v. University of Alaska, 677 P.2d 886 (Alaska 1984))

When confronted with the precise question of whether the University of Alaska is covered as an agency of the state under generally worded statutes, the court has tended to find that the university is covered. So, the court concluded that the legislature intended to include the university within the scope of state agencies that are subject to the public records statute. (Carter v. Alaska Public Employees Ass'n, 663 P.2d 916 (Alaska 1983))

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Senator Gene Therriault

February 27, 2004

Page 2

Again, the court found that the application of the Administrative Procedure Act (AS 44.62.330-44.62.650) to the university's grievance procedure does not impermissibly circumscribe explicit and implicit constitutional and statutory grants of power to the university in the area of personnel management. (McGrath v. University of Alaska, 813 P.2d 1370 (Alaska 1991); see also Odum v. University of Alaska, 845 P.2d 432 (Alaska 1993) and Sengubta v. University of Alaska, 21 P.3d 1240 (Alaska 2001))

Certainly, there are limits to the degree of regulation that may be imposed by law on the University of Alaska because of the university's constitutional basis. However, under the reasoning applied by the court in other areas involving application of statutes to the university, it does not appear that subjecting the hearing officers of the university by law to the general requirements concerning qualifications, ethical standards, and the like, that apply to other hearing officers of the state, would go so far as to violate the state constitution.

TBC:mdr

04-074.mdr

ALASKA STATE LEGISLATURE

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Senate
Senate District F

Sponsor Statement SB 203

Senate Bill 203 is a culmination of many years of effort to achieve a more efficient, timely, and fair administrative hearing process. The purpose of this legislation is to separate the administrative adjudication process away from the agencies that write, promulgate and enforce administrative law.

Instead of allowing hearing officers to be typical employees and extensions of the agencies whose administrative law they adjudicate, SB 203 is designed to give these administrative adjudicators a more independent and protected station from which to deliver timely due process through fair and objective hearings. This is accomplished through the creation of a model central independent hearing office, and the application of new protections and rules for all hearing officers in and out of that office.

As tempting as an all-inclusive type of reform might be, two critical obstacles have caused us to move in a more incremental approach. The first is a commitment to keep costs down. The second is sensitivity to both employees and administrators who will be involved in the reform. The model central office created in this bill will over time incorporate more hearing functions and officers. In the interim it will provide resources, training and alternative dispute resolution for all state hearing officers.

As a greater separation between hearing officers and agencies occurs, opportunities to create an efficient and more professional administrative hearing process in a central panel will be realized. It is through these efficiencies that any initial start-up costs are soon negated, and significant savings accrue over time. Of course the reductions in time and expense to citizens and businesses, though never reflected in fiscal notes, are equally important components in this major reform.

The primary objectives of this act are to insure better quality, less costly, less time consuming, and fairer administrative hearings. Achieving these goals will not only be beneficial to our constituents, but good for business, and government as well. The creation of independent hearing offices in other states has enjoyed bi-partisan support. I look forward to the same in Alaska as SB 203 proceeds through our legislative process.

Basic Goals In Establishing Independent Hearing Office

1. Better public service through a higher level of due process.
2. Cutting hearing costs to both government and the public.
3. Improving hearing efficiencies for both government and the public.
4. Establishing high standards of performance and training and central oversight for hearing officers.
5. Eliminating unhealthy agency influence or impact on hearing officers.
6. Better balancing administrative goals (rule of necessity) with the tight and expectations for public due process.
7. Improving hearing functions including judicial settings and better-prepared dockets and decisions.
8. Improving the regulation process by requiring a high standard of performance as ultimately reviewed through independent, highly professional adjudicators.
9. Establishing better accountability through public surveys, annual reporting, and separate accounting and budgeting practices.
10. Relieving administrators of the oversight and mechanics of the in-house hearing office functions.

Background

- Central Panels of varying forms have been instituted in 25 states and several large metropolitan governments such as New York, Chicago and Washington, D.C.
- With few exceptions, savings have occurred and efficiencies in administrative adjudication have improved. Results depend on any number of factors including the degree of implementation, the willingness to execute reform, and the quality of the Central Office established.
- The fundamental changes that occur receive high public approval. Available statistics show high public approval with performance through surveys issued by the Central Panels.

Provided by Sen. Therriault's office

- Most hearing officers that transfer over to the Central Panel are able to increase their skills as adjudicators through cross training and on-going professional education and associations such as the National Association of Administrative Law Judges.
- Most administrations, even those luke-warm to the initial reform, report high approval after working with new Central Panels. When the public becomes less adversarial towards government function and regulation writers and enforcers have to measure up to the standards of independent adjudicators agency heads have fewer controversies to quell.
- Legislatures have through a Central Panel a means to improve the entire regulations and APA function without meddling in the workings of the Executive or conducting constant and resented oversight of the internal administrative process. By being able to keep track of public performance and expenditures for the services rendered the legislative branch can more efficiently address public concerns with regulatory processes.
- Commissioners and courts report better quality decisions and more defensible dockets from Central Panels. Risk management also sees fewer potential problems when high quality adjudication takes place.
- Finally, the private and public business climate is enhanced when the adjudication process is fast, fair, and most of all professionally consistent. People who contest regulations receive finality in the most constructive way when they feel the process has been thorough, efficient and fair. Whether they rise from the proceedings in victory or defeat, the sense of justice being properly administered and a fair opportunity to be heard and receive redress is essential for constructive finality.

The primary reforms represented in the Central Panel movements are as follows:

1. Establishment of independent and protected adjudicators who are highly skilled and fair.
2. Establishment of a separate location for the resources and the adjudicators to study, train, and perform.
3. A resource for other hearing officers to be trained and members of the executive and the legislature to become educated about the workings and the needs within the administrative process.
4. Establishment of central arm of government designed and charged to deliver one of the most fundamental rights of the public not against, but in harmony with the intent and the administration of the law.

An Act establishing an Independent Office of Administrative Hearings.

SB 203

Section By Section Quick Reference

- Section 1.** Purpose and intent
- Section 2.** 44.21.510 Establishes location of independent office of administrative hearings and qualifications and compensation of Chief Administrative Law Judge.
- 44.21.520 Powers and duties of Chief ALJ.
- Section 3.** 44.21.530 Administrative hearing functions to be included in the new independent office. Provisions of service and delegation of decision authority.
- 44.21.540 ALJ qualifications and duties. Authority for Chief ALJ officer to enter into contracts with qualified individuals to serve as ALJ.
- 44.21.550 Code of conduct for hearing officers.
- 44.21.555 Reimbursement agreements
- 44.21.560 Establishment of procedures for administrative hearings, including time limits, decision authority, and rules for altering an ALJ decision.
- 44.21.570 Disqualification of an ALJ.
- 44.21.580 Agency cooperation with ALJ's. Selection of ALJ's. No agency interference.
- 44.21.590 Administrative hearing records. Record keeping requirements.
- 44.21.595 Federal requirement resolutions of conflict with federal law.
- 44.21.599 Definitions

Provided by Sen. Therriault's office

Sections 4 – 54	Conforming technical amendments to affected statutes.
Section 55	Prohibits legislative influence in hearings
Sections 56 –65	Conforming technical amendments
Section 66	Prohibits undue agency influence
Sections 67 – 71	Conforming technical amendments
Section 72	Brings certain sections of DEC into Central Panel after 2 years
Sections 73 – 85	Conforming technical amendments to affected statutes.
Sections 86 – 90	Applicability, regulatory authority, transition authority and timing to accommodate changes in administrative process.



ALASKA

Statement of Support of SB 203

Independent Office of Administrative Hearings

March 1, 2004

The Alaska Chapter of the National Federation of Independent Business has 2,500 members, making it the largest small-business advocacy group in the state. The legislative agenda of NFIB is determined by ballot. Following are the ballot results for the question regarding an independent administrative hearing office.

Should in-house state agency hearing officers be moved to an independent office in the Department of Administration in order to foster an impartial hearing process when citizens challenge government decisions?

79 % YES

7 % NO

14% Undecided

NFIB/Alaska supports the formation of an Office of Administrative Hearings as established in Senate Bill 203.

Background: State legislatures and administrations in many states are reforming their administrative hearing process to separate the appeal process from the agency making the decision in dispute. Currently a citizen who wishes to appeal a state agency decision must petition a hearing officer from the same agency with which they have the disagreement. NFIB believes the current process does not provide for a fair and impartial hearing process when a person must appeal to the same agency they are disputing with. Creating a central hearing adjudication system with highly skilled hearing officers who are not connected to the agencies will provide a more objective process. Other states that have implemented an independent central hearing system have experienced efficiencies in all segments of the hearing process with an overall reduction in costs. Additionally, they have seen a reduction in hearing delays and less litigation.

NFIB/Alaska urges support for SB 203.

Submitted by Thyes Shaub on behalf of NFIB/Alaska.

**Independent Administrative Hearings
Through A Central Panel**

Informal Legislative Brief

Prepared for
Senator Gene Therriault
Senate President

By David Stancliff
Staff / Administrative Regulation Review Committee