

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11165 SENATE JUDICIARY

1 (AS 44.21.510) [(AS 44.62)].

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

3 (f) Hearings required or authorized under this title are not subject to
4 AS 44.62.330 - 44.62.630, except as required by AS 44.62.560 and 44.62.570. The
5 department shall adopt regulations, consistent with the provisions of this title,
6 establishing procedures for hearings held under this section. Administrative
7 hearings on contested cases shall be conducted by the office of administrative
8 hearings (AS 44.21.510).

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

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

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

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

27 (1) issue an order directing the person to stop the act or practice;
28 however, reasonable notice of and an opportunity for a hearing must first be given to
29 the person, except that the commissioner may issue a temporary order before a hearing
30 is held; a temporary order remains in effect until a final order affirming, modifying, or
31 reversing the temporary order is issued or until 15 days after the person receives the

1 notice and has not requested a hearing by that time; a temporary order becomes final if
2 the person to whom the notice is addressed does not request a hearing within 15 days
3 after receiving the notice; if the hearing involves AS 08.08 or a regulation adopted
4 under that chapter, the commissioner or the commissioner's designee shall be the
5 hearing officer at the hearing and shall issue a final order within 10 days after the
6 hearing; otherwise the hearing shall be conducted by the office of administrative
7 hearings (AS 44.21.510);

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

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

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

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

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

26 * Sec. 10. AS 08.32.171(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. 11. AS 08.36.320(c) is amended to read:

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

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

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

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

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

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

26 (c) The division may summarily suspend a license before final hearing or
27 during the appeals process if the division finds that the licensee poses a clear and
28 immediate danger to the public health and safety if the licensee continues to practice.
29 A licensee whose license is suspended under this section is entitled to a hearing
30 conducted by the office of administrative hearings (AS 44.21.510) not [DIVISION
31 NO] later than seven days after the effective date of the order. The licensee may

1 appeal the suspension after a hearing to a court of competent jurisdiction.

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

3 (i) The department may summarily suspend a licensee from practice of the
4 profession under this chapter, for a period of not more than 30 days, before a final
5 hearing is held or during an appeal if the department finds that the licensee poses a
6 clear and immediate danger to the public health and safety. A person is entitled to a
7 hearing conducted by [BEFORE] the office of administrative hearings
8 (AS 44.21.510) [DEPARTMENT] to appeal the summary suspension within seven
9 days after the order of suspension is issued. A person may appeal an adverse decision
10 of the department on an appeal of summary suspension to a court of competent
11 jurisdiction.

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

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

20 * **Sec. 17.** AS 08.62.046(c) is amended to read:

21 (c) The master, owner, operator, or agent of the master, owner, or operator, of
22 a vessel required to employ a pilot under this chapter may object to the proposed rate
23 for a specific pilotage service by filing a written notice of objection, containing the
24 grounds for the objection and relevant evidence demonstrating that the rate is not
25 reasonable, with the board within 60 days after the final date of publication of the
26 proposed rate in a newspaper of general circulation. The pilot organization that
27 proposed the rate has until 15 days after the close of the period for filing objections to
28 the proposed rate to provide its written response to the notice of objection and relevant
29 evidence demonstrating that the rate is reasonable. If the pilot organization does not
30 respond to the notice of objection by the close of the 15-day period for response to the
31 objection, the board may not take action on the proposed rate and the proposed rate

1 does not take effect. If the pilot organization does respond to the notice of objection
2 before the close of the response period, the board shall request that the office of
3 administrative hearings (AS 44.21.510) hold a hearing to determine whether the
4 proposed rate is reasonable. If, after the hearing, the board finds that the proposed
5 rate is reasonable, the rate is approved and takes effect retroactive to January 1 of the
6 calendar year in which the rate would have taken effect under (b) of this section if no
7 objection had been filed. If the board finds that the proposed rate is not reasonable,
8 the proposed rate is disapproved and does not take effect. In determining what
9 constitutes a reasonable rate, the board shall consider the following factors:

10 (1) current and historical rates charged for comparable pilotage
11 services;

12 (2) the actual time aboard the vessel, time engaged in preparing to
13 provide the pilotage services, seasonal and weather conditions, and risks;

14 (3) the reasonable expenses incurred in providing the pilotage services
15 such as dispatch, transportation, overhead, and other associated expenses;

16 (4) the financial effect of pilotage expenses on the owner of the vessel,
17 except that this factor shall only be considered if the owner provides all financial
18 information that the board determines is necessary to determine the financial effect;

19 (5) the number of vessels and volume of pilotage services at issue in
20 the dispute and the number of members of the pilot organization;

21 (6) the effect of the determination on the income of affected pilots
22 relative to prior years, taking into account changes in vessel tonnage and vessel traffic
23 in the pilotage region from year-to-year;

24 (7) prior determinations under this subsection; and

25 (8) other factors the board considers relevant.

26 * Sec. 18. AS 08.64.331(c) is amended to read:

27 (c) The board may summarily suspend a license before final hearing or during
28 the appeals process if the board finds that the licensee poses a clear and immediate
29 danger to the public health and safety if the licensee continues to practice. A person
30 whose license is suspended under this section is entitled to a hearing conducted by the
31 office of administrative hearings (AS 44.21.510) not [BOARD NO] later than seven

1 days after the effective date of the order and the person may appeal the suspension
2 after a hearing to a court of competent jurisdiction.

3 * **Sec. 19.** AS 08.65.120(c) is amended to read:

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

11 * **Sec. 20.** AS 08.68.275(c) is amended to read:

12 (c) The board may summarily suspend a license before final hearing or during
13 the appeals process if the board finds that the licensee poses a clear and immediate
14 danger to the public health and safety. A person whose license is suspended under this
15 section is entitled to a hearing conducted by the office of administrative hearings
16 (AS 44.21.510) [BOARD] within seven days after the effective date of the order. If,
17 after a hearing, the board upholds the suspension, the licensee may appeal the
18 suspension to a court of competent jurisdiction.

19 * **Sec. 21.** AS 08.86.204(b) is amended to read:

20 (b) The board may summarily suspend the license of a licensee who refuses to
21 submit to a physical or mental examination under AS 08.86.075. A person whose
22 license is suspended under this subsection 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 the [A] hearing, the board upholds the
25 suspension, the licensee may appeal the suspension to a court of competent
26 jurisdiction.

27 * **Sec. 22.** AS 08.88.037(b) is amended to read:

28 (b) If it appears to the department that a person has engaged in or is about to
29 engage in an act or practice in violation of a provision of this chapter or a regulation
30 adopted under it and that action is warranted in the public interest, the department
31 shall notify all commission members by telephone, telegraph, or facsimile of a

1 proposed order or action, and, if a majority of the members of the commission
2 approve, the department may

3 (1) after reasonable notice of and an opportunity for a hearing is given
4 to the person, issue an order directing the person to stop the act or practice; the
5 department may issue a temporary order before a hearing is held; a temporary order
6 remains in effect until a final order affirming, modifying, or reversing the temporary
7 order is issued or until 15 days have elapsed after the person receives the notice and
8 has not requested a hearing; a temporary order becomes final if the person to whom
9 the notice is addressed does not request a hearing; within 15 days after receiving the
10 notice; if a hearing is requested, a hearing shall be conducted by a hearing officer
11 from the office of administrative hearings (AS 44.21.510) within 30 days; the
12 commission shall issue a final order within 10 days after the hearing;

13 (2) bring an action in superior court to enjoin the act or practice and to
14 enforce compliance with this chapter, a regulation adopted under it, or an order issued
15 under it;

16 (3) examine or have examined the books and records of a person
17 whose business activities require licensure under this chapter and the department may
18 require the person to pay the reasonable costs of the examination; and

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

21 * Sec. 23. AS 08.88.460(b) is amended to read:

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

28 * Sec. 24. AS 08.88.460(d) is amended to read:

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

31 (1) [THE] commission makes an award to the claimant from the real

1 estate surety fund;

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

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

6 * Sec. 25. AS 08.88.472(c) is amended to read:

7 (c) The commission may contract under AS 36.30 (State Procurement Code)
8 with a person for the person to perform [HEARING AND] legal services for the
9 commission with regard to a claim against the real estate surety fund filed in court.
10 The contract may cover one or more claims.

11 * Sec. 26. AS 08.92.040(c) is amended to read:

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

21 * Sec. 27. AS 10.06.633(b) is amended to read:

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

30 * Sec. 28. AS 10.06.865 is amended to read:

31 **Sec. 10.06.865. Cancellation of certificates issued and filings accepted.**

1 The commissioner may, within one year after a filing, and after written notice to the
2 corporation or individual making the filing, cancel a certificate issued or filing
3 accepted under this chapter, on any ground existing at the time of issuance or filing for
4 which the commissioner could have originally refused to issue the certificate or accept
5 the filing. The notice of cancellation must state the reason for the cancellation. A
6 corporation or individual may request a hearing conducted by [BEFORE] the office
7 of administrative hearings (AS 44.21.510) [COMMISSIONER] within 90 days after
8 receipt of the notice. Cancellation becomes final if the corporation or individual does
9 not request a hearing within 90 days after receipt of notice. Notice of cancellation
10 shall be sent by certified mail with return receipt requested. If the return receipt is not
11 received by the department within a reasonable time and the department has made
12 diligent inquiry as to the address of the corporation, notice may be made by
13 publication in a newspaper of general circulation in the vicinity of the registered office
14 of the corporation or the address of the individual who made the filing, and the
15 cancellation becomes final 60 days after publication of the notice if the person or
16 corporation does not request a hearing.

17 * **Sec. 29.** AS 10.13.770(b) is amended to read:

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

22 * **Sec. 30.** AS 10.13.860 is amended by adding a new subsection to read:

23 (b) Administrative hearings under this chapter shall be conducted by the office
24 of administrative hearings (AS 44.21.510).

25 * **Sec. 31.** AS 10.25.375 is amended to read:

26 **Sec. 10.25.375. Cancellation of certificates issued and filings accepted.**

27 The commissioner may, within one year after a filing, and after written notice to the
28 cooperative or individual making a filing, cancel a certificate issued or filing accepted
29 under this chapter, on any ground existing at the time notice of cancellation is made
30 for which the commissioner could have originally refused to issue the certificate or
31 accept the filing. The notice of cancellation must state the reason for the proposed

1 cancellation. A cooperative or individual may request a hearing within 90 days after
2 receipt of the notice. The notice of cancellation becomes final if the cooperative or
3 individual does not request a hearing within 90 days after receipt of notice. Notice of
4 cancellation must be sent by certified mail with return receipt requested. If the return
5 receipt is not received by the department within a reasonable time and the department
6 has made diligent inquiry as to the current address of the corporation, notice may be
7 made by publication in a newspaper of general circulation in the vicinity of the
8 registered office of the cooperative or the address of the individual who made the
9 filing, and the cancellation becomes final 60 days after publication of the notice. If a
10 hearing is requested, the hearing shall be conducted by the office of
11 administrative hearings (AS 44.21.510).

12 * Sec. 32. AS 10.50.408(c) is amended to read:

13 (c) If, following a hearing conducted by the office of administrative
14 hearings (AS 44.21.510), the commissioner determines the presence of the
15 delinquency, failure, or misrepresentation providing grounds for involuntary
16 dissolution under this section, the company may appeal to the superior court. The
17 court shall either sustain the commissioner or direct the commissioner to take action
18 the court considers proper.

19 * Sec. 33. AS 14.11.016(b) is amended to read:

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

1 hearing officer finds that the notice of appeal raises a reasonable issue of fact or law,
2 the hearing officer shall conduct a hearing on those issues and recommend a decision
3 to the board. The hearing officer shall issue a decision on the appeal not later than 60
4 days after being appointed. The board shall consider the recommended decision of the
5 hearing officer at its next regularly scheduled meeting and may adopt all, part, or none
6 of the recommended decision or may remand the issue to the hearing officer for
7 further hearings. The board shall issue its decision in writing within 10 days after
8 consideration of the hearing officer's decision.

9 * Sec. 34. AS 14.18.090(a) is amended to read:

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

18 * Sec. 35. AS 14.20.040 is amended by adding a new subsection to read:

19 (b) Hearings under AS 14.20.030 shall be conducted by the office of
20 administrative hearings (AS 44.21.510).

21 * Sec. 36. AS 14.25.037(b) is amended to read:

22 (b) In the conduct of a hearing under this chapter, the hearing officer from
23 the office of administrative hearings (AS 44.21.510) [BOARD] may issue
24 subpoenas, administer oaths, compel the attendance and testimony of witnesses,
25 compel the taking of depositions and the submission of affidavits, and compel the
26 production of documents and records. The hearing officer's [BOARD'S] powers
27 under this subsection do not extend to prehearing discovery. However, upon good
28 cause shown, the hearing officer [BOARD] may permit the preservation of witness
29 testimony if the hearing officer [BOARD] cannot successfully compel the witness to
30 attend a hearing. The board may authorize hearing officers to [CONDUCT
31 HEARINGS UNDER THIS CHAPTER AND] issue binding decisions. A binding [;

1 THE] decision of a hearing officer may be applied to the board. The board shall
2 adopt procedures for appeals from a hearing officer's binding decision.

3 * Sec. 37. AS 14.30.193(b) is amended to read:

4 (b) If a due process hearing is requested by either a school district or a parent,
5 the school district shall contact the office of administrative hearings (AS 44.21.510)
6 [DEPARTMENT] to request appointment of a hearing officer. The chief
7 administrative hearing officer [DEPARTMENT] shall select a hearing officer
8 through a random selection process, from a list maintained by the office
9 [DEPARTMENT] under (g) of this section. Within five working days after receipt of
10 the request, the chief administrative hearing officer [DEPARTMENT] shall provide
11 to the school district and the parent a notice of appointment, including the name and a
12 statement of qualifications, of the hearing officer that [THE DEPARTMENT
13 DETERMINES] is available to conduct the hearing.

14 * Sec. 38. AS 14.30.193(c) is amended to read:

15 (c) The school district and the parent each have the right to reject, without
16 stating a reason, one hearing officer appointed under this section. The rejecting party
17 shall notify the office of administrative hearings [DEPARTMENT] of that rejection
18 in writing within five days after receipt of the [DEPARTMENT'S] notice of
19 appointment. If a hearing officer is rejected under this subsection, the chief
20 administrative hearing officer [DEPARTMENT] shall, within five working days
21 after receipt of the written rejection, provide a notice of appointment, including the
22 name and a statement of qualifications, of another hearing officer that [THE
23 DEPARTMENT DETERMINES] is available to conduct the hearing. Each
24 appointment is subject to a right of rejection under this subsection by a party who has
25 not previously rejected an appointment.

26 * Sec. 39. AS 14.30.193(g) is amended to read:

27 (g) The office of administrative hearings [DEPARTMENT] shall maintain a
28 list of qualified hearing officers and shall provide for qualification of hearing officers
29 through a training program that is open to all individuals who meet the criteria set by
30 the office [DEPARTMENT] by regulation. The list of qualified hearing officers shall
31 be maintained as a public record.

1 * Sec. 40. AS 14.37.060(b) is amended to read:

2 (b) A prospective licensee who was denied licensure may appeal the
3 department's decision by requesting a hearing conducted by the office of
4 administrative hearings (AS 44.21.510), on the form provided by the department,
5 within 15 days after receipt of the notice of denial of licensure.

6 * Sec. 41. AS 14.37.130(g) is amended to read:

7 (g) An applicant whose application is denied may appeal the department's
8 decision, on the form provided by the department, by requesting a hearing conducted
9 by the office of administrative hearings (AS 44.21.510) within 15 days after receipt
10 of the notice of denial of application.

11 * Sec. 42. AS 14.37.170(d) is amended to read:

12 (d) A licensee or other person to whom a notice has been provided under (a)
13 or (c) of this section may appeal the department's decision to impose an enforcement
14 action described in (a) or (b)(2) - (8) of this section by filing a written request for a
15 hearing conducted by the office of administrative hearings (AS 44.21.510), on the
16 form provided by the department, within 15 days after receipt of the notice of
17 enforcement action.

18 * Sec. 43. AS 14.48.130(b) is amended to read:

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

26 * Sec. 44. AS 17.20.060 is amended to read:

27 **Sec. 17.20.060. Suspension and reinstatement of emergency permit.** The
28 commissioner may suspend immediately upon notice a permit issued under
29 AS 17.20.050 if it is found that the conditions of the permit have been violated. The
30 holder of a suspended permit may apply for the reinstatement of the permit, and the
31 commissioner, immediately after prompt hearing conducted by the office of

1 administrative hearings (AS 44.21.510) and an inspection of the establishment, shall
2 reinstate the permit if it is found that adequate measures have been taken to comply
3 with and maintain the conditions of the permit as originally issued or as amended.

4 * Sec. 45. AS 17.20.120 is amended to read:

5 **Sec. 17.20.120. Application for sale of new drugs.** The application provided
6 for in AS 17.20.110 is effective on the 60th day after the filing of it. If the
7 commissioner finds, after notice to the applicant and providing an opportunity for a
8 hearing conducted by the office of administrative hearings (AS 44.21.510), that the
9 drug is not safe for use under the conditions prescribed, recommended, or suggested in
10 the proposed labeling, the commissioner shall, before the effective date of the
11 application, issue an order refusing to permit the application to become effective. An
12 order refusing an application to become effective may be revoked by the
13 commissioner.

14 * Sec. 46. AS 17.20.360 is amended to read:

15 **Sec. 17.20.360. Attorney general to prosecute; hearing before report of**
16 **criminal violation.** The attorney general, to whom the commissioner of
17 environmental conservation or the commissioner of health and social services, as the
18 case may be, reports a violation of this chapter, shall institute appropriate proceedings
19 in the superior court without delay and prosecute them in the manner required by law.
20 Before a violation of this chapter is reported to the attorney general, the person against
21 whom the proceeding is contemplated shall be given appropriate notice and an
22 opportunity to respond to the appropriate commissioner in a hearing conducted by
23 the office of administrative hearings (AS 44.21.510), orally or in writing, in person
24 or by attorney, with regard to the contemplated proceeding.

25 * Sec. 47. AS 18.07.071 is amended by adding a new subsection to read:

26 (d) A hearing under this section shall be conducted by the office of
27 administrative hearings (AS 44.21.510).

28 * Sec. 48. AS 18.07.081(a) is amended to read:

29 (a) The department, a member of the public who is substantially affected by
30 activities authorized by the certificate, or another applicant for a certificate of need
31 may initiate a hearing to obtain modification, suspension, or revocation of an existing

1 certificate of need by filing an accusation with the commissioner as prescribed under
2 AS 44.62.360. A revocation, modification, or suspension of an outstanding certificate
3 may not be undertaken unless it is in accordance with AS 44.62.330 - 44.62.630. A
4 hearing under this subsection shall be conducted by the office of administrative
5 hearings (AS 44.21.510).

6 * Sec. 49. AS 18.18.030(b) is amended to read:

7 (b) The department may, without a hearing, summarily suspend a license of a
8 hospice program if it finds that the actions or deficiencies of the program have caused,
9 or present an immediate threat of causing, serious injury to a hospice program client.
10 A licensee is entitled to a hearing conducted by the office of administrative
11 hearings (AS 44.21.510) [BEFORE THE DEPARTMENT] to appeal the summary
12 suspension within seven days after the order of suspension is issued. A licensee may
13 appeal an adverse decision of the department on an appeal of a summary suspension to
14 the superior court. A summary suspension remains in effect until the department finds
15 that the actions or deficiencies are corrected, the license is revoked, or the licensee is
16 successful in appealing the suspension.

17 * Sec. 50. AS 18.18.030(c) is amended to read:

18 (c) The department may, without a hearing, reduce a hospice license to a
19 provisional license for a period of time established by the department if the department
20 finds that the licensee is temporarily unable to comply with 18.18.005 - 18.18.390 or
21 is in the process of becoming decertified under the Medicare program but is taking
22 appropriate steps to bring the program into compliance with 18.18.005 - 18.18.390 or
23 Medicare certification requirements. A licensee is entitled to a hearing conducted by
24 the office of administrative hearings [BEFORE THE DEPARTMENT] to appeal a
25 reduction to a provisional license under this subsection within seven days after the
26 order to reduce the license is issued. A licensee may appeal an adverse decision of the
27 department on an appeal of the order reducing the license to a provisional license to
28 the superior court. A program with a provisional license under this subsection may
29 not accept new clients. If the program fails to correct its deficiencies and does not
30 successfully appeal the order reducing the license to provisional status within the
31 period stipulated in the provisional license, the department shall revoke the license.

1 * **Sec. 51.** AS 18.20.180 is amended to read:

2 **Sec. 18.20.180. Approval of applications.** The commissioner of the
3 department shall give every applicant an opportunity for a fair hearing conducted by
4 the office of administrative hearings (AS 44.21.510). If, after giving reasonable
5 opportunity for development and presentation of applications in the order of relative
6 need, the commissioner of the department finds that a project application complies
7 with the requirements of AS 18.20.170 and conforms with the state plan, the
8 commissioner shall approve and recommend the application and forward it to the
9 surgeon general.

10 * **Sec. 52.** AS 18.20.330(a) is amended to read:

11 (a) Notwithstanding AS 44.62.330 - 44.62.630, the department, by regulation,
12 shall establish a hearing procedure by which a nursing facility may present evidence to
13 refute a deficiency found by the department, and by which it may appeal a sanction
14 imposed by order of the department under AS 18.20.310. A request for a hearing shall
15 be made in writing within 10 days after service of the department's order on the
16 nursing facility. Except for an order that takes effect immediately under
17 AS 18.20.310(b)(1), a request under this subsection has the effect of staying the
18 department's order until the hearing is concluded and the department makes a final
19 determination. The hearing shall be conducted by the office of administrative
20 hearings (AS 44.21.510).

21 * **Sec. 53.** AS 18.55.790 is amended to read:

22 **Sec. 18.55.790. Pleadings and hearing.** The complaint must contain a notice
23 of a hearing conducted by the office of administrative hearings (AS 44.21.510)
24 [BEFORE THE CORPORATION OR DESIGNATED AGENT] and the time and
25 place fixed for the hearing. The hearing shall be not less than 10 days nor more than
26 30 days after the service of the complaint. The complaint must state that the parties in
27 interest may file an answer to the complaint, appear, and give testimony at the place
28 and time fixed in the complaint.

29 * **Sec. 54.** AS 18.60.093(f) is amended to read:

30 (f) If an employer fails without good cause to appear at a hearing held under
31 this section after receiving proper notice of the hearing, the OSHA Review Board may

1 order the employer to pay all reasonable expenses incurred by the board or the office
2 of administrative hearings (AS 44.21.510) for the hearing, including the board's
3 actual travel expenses and per diem and actual travel expenses and per diem for the
4 hearing officer.

5 * Sec. 55. AS 18.67.040(a) is amended to read:

6 (a) Upon application made under the provisions of this chapter, the board shall
7 consider the application and rule on it. The board may, upon its own motion, order a
8 hearing, specifying the time and place it is to be held after consulting with the office
9 of administrative hearings (AS 44.21.510). If [; IF] a hearing is ordered, the board
10 shall give notice to the applicant. If, after consideration without a hearing, the
11 decision is unfavorable to the applicant, in whole or in part, the board shall furnish the
12 applicant a written statement of the reason for the ruling. If, within 30 days after
13 receipt of this statement, the applicant requests a hearing on the application, the board
14 shall specify a time and place for a hearing after consulting with the office of
15 administrative hearings, and shall give notice to the applicant. If a request for a
16 hearing is not made within the specified time, the decision of the board is final.

17 * Sec. 56. AS 18.67.040(b) is amended to read:

18 (b) For the purpose of carrying out the provisions of this chapter, the office of
19 administrative hearings (AS 44.21.510) shall [BOARD OR ITS HEARING
20 OFFICER MAY] hold the hearings, sit and act at the times and places, and take the
21 testimony that the [BOARD OR THE] hearing officer considers advisable. The
22 [BOARD OR ITS] hearing officer may administer oaths or affirmations to witnesses.
23 The hearing officer [BOARD] has full powers of subpoena and compulsion of
24 attendance of witnesses and production of documents, but a subpoena may not be
25 issued except under the signature of a member of the board. Application to a court for
26 aid in enforcing the subpoena may be made in the name of the board only by a board
27 member. Subpoenas are served by any person designated by the hearing officer or
28 the board.

29 * Sec. 57. AS 18.67.040(c) is amended to read:

30 (c) The applicant and any other person having a substantial interest in a
31 proceeding may appear and be heard, produce evidence, and cross-examine witnesses

1 in person or by an attorney. The [BOARD OR ITS] hearing officer also may hear
2 other persons who, in the judgment of the [BOARD OR THE] hearing officer, may
3 have relevant evidence to submit.

4 * Sec. 58. AS 18.80.060(c) is amended to read:

5 (c) A commissioner or an employee authorized by the commission may
6 administer oaths, certify to all official acts, and issue subpoenas, subpoenas duces
7 tecum, and other process to compel the attendance of witnesses and the production of
8 testimony, records, papers, accounts, and documents in any inquiry or [,] investigation
9 [, HEARING, OR PROCEEDING] before the commission in the state. The hearing
10 officer of the office of administrative hearings (AS 44.21.510) may administer
11 oaths, certify to all official acts, and issue subpoenas, subpoenas duces tecum, and
12 other process to compel the attendance of witnesses and the production of
13 testimony, records, papers, accounts, and documents in any hearing held under
14 this chapter. The commission, a commissioner, or an employee authorized by the
15 commission may petition a court of this state to enforce its subpoenas, subpoenas
16 duces tecum, and other process. The hearing officer may petition a court of this
17 state to enforce subpoenas, subpoenas duces tecum, and other process issued by
18 the hearing officer.

19 * Sec. 59. AS 18.80.120 is amended to read:

20 Sec. 18.80.120. Hearing. If the informal efforts to eliminate the alleged
21 discrimination are unsuccessful, the executive director shall inform the commission of
22 the failure, and the commission shall provide the respondent and the complainant with
23 notice of the failure and shall serve written notice, together with a copy of the
24 complaint, requiring the person, employer, labor organization, or employment agency
25 charged in the complaint to answer the allegations of the complaint at a hearing
26 [BEFORE THE COMMISSION]. The hearing shall be held by the office of
27 administrative hearings (AS 44.21.510) [COMMISSION] at the location of the
28 [COMMISSION] office unless a party requests a change of venue for good cause
29 shown, and the office [COMMISSION] grants the request. The case in support of the
30 complaint shall be presented before the office [COMMISSION] by the executive
31 director of the commission or a designee who shall be a bona fide resident of the

1 state. The person charged in the complaint may file a written answer to the complaint
2 and may appear at the hearing in person or otherwise, with or without counsel, and
3 submit testimony. The executive director has the power reasonably and fairly to
4 amend the complaint, and the person charged has the power reasonably and fairly to
5 amend the answer. The office of administrative hearings [COMMISSION] is not
6 bound by the strict rules of evidence prevailing in courts of law or equity. The
7 testimony taken at the hearing shall be under oath and shall be recorded.

8 * Sec. 60. AS 18.80.145(b) is amended to read:

9 (b) If, within the period allowed, [THE COMMISSION CONDUCTS] a
10 hearing is conducted and [REACHES] a decision is reached under AS 18.80.120 and
11 18.80.130, the decision of the commission is binding on the parties to the court action
12 as to all issues resolved in the hearing but not as to any issues not resolved in the
13 hearing.

14 * Sec. 61. AS 18.80.145(c) is amended to read:

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

20 * Sec. 62. AS 21.06.170(a) is amended to read:

21 (a) With respect to the subject of an examination or [,] investigation [, OR
22 HEARING] being conducted by the director or an examiner, if general written
23 authority has been given the examiner by the director, the director or the examiner
24 may subpoena witnesses and administer oaths or affirmations and examine any person
25 under oath, and may compel the production of records, books, papers, contracts, and
26 other documents by attachments, if necessary. If, in connection with an examination
27 of an insurer, the director desires to examine an officer, director, or manager who is
28 then outside this state, the director is authorized to conduct and to enforce by
29 appropriate and available means an examination under oath in another state or a
30 territory of the United States in which the officer, director, or manager may then
31 presently be, to the full extent permitted by the laws of the other state or territory, this

1 special authorization considered. A hearing officer from the office of
2 administrative hearings (AS 44.21.510) conducting a hearing under this title may,
3 in the course of the hearing, exercise the powers granted to the director under
4 this subsection.

5 * Sec. 63. AS 21.06.170(d) is amended to read:

6 (d) If a person disobeys or resists a lawful order of the hearing officer
7 [DIRECTOR], refuses to respond to a subpoena, refuses to take oath or affirmation as
8 a witness, refuses to be examined, or is guilty of misconduct at a hearing or so near the
9 hearing as to obstruct the proceeding, the hearing officer [DIRECTOR] shall certify
10 the facts to the superior court where the hearing is held, and, upon certification, the
11 court shall issue an order directing the person to appear before the court and show
12 cause why the person should not be punished for contempt.

13 * Sec. 64. AS 21.06.180(a) is amended to read:

14 (a) The office of administrative hearings (AS 44.21.510) [DIRECTOR] may
15 hold hearings for any purpose within the scope of this title considered to be necessary
16 by the director.

17 * Sec. 65. AS 21.06.180(b) is amended to read:

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

26 * Sec. 66. AS 21.06.200 is amended to read:

27 Sec. 21.06.200. Notice of hearing. Not less than 20 days in advance, the
28 hearing officer [DIRECTOR] shall give notice of the time and place of the hearing,
29 stating the matters to be considered at the hearing. If the persons to be given notice are
30 not specified in the provision under which the hearing is held, the hearing officer,
31 with assistance from the director, shall give notice to all persons whose pecuniary

1 interests are to be directly and immediately affected by the hearing.

2 * **Sec. 67.** AS 21.06.210(a) is amended to read:

3 (a) The hearing officer [DIRECTOR] shall allow a party to the hearing to
4 appear in person and by counsel, to be present during the giving of all evidence, to
5 have a reasonable opportunity to inspect all documentary evidence and to examine
6 witnesses, to present evidence in support of the party's interest, and to have subpoenas
7 issued by the hearing officer [DIRECTOR] to compel attendance of witnesses and
8 production of evidence in the party's behalf.

9 * **Sec. 68.** AS 21.06.210(b) is amended to read:

10 (b) The hearing officer [DIRECTOR] shall permit to become a party to the
11 hearing by intervention, if timely, any person who was not an original party to the
12 proceeding and whose pecuniary interests are to be directly and immediately affected
13 by the director's order made upon the hearing.

14 * **Sec. 69.** AS 21.06.210(d) is amended to read:

15 (d) Upon written request seasonably made by a party to the hearing and at that
16 person's expense, the hearing officer [DIRECTOR] shall cause a full stenographic
17 record of the proceedings to be made by a competent reporter. If transcribed, a copy
18 of the stenographic record shall be furnished to the director, without cost to the
19 director or the state, and shall be a part of the director's record of the hearing. If
20 transcribed, a copy of the stenographic record shall be furnished to any other party to
21 the hearing at the request and expense of the other party. If no stenographic record is
22 made or transcribed, the hearing officer [DIRECTOR] shall prepare an adequate
23 record of the evidence and of the proceedings.

24 * **Sec. 70.** AS 21.06.210(f) is amended to read:

25 (f) If the parties agree, the hearing officer [DIRECTOR] may conduct a
26 hearing under this section by teleconference.

27 * **Sec. 71.** AS 21.06.210(h) is amended to read:

28 (h) The hearing officer [DIRECTOR] may close a hearing to the public when
29 the hearing officer [DIRECTOR] finds the closure is necessary to protect a person
30 against unwarranted injury or is in the public interest.

31 * **Sec. 72.** AS 21.06.220(a) is amended to read:

1 (a) In conducting the hearing, the hearing officer [DIRECTOR] shall sit in a
2 quasi-judicial capacity. Within 30 days after termination of the hearing, rehearing, or
3 reargument, the director shall make an order on hearing, covering matters involved in
4 the hearing, rehearing, or reargument, and shall give a copy of the order to the same
5 persons given notice of the hearing.

6 * Sec. 73. AS 24.60.030 is amended by adding a new subsection to read:

7 (i) Except for supplying information requested by the hearing officer or
8 responding to contacts initiated by the hearing officer, a legislator or legislative
9 employee may not attempt to influence the outcome of an administrative hearing
10 conducted by the office of administrative hearings (AS 44.21.510) by directly or
11 indirectly contacting or attempting to contact the hearing officer assigned to the
12 hearing unless the

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

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

18 * Sec. 74. AS 25.27.150(e) is amended to read:

19 (e) The hearing officer from the office of administrative hearings
20 (AS 44.21.510) [CONFERENCE OFFICER] shall inform the obligor of the informal
21 conference decision either at the informal conference hearing or within 15 days after
22 the hearing.

23 * Sec. 75. AS 25.27.150(f) is amended to read:

24 (f) If the hearing [CONFERENCE] officer determines that withholding will
25 continue, the obligor may request a formal hearing as provided in the department's
26 regulations.

27 * Sec. 76. AS 25.27.160(b) is amended to read:

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

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

1 (2) the name of the alleged obligee and the obligee's custodian;
2 (3) that the alleged obligor may appear and show cause in a hearing
3 held by the office of administrative hearings (AS 44.21.510) [AGENCY] why the
4 finding is incorrect, should not be finally ordered, and should be modified or
5 rescinded, because

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

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

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

12 * Sec. 77. AS 25.27.160(c) is amended to read:

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

15 (1) that health care insurance shall be provided for the child to whom
16 the duty of support is owed if health care insurance is available to the alleged obligor
17 at a reasonable cost and that the alleged obligor and the other parent shall share
18 equally the cost of the health care insurance and the costs of reasonable health care
19 expenses not covered by insurance;

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

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

24 (A) no duty of support is owed;

25 (B) health care insurance for the child is not available to the
26 alleged obligor at a reasonable cost;

27 (C) adequate health care is available to the child through the
28 Indian Health Service or other insurance coverage; or

29 (D) there is good cause to allocate the costs of health insurance
30 or uninsured health care expenses unequally between the parents;

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

1 not request a hearing within 30 days, a copy of the medical support order will be sent
2 to the person's employer under AS 25.27.063(b) without further notice or hearing for
3 inclusion of the child in family health coverage if it is available through the person's
4 employer.

5 * **Sec. 78.** AS 27.21.150(a) is amended to read:

6 (a) Within 30 days after an applicant is notified under AS 27.21.140(c) of the
7 commissioner's decision concerning the application, the applicant or a person who is
8 or may be adversely affected by the decision may request a hearing to review the
9 reasons for the decision. The office of administrative hearings (AS 44.21.510)
10 [COMMISSIONER] shall hold the hearing within 30 days after the request, and the
11 commissioner, after consulting with the office, shall notify the interested parties of
12 the hearing at the time the applicant is notified. AS 44.62 (Administrative Procedure
13 Act) applies to a hearing under this section except as provided by regulations adopted
14 under this chapter and under AS 44.21.560.

15 * **Sec. 79.** AS 27.21.150(c) is amended to read:

16 (c) The hearing officer from the office of administrative hearings who is
17 [PERSON] presiding at the hearing may administer oaths, subpoena witnesses,
18 subpoena written or printed materials, compel the attendance of witnesses or the
19 production of materials, and take evidence including [BUT NOT LIMITED TO]
20 evidence derived from site inspections of the land that will be affected by the permit or
21 revision and other surface coal mining operations conducted by the applicant in the
22 general vicinity of the operation proposed in the application. On the motion of a party
23 or by order of the commissioner, a verbatim record of a hearing required by this
24 chapter shall be made and a transcript made available.

25 * **Sec. 80.** AS 27.21.170(g) is amended to read:

26 (g) A person with a valid legal interest that might be adversely affected by
27 release of a bond or deposit under this section or a federal, state, or municipal agency
28 that has jurisdiction over an environmental, social, or economic impact involved in the
29 permittee's operation or that has authority to develop and enforce environmental
30 standards with respect to the permittee's operation, may, within 30 days after the last
31 publication of notice required by (a) of this section, file written objections to the

1 request with the commissioner and may request a hearing. A permittee whose request
2 for release of all or part of a bond or deposit is disapproved may request a hearing
3 within 30 days after receipt of written notification of the disapproval under (c) of this
4 section. If a hearing is requested, the commissioner shall, after consulting the office
5 of administrative hearings (AS 44.21.510), inform the interested parties of the time
6 and place of the hearing, and the office of administrative hearings shall hold the
7 hearing within 30 days after the request for the hearing. The commissioner shall
8 publish the date, time, and location of the hearing in a newspaper of general
9 circulation in the locality for two consecutive weeks. The office of administrative
10 hearings [COMMISSIONER] shall conduct the public hearing and any appeal
11 according to the AS 44.62 (Administrative Procedure Act) except as provided by
12 regulations adopted under this chapter or under AS 44.21.560.

13 * Sec. 81. AS 27.21.190(b) is amended to read:

14 (b) The commissioner may not approve an application for revision of a permit
15 unless the commissioner finds that reclamation required by this chapter and the
16 regulations adopted under it can be accomplished under the necessary revisions to the
17 reclamation plan. The commissioner shall establish guidelines for determining the
18 extent of revision for which all permit application requirements and procedures,
19 including notice and hearing, shall apply. A revision that, in the commissioner's
20 determination, requires significant revisions to the applicant's reclamation plan must,
21 at a minimum, be subject to a notice and hearing requirement, with the hearing to be
22 held by the office of administrative hearings (AS 44.21.510).

23 * Sec. 82. AS 27.21.240(c) is amended to read:

24 (c) A person who is or may be adversely affected by a notice of violation or
25 cessation order issued under (a) or (b) of this section, or by a modification, vacation,
26 or termination of the notice or order, may apply to the commissioner for review of the
27 notice or order within 60 days after receipt of the notice or order by the operator or
28 permittee or within 60 days after the modification, vacation, or termination of the
29 notice or order. On receipt of the application, the commissioner shall provide for an
30 investigation and an investigation report, as the commissioner considers appropriate.
31 At the request of the applicant or another person who is or may be adversely affected,

1 the commissioner shall provide for a public hearing to enable the applicant to present
2 information relating to the notice or order or the modification, vacation, or termination
3 of the notice or order. The filing of an application for review under this subsection
4 may not operate as a stay of the order or notice. The commissioner, after consulting
5 with the office of administrative hearings (AS 44.21.510), shall give the applicant
6 and other interested persons written notice of the time and place of the hearing at least
7 five days before the hearing. AS 44.62 ([THE] Administrative Procedure Act
8 [(AS 44.62)] applies to a hearing under this subsection except as provided by
9 regulations adopted under this chapter or under AS 44.21.560.

10 * Sec. 83. AS 27.21.240(e) is amended to read:

11 (e) An applicant for review under (c) of this section may file with the
12 commissioner a written request for temporary relief from a notice or order issued
13 under (a) or (b) of this section before completion of the review of the notice or order.
14 The written request must include a detailed statement of the reasons in support of the
15 request. The commissioner shall expeditiously issue an order granting or denying the
16 temporary relief. If the applicant requests temporary relief from a cessation order
17 issued under (a) or (b) of this section, the commissioner shall issue an order granting
18 or denying the temporary relief within 10 days after the commissioner receives the
19 written request. The commissioner may grant the temporary relief under this
20 subsection only

21 (1) after the office of administrative hearings [COMMISSIONER]
22 holds a hearing in the locality of the permit area on the request for temporary relief in
23 which the parties have an opportunity to be heard;

24 (2) if the applicant shows that there is substantial likelihood that the
25 findings of the commissioner under (d) of this section will be favorable to the
26 applicant; and

27 (3) if the temporary relief will not adversely affect the health or safety
28 of the public or cause significant, imminent, environmental harm to land, air, or water
29 resources.

30 * Sec. 84. AS 34.45.400(c) is amended to read:

31 (c) At the formal hearing, the hearing officer from the office of

1 administrative hearings (AS 44.21.510) [DEPARTMENT] may subpoena witnesses
2 and may administer oaths and make inquiries necessary to determine the validity of
3 the claim. The person aggrieved may present arguments and evidence relevant to the
4 decision or action of the department. If, after the hearing, the department determines
5 that a correction is warranted, the department shall make the correction.

6 * **Sec. 85.** AS 36.30.615 is amended to read:

7 **Sec. 36.30.615. Hearing on protest appeal.** A hearing on a protest appeal
8 shall be conducted in accordance with AS 36.30.670 and regulations adopted by the
9 commissioner to the extent they do not conflict with regulations adopted under
10 AS 44.21.560.

11 * **Sec. 86.** AS 36.30.630(a) is amended to read:

12 (a) Except as provided in (b) of this section, a hearing shall be conducted
13 according to AS 36.30.670 and, to the extent they do not conflict with regulations
14 adopted under AS 44.21.560, regulations adopted by the commissioner of
15 administration on a contract controversy appealed to the commissioner of
16 administration or the commissioner of transportation and public facilities or referred to
17 either commissioner under AS 36.30.620(f).

18 * **Sec. 87.** AS 36.30.635(a) is amended to read:

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

27 * **Sec. 88.** AS 36.30.650 is amended to read:

28 **Sec. 36.30.650. Hearing on a suspension.** (a) A person suspended under
29 AS 36.30.635 is entitled to a hearing conducted according to AS 36.30.670 and, to the
30 extent that they do not conflict with regulations adopted under AS 44.21.560,
31 regulations adopted by the commissioner of administration if the person files a written

1 request for a hearing with the commissioner of administration or the commissioner of
2 transportation and public facilities, as appropriate, within seven days after receipt of
3 the notice of suspension under AS 36.30.645.

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

11 * **Sec. 89.** AS 36.30.670(a) is amended to read:

12 (a) The chief administrative hearing officer (AS 44.21.510)
13 [COMMISSIONER OF ADMINISTRATION OR THE COMMISSIONER OF
14 TRANSPORTATION AND PUBLIC FACILITIES] shall act as a hearing officer [OR
15 APPOINT A HEARING OFFICER] for a hearing conducted under this chapter. The
16 hearing officer shall arrange for a prompt hearing and notify the parties in writing of
17 the time and place of the hearing. The hearing shall be conducted in an informal
18 manner. The provisions of AS 44.62 (Administrative Procedure Act) do not apply to a
19 hearing conducted under this chapter.

20 * **Sec. 90.** AS 36.30.675(a) is amended to read:

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

27 * **Sec. 91.** AS 39.25.120(b) is amended to read:

28 (b) A person holding a position in the partially exempt service is not required
29 to complete an assessment and is not eligible for a hearing [BY THE PERSONNEL
30 BOARD] in case of dismissal, demotion, or suspension. Positions in the partially
31 exempt service are specifically exempt from the rules established under

1 AS 39.25.150(3) - (10), (12), (13), and (16).

2 * Sec. 92. AS 39.25.120(c) is amended by adding a new paragraph to read:

3 (20) the chief administrative hearing officer and hearing officers of the
4 office of administrative hearings established in AS 44.21.510.

5 * Sec. 93. AS 39.25.170(a) is amended to read:

6 (a) An employee in the classified service who is dismissed, demoted, or
7 suspended for more than 30 working days in a 12-month period shall be notified in
8 writing by the employer of the action and the reason for it, [AND] may be heard
9 publicly by a hearing officer from the office of administrative hearings
10 (AS 44.21.510), [THE PERSONNEL BOARD] and may be represented by counsel at
11 the hearing. In order to be heard, the complainant shall request a hearing within 15
12 days of dismissal, demotion, or suspension.

13 * Sec. 94. AS 39.25.176(a) is amended to read:

14 (a) If a person refuses to respond to a subpoena issued under AS 39.25.175, or
15 refuses to testify at a hearing authorized by AS 39.25.170, the hearing officer
16 [PERSONNEL BOARD] may apply to the superior court for an order requiring the
17 person to respond to the subpoena or to testify.

18 * Sec. 95. AS 39.35.030(d) is amended to read:

19 (d) The governor shall appoint two physicians authorized to practice medicine
20 in the state to serve as members of the board and two physicians authorized to practice
21 medicine in the state to serve as alternate members to the physician members of the
22 board. The physicians are members of the board only for the purpose of assisting the
23 hearing officer from the office of administrative hearings (AS 44.21.510) in
24 hearing appeals to determine medical eligibility for disability benefits under
25 AS 39.35.400 and 39.35.410. If the administrator, after making a reasonable effort to
26 secure the participation of two physician members or alternates to serve on a disability
27 appeal, is unable to do so, the hearing officer [BOARD] may hear the appeal with the
28 assistance [PARTICIPATION] of only one physician member or alternate [, IN
29 WHICH CASE, FOR PURPOSES OF A QUORUM, THE BOARD SHALL BE
30 CONSIDERED TO HAVE ONLY ONE PHYSICIAN AS A MEMBER]. The Public
31 Employees' Retirement Board and the Teachers' Retirement Board may submit to the

1 governor a list of recommended physicians to serve on the board. Physician members
2 serve at the pleasure of the governor.

3 * Sec. 96. AS 39.35.047(b) is amended to read:

4 (b) In the conduct of a hearing under this chapter, the hearing officer from
5 the office of administrative hearings (AS 44.21.510) [BOARD] may issue
6 subpoenas, administer oaths, compel the attendance and testimony of witnesses,
7 compel the taking of depositions and the submission of affidavits, and compel the
8 production of documents and records. The hearing officer's [BOARD'S] powers
9 under this subsection do not extend to prehearing discovery. However, upon good
10 cause shown, the hearing officer [BOARD] may permit the preservation of witness
11 testimony if the hearing officer [BOARD] cannot successfully compel the witness to
12 attend a hearing. The board may authorize hearing officers to [CONDUCT
13 HEARINGS UNDER THIS CHAPTER AND] issue binding decisions. The binding
14 [; THE] decision of a hearing officer may be appealed to the board. The board shall
15 adopt procedures for appeals from a hearing officer's binding decision.

16 * Sec. 97. AS 39.35.522(c) is amended to read:

17 (c) The board may arrange with the office of administrative hearings
18 (AS 44.21.510) to conduct a hearing on an appeal under this section.

19 * Sec. 98. AS 39.45.025(a) is amended to read:

20 (a) The Public Employees Retirement Board established by AS 39.35.030
21 shall

22 (1) hold regular and special meetings it considers necessary to carry
23 out its responsibilities relating to the deferred compensation program for state
24 employees; all meetings are open to the public and the board shall keep a full record of
25 all its proceedings;

26 (2) adopt, with modifications it considers proper, regulations
27 recommended by the administrator for carrying out the deferred compensation
28 program for state employees;

29 (3) consider matters referred to it by the administrator in connection
30 with changes in policy and revisions of the deferred compensation program for state
31 employees;

1 (4) act as an appeals board, arrange with the office of administrative
2 hearings (AS 44.21.510) to hold hearings at the request of an employer, employee,
3 surviving spouse, or a beneficiary on decisions made by the administrator that relate to
4 the deferred compensation program for state employees, and submit its findings to the
5 administrator;

6 (5) prescribe the policies for the proper operation of the deferred
7 compensation program for state employees and take other action that it considers
8 necessary to carry out the intent and purpose of the program.

9 * Sec. 99. AS 39.52.120 is amended by adding a new subsection to read:

10 (e) Except for supplying information requested by the hearing officer or
11 responding to contacts initiated by the hearing officer, a public officer may not attempt
12 to influence the outcome of an administrative hearing conducted by the office of
13 administrative hearings (AS 44.21.510) by directly or indirectly contacting or
14 attempting to contact the hearing officer assigned to the hearing unless the

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

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

19 * Sec. 100. AS 39.52.350(c) is amended to read:

20 (c) If the subject of the accusation denies that a violation of this chapter has
21 occurred, the attorney general shall refer the matter to the chief administrative
22 hearing officer (AS 44.21.510), who [PERSONNEL BOARD, WHICH] shall appoint
23 a hearing officer to conduct a hearing.

24 * Sec. 101. AS 41.17.045(a) is amended to read:

25 (a) The governor may initiate the removal of a board member for inefficiency,
26 neglect of duty, or misconduct in office by delivering to the member a written copy of
27 the charges and giving the member an opportunity to be heard in person or by counsel
28 at a public hearing before a hearing officer of the office of administrative hearings
29 (AS 44.21.510) [THE GOVERNOR OR THE GOVERNOR'S DESIGNEE] on at least
30 10 days' written notice by registered mail. The member has a right of confrontation
31 and cross-examination of witnesses testifying.

1 * Sec. 102. AS 41.17.139(a) is amended to read:

2 (a) Unless otherwise specified, proceedings under AS 41.17.131 - 41.17.139
3 are not subject to AS 44.62 (Administrative Procedure Act). A hearing under
4 AS 41.17.136 or 41.17.138 shall be held before [THE STATE FORESTER, A
5 REGIONAL FORESTER, OR ANOTHER EMPLOYEE OF THE DIVISION WITH
6 SIMILAR QUALIFICATIONS ACTING AS] a hearing officer of the office of
7 administrative hearings (AS 44.21.510). A hearing on an appeal under
8 AS 41.17.087 and a hearing under AS 41.17.082(b) shall also be held before a
9 hearing officer of the office of administrative hearings [THE COMMISSIONER
10 OR THE COMMISSIONER'S DESIGNEE. A PERSON WHO HAS ASSISTED IN
11 THE PREPARATION OF THE DIVISION'S CASE IS INELIGIBLE]. Hearings are
12 not limited by common law, statutory, or judicial rules of evidence; however, the
13 hearing officer may admit only that evidence that appears to be reliable and
14 trustworthy. All hearings shall be open to the public. Written or oral testimony may
15 be submitted. A party to a hearing may make written or oral argument, secure the
16 issuance of a subpoena under AS 44.62.430, offer testimony or other evidence, and
17 cross-examine witnesses. The hearing officer shall endeavor, in conducting any
18 hearing, to ensure that the respondent understands the proceedings and that the facts
19 supporting the position of each party have been adequately presented.

20 * Sec. 103. AS 43.23.015(g) is amended to read:

21 (g) If an individual is aggrieved by a decision of the department determining
22 the individual's eligibility for a permanent fund dividend or the individual's authority
23 to claim a permanent fund dividend on behalf of another, the individual may, upon
24 payment of a \$25 appeal fee, request the department to review its decision. Within 12
25 months after the administrative appeal is filed and after a hearing conducted by the
26 office of administrative hearings (AS 44.21.510), the department shall provide the
27 individual with a final written decision. If the individual is aggrieved by the decision
28 of the department after all administrative proceedings, the individual may appeal that
29 decision to the superior court in accordance with AS 44.62.560. An appeal to the court
30 under this section does not entitle the aggrieved individual to a trial de novo. The
31 appeal shall be based on the record of the administrative proceeding from which

1 appeal is taken and the scope of appeal is limited to matters contained in the record of
2 the administrative proceeding. If, as a result of an administrative proceeding or a court
3 appeal, the individual prevails, the \$25 appeal fee shall be returned to the individual
4 by the department.

5 * **Sec. 104.** AS 43.23.066(c) is amended to read:

6 (c) AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual
7 under (b)(3) of this section. The hearing shall be conducted by the office of
8 administrative hearings (AS 44.21.510).

9 * **Sec. 105.** AS 43.23.068(c) is amended to read:

10 (c) AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual
11 under (b)(3) of this section. The hearing shall be conducted by the office of
12 administrative hearings (AS 44.21.510).

13 * **Sec. 106.** AS 43.23.072(c) is amended to read:

14 (c) Except as provided in (d) of this section, AS 44.62.330 - 44.62.630 apply
15 to a hearing requested by an individual under (b) of this section. The hearing shall be
16 conducted by the office of administrative hearings (AS 44.21.510) and

17 (1) is limited to issues of identity of the individual and whether an
18 amount is still owing in the claim under AS 23.20; and

19 (2) may be conducted telephonically or in writing.

20 * **Sec. 107.** AS 43.70.075(m) is amended to read:

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

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

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

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

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

17 * Sec. 108. AS 43.70.075(q) is amended to read:

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

22 * Sec. 109. AS 44.62.350(a) is amended to read:

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

28 * Sec. 110. AS 44.62.450(a) is amended to read:

29 (a) A hearing in a contested case shall be presided over by a hearing officer.
30 Unless the hearing is conducted by the office of administrative hearings
31 (AS 44.21.510), the [THE] agency itself shall determine whether the hearing officer

1 hears the case alone or whether the agency hears the case with the hearing officer.

2 * **Sec. 111.** AS 44.77.040(a) is amended to read:

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

8 * **Sec. 112.** AS 45.30.040(c) is amended to read:

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

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

18 (2) if the department determines that violations of the provisions of
19 this chapter are regular and recurring, it may require forfeiture of the bond to the
20 benefit of the state and arrange for distribution of the proceeds of the bond to the
21 mobile home owners injured by the activities of the dealer or manufacturer, or to
22 mobile home dealers injured by the activities of the manufacturer.

23 * **Sec. 113.** AS 45.55.935 is amended to read:

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

29 (1) orders issued under AS 45.55.120, 45.55.900(d), or 45.55.920; in
30 these instances, the administrator shall promptly send a notice of opportunity for
31 hearing to the issuer of the securities and to all persons who have filed with the

1 department a notice of intention to sell the securities; and

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

7 (b) In conducting a hearing in accordance with (a) of this section, the hearing
8 officer [ADMINISTRATOR] may issue a subpoena to compel the attendance of any
9 witness or party and to compel production of evidence.

10 * Sec. 114. AS 45.55.950(e) is amended to read:

11 (e) Every hearing in an administrative proceeding shall be public unless the
12 hearing officer, [ADMINISTRATOR] in the exercise of discretion, grants a request
13 joined in by all the respondents that the hearing be conducted privately.

14 * Sec. 115. AS 45.57.020(a) is amended to read:

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

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

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

26 * Sec. 116. AS 45.57.020(b) is amended to read:

27 (b) A hearing shall begin within 20 days of the date of filing of the statement,
28 and adjudication shall be made within 30 days of the filing unless extended by the
29 hearing officer [DEPARTMENT] for the convenience of the parties or protection of
30 the offerees.

31 * Sec. 117. AS 46.03.820(c) is amended to read:

1 (c) In the commissioner's discretion or upon application made by the recipient
2 of an order within 15 days of receipt of the order, the department, after consulting
3 with the office of administrative hearings (AS 44.21.510), shall schedule a hearing
4 at the earliest possible time. The hearing shall be scheduled within five days of the
5 receipt of the application. The submission of an application or the scheduling of a
6 hearing does not stay the operation of the department's order issued under (a) of this
7 section.

8 * Sec. 118. AS 46.03.850(e) is amended to read:

9 (e) The office of administrative hearings (AS 44.21.510) [DEPARTMENT]
10 shall hold a hearing within 20 days after the department receives [RECEIPT OF] a
11 request for one under (d) of this section. After the hearing, the department may
12 rescind, modify, or affirm the compliance order.

13 * Sec. 119. AS 46.14.410(a) is amended to read:

14 (a) If a municipality or a local air quality district has an approved local air
15 quality control program under AS 46.14.400 and the department determines that the
16 program is being implemented in a manner that fails to meet the terms of the
17 cooperative agreement or is otherwise being inappropriately administered, the
18 department shall give written notice setting out its determination to the municipality or
19 local air quality district. Within 45 days after [GIVING] written notice was given, the
20 office of administrative hearings (AS 44.21.510) [DEPARTMENT] shall conduct a
21 public hearing on the matter. The hearing shall be recorded by any means that ensures
22 an accurate record.

23 * Sec. 120. AS 46.15.065(c) is amended to read:

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

1 * Sec. 121. AS 46.35.090(c) is amended to read:

2 (c) A hearing officer appointed by the chief administrative hearing officer
3 (AS 44.21.510) [UNDER AS 44.62.350] shall preside at hearings under this section,
4 rule on the admission and exclusion of evidence, advise the deciding officers on
5 matters of law, and participate in posthearing deliberations.

6 * Sec. 122. AS 46.35.090(e) is amended to read:

7 (e) The commissioner, after consultation with other state agencies and local
8 government, shall adopt regulations governing the conduct of adjudicatory hearings
9 under this section that do not conflict with regulations adopted under
10 AS 44.21.560. The commissioner may enter into cooperative agreements with local
11 governments and federal agencies for the joint holding of adjudicatory hearings. To
12 the extent feasible, regulations adopted under this section must conform to
13 adjudicatory hearing procedures for the review of permit decisions under AS 46.03
14 and AS 46.04. Notwithstanding AS 44.62.330(a)(44), adjudicatory hearing procedures
15 to review permit decisions under AS 46.35.010 - 46.35.210, or under AS 46.03 or
16 AS 46.04, need not conform to AS 44.62.330 - 44.62.630 (Administrative Procedure
17 Act).

18 * Sec. 123. AS 46.40.100(b) is amended to read:

19 (b) A party that is authorized under (g) of this section may file a petition
20 showing that a district coastal management program is not being implemented. A
21 petition filed under this subsection may not seek review of a proposed or final
22 consistency determination regarding a specific project. On receipt of a petition, the
23 council, after giving public notice in the manner required by (f) of this section, shall
24 arrange with the office of administrative hearings (AS 44.21.510) to conduct
25 [CONVENE] a hearing to consider the matter. A hearing called under this subsection
26 shall be held in accordance with regulations adopted by the council to the extent that
27 they do not conflict with regulations adopted under AS 44.21.560. After hearing,
28 the council may order that the coastal resource district or a state resource agency take
29 any action with respect to future implementation of the district coastal management
30 program that the council considers necessary, except that the council may not order
31 that the coastal resource district or a state agency take any action with respect to a

1 proposed or final consistency determination that has been issued.

2 * **Sec. 124.** AS 46.40.100(f) is amended to read:

3 (f) Upon receipt of a petition under (b) of this section and after consulting
4 with the office of administrative hearings, the council shall give notice of the
5 hearing at least 10 days before the scheduled date of the hearing. The notice must

6 (1) contain sufficient information in commonly understood terms to
7 inform the public of the nature of the petition; and

8 (2) indicate the manner in which the public may comment on the
9 petition.

10 * **Sec. 125.** AS 47.30.031(a) is amended to read:

11 (a) The board shall adopt regulations under AS 44.62 (Administrative
12 Procedure Act) consistent with state law and the fiduciary responsibilities imposed by
13 law on members of boards of directors of corporations having trust responsibilities
14 and consistent with regulations adopted under AS 44.21.560.

15 * **Sec. 126.** AS 47.45.050 is amended to read:

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

24 * **Sec. 127.** AS 39.25.070(3) is repealed.

25 * **Sec. 128.** The uncodified law of the State of Alaska is amended by adding a new section
26 to read:

27 **TRANSITION.** (a) Upon the initial appointment of the chief administrative hearing
28 officer under AS 44.21.510(c), added by sec. 2 of this Act, the chief administrative hearing
29 officer and the commissioner of administration, the commissioner of community and
30 economic development, the commissioner of revenue, and the governor's office shall identify
31 hearing officers and support staff to be transferred to the office of administrative hearings. A

1 state employee who is transferred under this section from another agency to the office of
2 administrative hearings shall continue to be compensated at the same range and step of the
3 salary schedule in AS 39.27.011(a) that the employee was receiving before the transfer, and
4 qualifies for salary increases authorized under AS 39.27.011 and 39.27.022.

5 (b) Procedural regulations of an agency that refers an administrative hearing to the
6 office of administrative hearings shall apply to the hearing until regulations adopted under
7 AS 44.21.560(a), added in sec. 2 of this Act, become effective.

An Act establishing an Independent Office of Administrative Hearings.

Section By Section Quick Reference (based on version X, 02/04/04)

- Section 1.** Purpose and intent
- Section 2.** 44.21.510 Establishes location of independent office of administrative hearings and qualifications and compensation of chief hearing officer.
- 44.21.520 Powers and duties of chief hearing officer.
- 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 Hearing officer qualifications and duties. Authority for chief administrative hearing officer to enter into contracts with qualified individuals to serve as hearing officers.
- 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 a hearing officer decision.
- 44.21.570 Disqualification of hearing officer.
- 44.21.580 Agency cooperation with hearing officers. Selection of hearing officers. Non-interference.
- 44.21.590 Administrative hearing records. Record keeping requirements.
- 44.21.595 Federal requirement resolutions
- 44.21.599 Definitions

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 – 70	Conforming technical amendments
Section 71	Brings certain sections of DEC into Central Panel after 2 years
Sections 72 – 84	Conforming technical amendments to affected statutes.
Sections 85 – 90	Applicability, regulatory authority, transition authority and timing to accommodate changes in administrative process.

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 and to hearing officers; establishing the
2 office of administrative hearings and relating to that office; and providing for an
3 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 **PURPOSE 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 hearing officer.

14 (b) The chief administrative hearing officer 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 hearing officer 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 hearing officer. The governor may remove the chief
24 administrative hearing officer 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 hearing officer shall be filled by the
27 governor and the individual appointed serves for the remainder of the term to which
28 appointed.

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

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partially exempt service.

Sec. 44.21.520. Powers and duties of chief administrative hearing officer.

The chief administrative hearing officer shall

- (1) supervise the office;
- (2) employ administrative staff, who shall be in the classified service;
- (3) employ hearing officers, who shall be in the partially exempt service;
- (4) preside over administrative hearings handled by the office or, based upon the qualifications and expertise of the hearing officers, assign hearing officers to preside over hearings, and protect, support, and enhance the decisional independence of the hearing officers;
- (5) establish and implement performance standards, including provision for timeliness, and peer review programs for hearing officers employed or retained by the office;
- (6) make available and facilitate training and continuing education programs and services in administrative procedure, administrative adjudication, substantive law, alternate dispute resolution, and technical matters for hearing officers and other administrative adjudicators;
- (7) survey administrative hearing participants and use other methods to monitor the quality of administrative hearings held by the office and other state agencies, and submit to the governor and the legislature on January 31 of each year the results of the survey along with a report that includes a description of the activities of the office and recommendations for statutory changes that may be needed in relation to the administrative hearings held by the office or other state agencies;
- (8) review and comment on regulations proposed by state agencies to govern procedures in administrative hearings;
- (9) enter into contracts as necessary to carry out the functions of the office;
- (10) annually prepare and submit to the commissioner of administration a budget for the office for the next fiscal year that shall include and separately identify funding for training and continuing education; a copy of the budget

1 submitted to the commissioner under this paragraph shall also be submitted to the
2 Finance Committee of each house of the legislature; and

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

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

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

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

- 1 (20) AS 18.60 (safety);
- 2 (21) AS 18.67.040 (Violent Crimes Compensation Board);
- 3 (22) AS 18.80 (State Commission for Human Rights);
- 4 (23) AS 21 (insurance);
- 5 (24) AS 25.27 (child support enforcement);
- 6 (25) AS 32.06 (Uniform Partnership Act);
- 7 (26) AS 34.45 (unclaimed property);
- 8 (27) AS 34.55.024 and 34.55.026 (Uniform Land Sales Practices Act);
- 9 (28) AS 36.30 (State Procurement Code);
- 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 hearing officer assigned to conduct the hearing on behalf of the agency the authority to
29 make a final agency decision in the matter. The final decision may be appealed to the
30 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. Hearing officers.** (a) A hearing officer must be admitted to
3 practice law in this state and must have been admitted to practice in this state for at
4 least two years before being employed or retained with the office. The chief
5 administrative hearing officer shall establish additional qualifications for hearing
6 officers employed or retained by the office and for those hearing officers that may be
7 assigned to particular types of cases.. Notwithstanding AS 39.25.120(b), full-time
8 hearing officers employed by the office are subject to the personnel rules adopted
9 under AS 39.25.150(7), (15), and (16).

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

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

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

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

23 (c) A hearing officer employed by the office must devote full time to the
24 duties of the office unless appointed to a position that is less than full-time. A hearing
25 officer employed by the office may not perform duties inconsistent with the duties and
26 responsibilities of a hearing officer.

27 (d) The office may enter into a contract with an individual who meets the
28 qualifications established in (a) of this section to serve as a hearing officer in a
29 particular administrative hearing or in several hearings of the same type. The
30 individual is subject to AS 39.52 (Alaska Executive Branch Ethics Act).
31 Notwithstanding AS 36.30.015(d), the office may contract for or hire a hearing officer

1 without notifying or securing the approval of the Department of Law.

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

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

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

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

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

28 **Sec. 44.21.560. Procedure for hearings.** (a) The chief administrative
29 hearing officer shall, by regulation, establish procedures for administrative hearings
30 conducted by the office. Each administrative hearing under the jurisdiction of the
31 office or that has been transferred to the office by an agency shall be conducted in

1 accordance with statutes that apply to that hearing, including, if applicable, AS 44.62
2 (Administrative Procedure Act). In case of conflict between this section and another
3 applicable statute establishing procedures for administrative hearings, the other statute
4 prevails. However, to the extent regulations adopted by an agency for the conduct of
5 an administrative hearing conflict with regulations adopted by the chief administrative
6 hearing officer under this subsection, the regulations adopted by the chief
7 administrative hearing officer control to the maximum extent possible without
8 conflicting with applicable statutes.

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

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

22 (d) A hearing officer employed or retained by the office shall, within 120 days
23 after the date the agency received the request for a hearing, prepare a proposed
24 decision, unless another time period is provided by law or agreed to by the parties and
25 the chief administrative hearing officer. The hearing officer shall immediately submit
26 the proposed decision to the agency.

27 (e) A proposed decision in an administrative hearing shall be in a form that
28 may be adopted as the final decision by the agency with authority to make the final
29 decision. The proposed decision is a public record. A copy of the proposed decision
30 shall be served by the office on each party in the case or on the attorneys representing
31 those parties in the hearing. The agency with authority to make a final decision in the

1 case retains agency discretion in the final disposition of the case and shall, within 30
2 days after the date the proposed decision is served or at the next regularly scheduled
3 meeting that occurs at least 30 days after the proposed decision is served, do one or
4 more of the following:

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

6 (2) return the case to the hearing officer to take additional evidence or
7 make additional findings or for other specific proceedings, in which case the hearing
8 officer shall complete the additional work and return the revised proposed decision to
9 the agency within 30 days after the original decision was returned under this
10 paragraph;

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

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

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

22 (f) If a final decision is not issued timely in accordance with (e) of this section,
23 the hearing officer's proposed decision is the final agency decision.

24 **Sec. 44.21.570. Disqualification of hearing officer.** (a) The chief
25 administrative hearing officer or a hearing officer employed or retained by the office is
26 disqualified from a case in which the officer cannot accord a fair and impartial hearing
27 or for other reasons established in the code of hearing officer conduct.

28 (b) A party may request the disqualification of the chief administrative hearing
29 officer or a hearing officer by filing an affidavit, before the taking of evidence at a
30 hearing, stating with particularity the grounds upon which it is claimed that a fair and
31 impartial hearing cannot be accorded by that officer. Notwithstanding

1 AS 44.62.450(c), upon receipt of the affidavit, the hearing officer assigned to the
2 administrative hearing shall make a determination. If the affiant objects to the
3 decision, the matter shall be decided by the chief administrative hearing officer, whose
4 decision is final, or if the hearing is assigned to the chief administrative hearing
5 officer, by the attorney general, whose decision is final.

6 **Sec. 44.21.580. Agency cooperation.** (a) All agencies shall cooperate with
7 the chief administrative hearing officer and with other hearing officers of the office in
8 the matters involving the duties of the office.

9 (b) Except as provided under AS 44.21.570 or by regulation adopted under
10 this chapter, an agency may not select or reject a particular hearing officer for
11 assignment to an administrative hearing.

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

16 **Sec. 44.21.590. Administrative hearing records.** (a) The office shall
17 acquire and organize statistical and other information relating to administrative
18 hearings of the office and of other agencies. The office shall acquire and organize
19 copies of proposed and final agency decisions in contested cases and copies of court
20 decisions resulting from those contested cases. The information and decisions shall be
21 made available to the public, agencies, and legislature. The office shall make final
22 agency decisions available online through an electronic data base.

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

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

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

28 (1) "administrative hearing" means a quasi-judicial hearing before an
29 agency;

30 (2) "agency" means an agency of the executive branch of state
31 government, including an officer, a division, or another subunit of an agency, a board

1 or commission, a public corporation, and the University of Alaska;

2 (3) "hearing officer" means an individual who presides over the
3 conduct of an administrative hearing and who is retained or employed by an agency
4 for that purpose;

5 (4) "office" means the office of administrative hearings established in
6 AS 44.21.510.

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

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

11 (1) if an application is denied, the notice of denial shall be furnished
12 the applicant immediately in writing stating the reason for the denial in clear and
13 concise language; the notice of denial must inform the applicant that the applicant is
14 entitled to an informal conference with either the director or the board, and that, if not
15 satisfied by the informal conference, the applicant is then entitled to a formal hearing
16 conducted before a hearing officer from the office of administrative hearings
17 (AS 44.21.510) [THE BOARD]; if the applicant requests a formal hearing, the office
18 of administrative hearings [BOARD] shall adhere to AS 44.62.330 - 44.62.630
19 (Administrative Procedure Act); all interested persons may be heard at the hearing and
20 unless waived by the applicant and the board, the formal hearing shall be held in the
21 area for which the application is requested;

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

28 (3) if a petition containing the signatures of 35 percent of the adult
29 residents having a permanent place of abode outside of but within two miles of an
30 incorporated city or an established village is filed with the board, the board shall hold
31 a public hearing on the question of whether the issuance, renewal, or transfer of the

1 license in the city or village would be in the public interest;

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

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

6 **Sec. 05.20.080. Application of Administrative Procedure Act.** The
7 procedure for review of the orders or actions of the department, its agents or
8 employees, is the same as that contained in AS 44.62 (Administrative Procedure Act).
9 **Administrative hearings on contested cases shall be conducted by the office of**
10 **administrative hearings (AS 44.21.510).**

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

12 (f) Hearings required or authorized under this title are not subject to
13 AS 44.62.330 - 44.62.630, except as required by AS 44.62.560 and 44.62.570. The
14 department shall adopt regulations, consistent with the provisions of this title,
15 establishing procedures for hearings held under this section. **Administrative**
16 **hearings on contested cases shall be conducted by the office of administrative**
17 **hearings (AS 44.21.510).**

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

19 (c) A board may summarily suspend a licensee from the practice of the
20 profession before a final hearing is held or during an appeal if the board finds that the
21 licensee poses a clear and immediate danger to the public health and safety. A person
22 is entitled to a hearing **conducted by the office of administrative hearings**
23 **(AS 44.21.510)** [BEFORE THE BOARD] to appeal the summary suspension within
24 seven days after the order of suspension is issued. A person may appeal an adverse
25 decision of the board on an appeal of a summary suspension to a court of competent
26 jurisdiction.

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

28 (b) If it appears to the commissioner that a person has engaged in or is about
29 to engage in an act or practice in violation of a provision of this chapter or a regulation
30 adopted under it, or a provision of AS 43.70, or a provision of this title or regulation
31 adopted under this title dealing with an occupation or board listed in AS 08.01.010, the

1 commissioner may, if the commissioner considers it in the public interest, and after
2 notification of a proposed order or action by telephone, telegraph, or facsimile to all
3 board members, if a board regulates the act or practice involved, unless a majority of
4 the members of the board object within 10 days,

5 (1) issue an order directing the person to stop the act or practice;
6 however, reasonable notice of and an opportunity for a hearing must first be given to
7 the person, except that the commissioner may issue a temporary order before a hearing
8 is held; a temporary order remains in effect until a final order affirming, modifying, or
9 reversing the temporary order is issued or until 15 days after the person receives the
10 notice and has not requested a hearing by that time; a temporary order becomes final if
11 the person to whom the notice is addressed does not request a hearing within 15 days
12 after receiving the notice; if the hearing involves AS 08.08, AS 08.62.046, or a
13 regulation adopted under those statutes, the commissioner or the commissioner's
14 designee shall be the hearing officer at the hearing and shall issue a final order within
15 10 days after the hearing; otherwise the hearing shall be conducted by the office of
16 administrative hearings (AS 44.21.510);

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

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

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

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

28 (c) The department may summarily suspend a license before final hearing or
29 during the appeals process if the department finds that the licensee poses a clear and
30 immediate danger to the public welfare and safety if the licensee continues to practice.
31 An individual whose license is suspended under this subsection is entitled to a hearing

1 conducted by the office of administrative hearings (AS 44.21.510) not
2 [DEPARTMENT NO] later than seven days after the effective date of the order. The
3 individual may appeal the suspension after the hearing to the superior court.

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

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

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

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

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

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

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

27 (f) The department may summarily suspend a license before a final hearing is
28 held or during an appeal if the department finds that the licensee poses a clear and
29 immediate danger to the public health and safety. A person is entitled to a hearing
30 conducted by [BEFORE] the office of administrative hearings (AS 44.21.510)
31 [DEPARTMENT] to appeal the summary suspension within seven days after the order

1 of suspension is issued. A person may appeal an adverse decision of the department
2 on an appeal of a summary suspension to a court of competent jurisdiction.

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

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

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

12 (i) The department may summarily suspend a licensee from practice of the
13 profession under this chapter, for a period of not more than 30 days, before a final
14 hearing is held or during an appeal if the department finds that the licensee poses a
15 clear and immediate danger to the public health and safety. A person is entitled to a
16 hearing conducted by [BEFORE] the office of administrative hearings
17 (AS 44.21.510) [DEPARTMENT] to appeal the summary suspension within seven
18 days after the order of suspension is issued. A person may appeal an adverse decision
19 of the department on an appeal of summary suspension to a court of competent
20 jurisdiction.

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

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

29 * Sec. 17. AS 08.64.331(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 if the licensee continues to practice. A person
2 whose license is suspended under this section is entitled to a hearing conducted by the
3 office of administrative hearings (AS 44.21.510) not [BOARD NO] later than seven
4 days after the effective date of the order and the person may appeal the suspension
5 after a hearing to a court of competent jurisdiction.

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

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

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

15 (c) The board may summarily suspend a license before final hearing or during
16 the appeals process if the board finds that the licensee poses a clear and immediate
17 danger to the public health and safety. A person whose license is suspended under this
18 section is entitled to a hearing conducted by the office of administrative hearings
19 (AS 44.21.510) [BOARD] within seven days after the effective date of the order. If,
20 after a hearing, the board upholds the suspension, the licensee may appeal the
21 suspension to a court of competent jurisdiction.

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

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

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

31 (b) A copy of a claim filed with the commission under (a) of this section shall

1 be sent to each real estate licensee alleged to have committed the misconduct resulting
2 in losses, to the principal real estate broker employing a licensee alleged to have
3 committed the conduct resulting in losses, and to any other real estate licensee
4 involved in the transaction at least 20 days before any hearing held on the claim by the
5 office of administrative hearings (AS 44.21.510) [COMMISSION].

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

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

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

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

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

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

16 (c) The commission may contract under AS 36.30 (State Procurement Code)
17 with a person for the person to perform [HEARING AND] legal services for the
18 commission with regard to a claim against the real estate surety fund. The contract
19 may cover one or more claims.

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

21 (c) If the department determines that a person is acting as a promoter in
22 violation of this chapter, the department may order the person to stop the violation.
23 Upon receipt of the order, the person affected has the right to be heard and to present
24 proof to the hearing officer from the office of administrative hearings
25 (AS 44.21.510) [DEPARTMENT] that the violation has not occurred. Upon [IN THE
26 DEPARTMENT'S DISCRETION OR UPON] application made by the recipient of the
27 order, the office of administrative hearings may [DEPARTMENT SHALL]
28 schedule a hearing at the earliest possible time. After the hearing the department may
29 affirm, modify, or set aside the order.

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

31 (b) A corporation may not be dissolved under this section unless the

1 commissioner has given the corporation written notice of its delinquency, failure, or
2 noncompliance by mail as provided by (i) of this section. If the corporation fails,
3 within 60 days after the requirements of (i) of this section have been satisfied, to
4 contest the alleged neglect, omission, delinquency, or noncompliance by a written
5 request for a hearing conducted by [BEFORE] the office of administrative hearings
6 (AS 44.21.510) [COMMISSIONER] or fails to correct the asserted neglect, omission,
7 delinquency, or noncompliance, it may be dissolved under (d) of this section.

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

9 **Sec. 10.06.865. Cancellation of certificates issued and filings accepted.**

10 The commissioner may, within one year after a filing, and after written notice to the
11 corporation or individual making the filing, cancel a certificate issued or filing
12 accepted under this chapter, on any ground existing at the time of issuance or filing for
13 which the commissioner could have originally refused to issue the certificate or accept
14 the filing. The notice of cancellation must state the reason for the cancellation. A
15 corporation or individual may request a hearing conducted by [BEFORE] the office
16 of administrative hearings (AS 44.21.510) [COMMISSIONER] within 90 days after
17 receipt of the notice. Cancellation becomes final if the corporation or individual does
18 not request a hearing within 90 days after receipt of notice. Notice of cancellation
19 shall be sent by certified mail with return receipt requested. If the return receipt is not
20 received by the department within a reasonable time and the department has made
21 diligent inquiry as to the address of the corporation, notice may be made by
22 publication in a newspaper of general circulation in the vicinity of the registered office
23 of the corporation or the address of the individual who made the filing, and the
24 cancellation becomes final 60 days after publication of the notice if the person or
25 corporation does not request a hearing.

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

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

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

1 (b) A district may appeal an adverse decision of the department under (a) of
2 this section by filing a written notice of appeal with the commissioner within 15 days
3 after the date of the department's decision. The notice of appeal must state the legal
4 and factual basis for the appeal and the precise relief sought. The failure of the district
5 to include an issue in a notice of appeal constitutes a waiver of the right to have the
6 issue considered. Not later than 10 days after receipt by the commissioner of a notice
7 of appeal, the chief administrative hearing officer of the office of administrative
8 hearings (AS 44.21.510) [COMMISSIONER] shall appoint a hearing officer who is
9 qualified under AS 44.62.350(c) to consider the appeal. If the hearing officer finds
10 that the notice of appeal does not raise a reasonable issue of fact or law, the hearing
11 officer shall issue a written decision denying the appeal. Denial of an appeal by a
12 hearing officer is a final decision that may be appealed under (d) of this section. If the
13 hearing officer finds that the notice of appeal raises a reasonable issue of fact or law,
14 the hearing officer shall conduct a hearing on those issues and recommend a decision
15 to the board. The hearing officer shall issue a decision on the appeal not later than 60
16 days after being appointed. The board shall consider the recommended decision of the
17 hearing officer at its next regularly scheduled meeting and may adopt all, part, or none
18 of the recommended decision or may remand the issue to the hearing officer for
19 further hearings. The board shall issue its decision in writing within 10 days after
20 consideration of the hearing officer's decision.

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

22 (a) The board shall enforce compliance by school districts and regional
23 educational attendance areas with the provisions of this chapter and the regulations
24 and procedures adopted under it by appropriate order made in accordance with
25 AS 44.62. After a hearing conducted by the office of administrative hearings
26 (AS 44.21.510) and a finding by the board that a district or a regional educational
27 attendance area is not in compliance with this chapter and is not actively working to
28 come into compliance, the board shall institute appropriate proceedings to abate the
29 practices found by the board to be a violation of this chapter.

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

31 (b) If a due process hearing is requested by either a school district or a parent,

1 the school district shall contact the office of administrative hearings (AS 44.21.510)
2 [DEPARTMENT] to request appointment of a hearing officer. The chief
3 administrative hearing officer [DEPARTMENT] shall select a hearing officer
4 through a random selection process, from a list maintained by the office
5 [DEPARTMENT] under (g) of this section. Within five working days after receipt of
6 the request, the chief administrative hearing officer [DEPARTMENT] shall provide
7 to the school district and the parent a notice of appointment, including the name and a
8 statement of qualifications, of the hearing officer that [THE DEPARTMENT
9 DETERMINES] is available to conduct the hearing.

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

11 (c) The school district and the parent each have the right to reject, without
12 stating a reason, one hearing officer appointed under this section. The rejecting party
13 shall notify the office of administrative hearings [DEPARTMENT] of that rejection
14 in writing within five days after receipt of the [DEPARTMENT'S] notice of
15 appointment. If a hearing officer is rejected under this subsection, the chief
16 administrative hearing officer [DEPARTMENT] shall, within five working days
17 after receipt of the written rejection, provide a notice of appointment, including the
18 name and a statement of qualifications, of another hearing officer that [THE
19 DEPARTMENT DETERMINES] is available to conduct the hearing. Each
20 appointment is subject to a right of rejection under this subsection by a party who has
21 not previously rejected an appointment.

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

23 (g) The department [SHALL MAINTAIN A LIST OF QUALIFIED
24 HEARING OFFICERS AND] shall provide for training [QUALIFICATION] of
25 hearing officers in the office of administrative hearings [THROUGH A TRAINING
26 PROGRAM THAT IS OPEN TO ALL INDIVIDUALS WHO MEET THE
27 CRITERIA SET BY THE DEPARTMENT BY REGULATION. THE LIST OF
28 QUALIFIED HEARING OFFICERS SHALL BE MAINTAINED AS A PUBLIC
29 RECORD].

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

31 (b) The commission shall investigate the complaint and may attempt to effect

1 a settlement by persuasion and conciliation. A [THE COMMISSION MAY
2 CONSIDER A] complaint may be considered after 30 days [DAYS] written notice
3 by registered mail to the institution or agent, or both, giving notice of a time and place
4 for hearing on the complaint. The hearing shall be conducted in accordance with
5 AS 44.62 (Administrative Procedure Act) by the office of administrative hearings
6 (AS 44.21.510).

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

8 (b) The department may, without a hearing, summarily suspend a license of a
9 hospice program if it finds that the actions or deficiencies of the program have caused,
10 or present an immediate threat of causing, serious injury to a hospice program client.
11 A licensee is entitled to a hearing conducted by the office of administrative
12 hearings (AS 44.21.510) [BEFORE THE DEPARTMENT] to appeal the summary
13 suspension within seven days after the order of suspension is issued. A licensee may
14 appeal an adverse decision of the department on an appeal of a summary suspension to
15 the superior court. A summary suspension remains in effect until the department finds
16 that the actions or deficiencies are corrected, the license is revoked, or the licensee is
17 successful in appealing the suspension.

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

19 (c) The department may, without a hearing, reduce a hospice license to a
20 provisional license for a period of time established by the department if the department
21 finds that the licensee is temporarily unable to comply with 18.18.005 - 18.18.390 or
22 is in the process of becoming decertified under the Medicare program but is taking
23 appropriate steps to bring the program into compliance with 18.18.005 - 18.18.390 or
24 Medicare certification requirements. A licensee is entitled to a hearing conducted by
25 the office of administrative hearings [BEFORE THE DEPARTMENT] to appeal a
26 reduction to a provisional license under this subsection within seven days after the
27 order to reduce the license is issued. A licensee may appeal an adverse decision of the
28 department on an appeal of the order reducing the license to a provisional license to
29 the superior court. A program with a provisional license under this subsection may
30 not accept new clients. If the program fails to correct its deficiencies and does not
31 successfully appeal the order reducing the license to provisional status within the

1 period stipulated in the provisional license, the department shall revoke the license.

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

3 (f) If an employer fails without good cause to appear at a hearing held under
4 this section after receiving proper notice of the hearing, the OSHA Review Board may
5 order the employer to pay all reasonable expenses incurred by the board or the office
6 of administrative hearings (AS 44.21.510) for the hearing, including the board's
7 actual travel expenses and per diem and actual travel expenses and per diem for the
8 hearing officer.

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

10 (a) Upon application made under the provisions of this chapter, the board shall
11 consider the application and rule on it. The board may, upon its own motion, order a
12 hearing, specifying the time and place it is to be held after consulting with the office
13 of administrative hearings (AS 44.21.510). If [; IF] a hearing is ordered, the board
14 shall give notice to the applicant. If, after consideration without a hearing, the
15 decision is unfavorable to the applicant, in whole or in part, the board shall furnish the
16 applicant a written statement of the reason for the ruling. If, within 30 days after
17 receipt of this statement, the applicant requests a hearing on the application, the board
18 shall specify a time and place for a hearing after consulting with the office of
19 administrative hearings, and shall give notice to the applicant. If a request for a
20 hearing is not made within the specified time, the decision of the board is final.

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

22 (b) For the purpose of carrying out the provisions of this chapter, the office of
23 administrative hearings (AS 44.21.510) shall [BOARD OR ITS HEARING
24 OFFICER MAY] hold the hearings, sit and act at the times and places, and take the
25 testimony that the [BOARD OR THE] hearing officer considers advisable. The
26 [BOARD OR ITS] hearing officer may administer oaths or affirmations to witnesses.
27 The hearing officer [BOARD] has full powers of subpoena and compulsion of
28 attendance of witnesses and production of documents, but a subpoena may not be
29 issued except under the signature of a member of the board. Application to a court for
30 aid in enforcing the subpoena may be made in the name of the board only by a board
31 member. Subpoenas are served by any person designated by the hearing officer or

1 the board.

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

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

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

9 (c) A commissioner or an employee authorized by the commission may
10 administer oaths, certify to all official acts, and issue subpoenas, subpoenas duces
11 tecum, and other process to compel the attendance of witnesses and the production of
12 testimony, records, papers, accounts, and documents in any inquiry or [,] investigation
13 [, HEARING, OR PROCEEDING] before the commission in the state. The hearing
14 officer of the office of administrative hearings (AS 44.21.510) may administer
15 oaths, certify to all official acts, and issue subpoenas, subpoenas duces tecum, and
16 other process to compel the attendance of witnesses and the production of
17 testimony, records, papers, accounts, and documents in any hearing held under
18 this chapter. The commission, a commissioner, or an employee authorized by the
19 commission may petition a court of this state to enforce its subpoenas, subpoenas
20 duces tecum, and other process. The hearing officer may petition a court of this
21 state to enforce subpoenas, subpoenas duces tecum, and other process issued by
22 the hearing officer.

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

24 **Sec. 18.80.120. Hearing.** If the informal efforts to eliminate the alleged
25 discrimination are unsuccessful, the executive director shall inform the commission of
26 the failure, and the commission shall provide the respondent and the complainant with
27 notice of the failure and shall serve written notice, together with a copy of the
28 complaint, requiring the person, employer, labor organization, or employment agency
29 charged in the complaint to answer the allegations of the complaint at a hearing
30 [BEFORE THE COMMISSION]. The hearing shall be held by the office of
31 administrative hearings (AS 44.21.510) [COMMISSION] at the location of the

1 [COMMISSION] office unless a party requests a change of venue for good cause
2 shown, and the office [COMMISSION] grants the request. The case in support of the
3 complaint shall be presented before the office [COMMISSION] by the executive
4 director of the commission or a designee who shall be a bona fide resident of the
5 state. The person charged in the complaint may file a written answer to the complaint
6 and may appear at the hearing in person or otherwise, with or without counsel, and
7 submit testimony. The executive director has the power reasonably and fairly to
8 amend the complaint, and the person charged has the power reasonably and fairly to
9 amend the answer. The office of administrative hearings [COMMISSION] is not
10 bound by the strict rules of evidence prevailing in courts of law or equity. The
11 testimony taken at the hearing shall be under oath and shall be recorded.

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

13 (b) If₁ within the period allowed₁ [THE COMMISSION CONDUCTS] a
14 hearing is conducted and [REACHES] a decision is reached under AS 18.80.120 and
15 18.80.130, the decision of the commission is binding on the parties to the court action
16 as to all issues resolved in the hearing but not as to any issues not resolved in the
17 hearing.

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

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

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

25 (a) With respect to the subject of an examination or [,] investigation [, OR
26 HEARING] being conducted by the director or an examiner, if general written
27 authority has been given the examiner by the director, the director or the examiner
28 may subpoena witnesses and administer oaths or affirmations and examine any person
29 under oath, and may compel the production of records, books, papers, contracts, and
30 other documents by attachments, if necessary. If₁ in connection with an examination
31 of an insurer₁, the director desires to examine an officer, director, or manager who is

1 then outside this state, the director is authorized to conduct and to enforce by
2 appropriate and available means an examination under oath in another state or a
3 territory of the United States in which the officer, director, or manager may then
4 presently be, to the full extent permitted by the laws of the other state or territory, this
5 special authorization considered. A hearing officer from the office of
6 administrative hearings (AS 44.21.510) conducting a hearing under this title may,
7 in the course of the hearing, exercise the powers granted to the director under
8 this subsection.

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

10 (d) If a person disobeys or resists a lawful order of the hearing officer
11 [DIRECTOR], refuses to respond to a subpoena, refuses to take oath or affirmation as
12 a witness, refuses to be examined, or is guilty of misconduct at a hearing or so near the
13 hearing as to obstruct the proceeding, the hearing officer [DIRECTOR] shall certify
14 the facts to the superior court where the hearing is held, and, upon certification, the
15 court shall issue an order directing the person to appear before the court and show
16 cause why the person should not be punished for contempt.

17 * Sec. 46. AS 21.06.180(a) is amended to read:

18 (a) The office of administrative hearings (AS 44.21.510) [DIRECTOR] may
19 hold hearings for any purpose within the scope of this title considered to be necessary
20 by the director.

21 * Sec. 47. AS 21.06.180(b) is amended to read:

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

30 * Sec. 48. AS 21.06.200 is amended to read:

31 Sec. 21.06.200. Notice of hearing. Not less than 20 days in advance, the

1 hearing officer [DIRECTOR] shall give notice of the time and place of the hearing,
2 stating the matters to be considered at the hearing. If the persons to be given notice are
3 not specified in the provision under which the hearing is held, the hearing officer,
4 with assistance from the director, shall give notice to all persons whose pecuniary
5 interests are to be directly and immediately affected by the hearing.

6 * **Sec. 49.** AS 21.06.210(a) is amended to read:

7 (a) The hearing officer [DIRECTOR] shall allow a party to the hearing to
8 appear in person and by counsel, to be present during the giving of all evidence, to
9 have a reasonable opportunity to inspect all documentary evidence and to examine
10 witnesses, to present evidence in support of the party's interest, and to have subpoenas
11 issued by the hearing officer [DIRECTOR] to compel attendance of witnesses and
12 production of evidence in the party's behalf.

13 * **Sec. 50.** AS 21.06.210(b) is amended to read:

14 (b) The hearing officer [DIRECTOR] shall permit to become a party to the
15 hearing by intervention, if timely, any person who was not an original party to the
16 proceeding and whose pecuniary interests are to be directly and immediately affected
17 by the director's order made upon the hearing.

18 * **Sec. 51.** AS 21.06.210(d) is amended to read:

19 (d) Upon written request seasonably made by a party to the hearing and at that
20 person's expense, the hearing officer [DIRECTOR] shall cause a full stenographic
21 record of the proceedings to be made by a competent reporter. If transcribed, a copy
22 of the stenographic record shall be furnished to the director, without cost to the
23 director or the state, and shall be a part of the director's record of the hearing. If
24 transcribed, a copy of the stenographic record shall be furnished to any other party to
25 the hearing at the request and expense of the other party. If no stenographic record is
26 made or transcribed, the hearing officer [DIRECTOR] shall prepare an adequate
27 record of the evidence and of the proceedings.

28 * **Sec. 52.** AS 21.06.210(f) is amended to read:

29 (f) If the parties agree, the hearing officer [DIRECTOR] may conduct a
30 hearing under this section by teleconference.

31 * **Sec. 53.** AS 21.06.210(h) is amended to read:

1 (h) The hearing officer [DIRECTOR] may close a hearing to the public when
2 the hearing officer [DIRECTOR] finds the closure is necessary to protect a person
3 against unwarranted injury or is in the public interest.

4 * **Sec. 54.** AS 21.06.220(a) is amended to read:

5 (a) In conducting the hearing, the hearing officer [DIRECTOR] shall sit in a
6 quasi-judicial capacity. Within 30 days after termination of the hearing, rehearing, or
7 reargument, the director shall make an order on hearing, covering matters involved in
8 the hearing, rehearing, or reargument, and shall give a copy of the order to the same
9 persons given notice of the hearing.

10 * **Sec. 55.** AS 24.60.030 is amended by adding a new subsection to read:

11 (i) Except for supplying information requested by the hearing officer or
12 responding to contacts initiated by the hearing officer, a legislator or legislative
13 employee may not attempt to influence the outcome of an administrative hearing
14 conducted by the office of administrative hearings (AS 44.21.510) by directly or
15 indirectly contacting or attempting to contact the hearing officer assigned to the
16 hearing unless the

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

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

22 * **Sec. 56.** AS 25.27.160(b) is amended to read:

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

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

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

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

- 1 (A) no duty of support is owed; or
2 (B) the amount of support found to be owed is incorrect;
3 (4) that, if the person served with the notice and finding of financial
4 responsibility does not request a hearing within 30 days, the property and income of
5 the person will be subject to execution under AS 25.27.062 and 25.27.230 - 25.27.270
6 in the amounts stated in the finding without further notice or hearing.

7 * Sec. 57. AS 25.27.160(c) is amended to read:

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

10 (1) that health care insurance shall be provided for the child to whom
11 the duty of support is owed if health care insurance is available to the alleged obligor
12 at a reasonable cost and that the alleged obligor and the other parent shall share
13 equally the cost of the health care insurance and the costs of reasonable health care
14 expenses not covered by insurance;

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

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

19 (A) no duty of support is owed;

20 (B) health care insurance for the child is not available to the
21 alleged obligor at a reasonable cost;

22 (C) adequate health care is available to the child through the
23 Indian Health Service or other insurance coverage; or

24 (D) there is good cause to allocate the costs of health insurance
25 or uninsured health care expenses unequally between the parents;

26 (4) that, if the person served with the notice under this subsection does
27 not request a hearing within 30 days, a copy of the medical support order will be sent
28 to the person's employer under AS 25.27.063(b) without further notice or hearing for
29 inclusion of the child in family health coverage if it is available through the person's
30 employer.

31 * Sec. 58. AS 34.45.400(c) is amended to read:

1 (c) At the formal hearing, the hearing officer from the office of
2 administrative hearings (AS 44.21.510) [DEPARTMENT] may subpoena witnesses
3 and may administer oaths and make inquiries necessary to determine the validity of
4 the claim. The person aggrieved may present arguments and evidence relevant to the
5 decision or action of the department. If, after the hearing, the department determines
6 that a correction is warranted, the department shall make the correction.

7 * Sec. 59. AS 36.30.015(d) is amended to read:

8 (d) An agency may not contract for the services of legal counsel without the
9 approval of the attorney general. An agency may not contract for the services of a
10 hearing officer for a administrative, quasi-judicial hearing without the approval
11 of the attorney general and the chief hearing officer of the office of administrative
12 hearings (AS 44.21.510).

13 * Sec. 60. AS 36.30.615 is amended to read:

14 **Sec. 36.30.615. Hearing on protest appeal.** A hearing on a protest appeal
15 shall be conducted in accordance with AS 36.30.670 and regulations adopted by the
16 commissioner to the extent the regulations do not conflict with regulations
17 adopted under AS 44.21.560.

18 * Sec. 61. AS 36.30.630(a) is amended to read:

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

25 * Sec. 62. AS 36.30.635(a) is amended to read:

26 (a) After consultation with the using agency and the attorney general and after
27 a hearing conducted according to AS 36.30.670 and, to the extent they do not
28 conflict with regulations adopted under AS 44.21.560, regulations adopted by the
29 commissioner of administration, the commissioner of administration or the
30 commissioner of transportation and public facilities may debar a person for cause from
31 consideration for award of contracts. Notice of a debarment hearing shall be provided

1 in writing at least seven days before the hearing. The debarment may not be for a
2 period of more than three years.

3 * **Sec. 63.** AS 36.30.650 is amended to read:

4 **Sec. 36.30.650. Hearing on a suspension.** (a) A person suspended under
5 AS 36.30.635 is entitled to a hearing conducted according to AS 36.30.670 and, to the
6 extent that they do not conflict with regulations adopted under AS 44.21.560,
7 regulations adopted by the commissioner of administration if the person files a written
8 request for a hearing with the commissioner of administration or the commissioner of
9 transportation and public facilities, as appropriate, within seven days after receipt of
10 the notice of suspension under AS 36.30.645.

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

18 * **Sec. 64.** AS 36.30.670(a) is amended to read:

19 (a) The chief administrative hearing officer (AS 44.21.510)
20 [COMMISSIONER OF ADMINISTRATION OR THE COMMISSIONER OF
21 TRANSPORTATION AND PUBLIC FACILITIES] shall assign [ACT AS] a hearing
22 officer [OR APPOINT A HEARING OFFICER] for a hearing conducted under this
23 chapter. The hearing officer shall arrange for a prompt hearing and notify the parties
24 in writing of the time and place of the hearing. The hearing shall be conducted in an
25 informal manner. The provisions of AS 44.62 (Administrative Procedure Act) do not
26 apply to a hearing conducted under this chapter.

27 * **Sec. 65.** AS 36.30.675(a) is amended to read:

28 (a) The [IF THE COMMISSIONER OF ADMINISTRATION OR THE
29 COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES IS NOT
30 ACTING AS HEARING OFFICER, THE] hearing officer shall recommend a decision
31 to the commissioner of administration or the commissioner of transportation and

1 public facilities, as appropriate, based on the evidence presented. The
2 recommendation must include findings of fact and conclusions of law.

3 * Sec. 66. AS 39.52.120 is amended by adding a new subsection to read:

4 (e) Except for supplying information requested by the hearing officer or
5 responding to contacts initiated by the hearing officer, a public officer may not attempt
6 to influence the outcome of an administrative hearing conducted by the office of
7 administrative hearings (AS 44.21.510) by directly or indirectly contacting or
8 attempting to contact the hearing officer assigned to the hearing unless the

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

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

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

14 (c) If the subject of the accusation denies that a violation of this chapter has
15 occurred, the attorney general shall refer the matter to the personnel board, which
16 shall notify the chief administrative hearing officer (AS 44.21.510), who shall
17 appoint a hearing officer to conduct a hearing.

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

19 (g) If an individual is aggrieved by a decision of the department determining
20 the individual's eligibility for a permanent fund dividend or the individual's authority
21 to claim a permanent fund dividend on behalf of another, the individual may, upon
22 payment of a \$25 appeal fee, request the department to review its decision. Within 12
23 months after the administrative appeal is filed and after a hearing conducted by the
24 office of administrative hearings (AS 44.21.510), the department shall provide the
25 individual with a final written decision. If the individual is aggrieved by the decision
26 of the department after all administrative proceedings, the individual may appeal that
27 decision to the superior court in accordance with AS 44.62.560. An appeal to the court
28 under this section does not entitle the aggrieved individual to a trial de novo. The
29 appeal shall be based on the record of the administrative proceeding from which
30 appeal is taken and the scope of appeal is limited to matters contained in the record of
31 the administrative proceeding. If, as a result of an administrative proceeding or a court

1 appeal, the individual prevails, the \$25 appeal fee shall be returned to the individual
2 by the department.

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

4 (m) The department may initiate suspension of a business license endorsement
5 or the right to obtain a business license endorsement under this section by sending the
6 person subject to the suspension a notice by certified mail, return receipt requested, or
7 by delivering the notice to the person. The notice must contain information that
8 informs the person of the grounds for suspension, the length of any suspension sought,
9 and the person's right to administrative review [BEFORE THE DEPARTMENT]. A
10 suspension begins 30 days after receipt of notice described in this subsection unless
11 the person delivers a timely written request for a hearing to the department in the
12 manner provided by regulations of the department. If a hearing is requested under this
13 subsection, a hearing officer of the office of administrative hearings (AS 44.21.510)
14 [DEPARTMENT] shall determine the issues by using the preponderance of the
15 evidence test and shall, to the extent they do not conflict with regulations adopted
16 under AS 44.21.560. conduct the hearing in the manner provided by regulations of the
17 department. A hearing under this subsection is limited to the following questions:

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

22 (2) if the department does not allege a conviction of AS 11.76.100,
23 11.76.106, or 11.76.107, did the person, or an agent or employee of the person while
24 acting within the scope of the agency or employment of the person, violate a provision
25 of (a) or (g) of this section;

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

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

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

5 * Sec. 71. AS 44.21.530(a) is amended to read:

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

- 8 (1) AS 04.11.510(b)(1) and (c) (alcoholic beverages license);
- 9 (2) AS 05.15 (charitable gaming);
- 10 (3) AS 05.20 (recreational devices);
- 11 (4) AS 05.90.001 (special racing events);
- 12 (5) AS 06 (banks and financial institutions);
- 13 (6) AS 08 (occupational licensing), other than AS 08.08 and
14 AS 08.62.046;
- 15 (7) AS 10.06 (Alaska Corporations Code);
- 16 (8) AS 10.13 (Alaska BIDCO Act);
- 17 (9) AS 10.25.375 (Electric and Telephone Cooperative Act);
- 18 (10) AS 10.50.408 (limited liability companies);
- 19 (11) AS 14.11.016 (education-related facility grants);
- 20 (12) AS 14.18 (discrimination in public education);
- 21 (13) AS 14.20.030 (teacher certificates);
- 22 (14) AS 14.30 (educational programs);
- 23 (15) AS 14.48 (postsecondary educational institutions);
- 24 (16) AS 17.20 (Alaska Food, Drug, and Cosmetic Act), other than
25 AS 17.20.060 and 17.20.360;
- 26 (17) AS 18.18.030 (hospice licenses);
- 27 (18) AS 18.20 (hospitals and nursing facilities), other than
28 AS 18.20.180;
- 29 (19) AS 18.35.040 (tourist accommodations);
- 30 (20) AS 18.60 (safety);
- 31 (21) AS 18.67.040 (Violent Crimes Compensation Board);

- 1 (22) AS 18.80 (State Commission for Human Rights);
 2 (23) AS 21 (insurance);
 3 (24) AS 25.27 (child support enforcement);
 4 (25) AS 32.06 (Uniform Partnership Act);
 5 (26) AS 34.45 (unclaimed property);
 6 (27) AS 34.55.024 and 34.55.026 (Uniform Land Sales Practices Act);
 7 (28) AS 36.30 (State Procurement Code), other than
 8 AS 36.30.627(a)(2);
 9 (29) AS 38.05.065 (contracts for sale of state land);
 10 (30) AS 39.52 (Alaska Executive Branch Ethics Act);
 11 (31) AS 43.23 (permanent fund dividends);
 12 (32) AS 43.70 (Alaska Business License Act);
 13 (33) AS 44.77 (claims against the state);
 14 (34) AS 45.30.040 (mobile homes);
 15 (35) AS 45.55 (Alaska Securities Act);
 16 (36) AS 45.57 (Takeover Bid Disclosure Act);
 17 (37) AS 46 (water, air, energy, and environmental conservation),
 18 other than AS 46.03.820, 46.03.850, AS 46.39, and AS 46.40;
 19 (38) AS 47.33 (assisted living homes);
 20 (39) [(38)] AS 47.35 (child care);
 21 (40) [(39)] AS 47.45 (longevity bonuses).

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

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

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

29 (a) A hearing in a contested case shall be presided over by a hearing officer.
 30 Unless the hearing is conducted by the office of administrative hearings
 31 (AS 44.21.510), the [THE] agency itself shall determine whether the hearing officer

1 hears the case alone or whether the agency hears the case with the hearing officer.

2 * Sec. 7. AS 44.62.500(b) is amended to read:

3 (b) If a contested case is heard by a hearing officer alone, the hearing officer
4 shall prepare a proposed decision in a form that may be adopted as the decision in the
5 case. A copy of the proposed decision shall be filed by the agency as a public record
6 with the lieutenant governor, and a copy of the proposed decision shall be served by
7 the agency on each party in the case and the party's attorney. Except as otherwise
8 provided in AS 44.21.560(e), for a hearing conducted by the office of
9 administrative hearings, the [THE] agency itself may adopt the proposed decision in
10 its entirety, or may reduce the proposed penalty and adopt the balance of the proposed
11 decision.

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

13 (c) If the proposed decision is not adopted as provided in (b) of this section the
14 agency may decide the case upon the record, including the transcript, with or without
15 taking additional evidence, or may refer the case to the same or another hearing officer
16 to take additional evidence. If the case is so assigned the hearing officer shall prepare
17 a proposed decision as provided in (b) of this section upon the additional evidence and
18 the transcript and other papers that are part of the record of the earlier hearing. A copy
19 of the proposed decision shall be furnished to each party and the party's attorney as
20 prescribed by (b) of this section. The agency may not decide a case provided for in
21 this subsection without giving the parties the opportunity to present either oral or
22 written argument before the agency. If additional oral evidence is introduced before
23 the agency, an agency member may not vote unless that member has heard the
24 additional oral evidence. This subsection does not apply to a hearing conducted by
25 the office of administrative hearings.

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

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

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

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

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

11 (2) if the department determines that violations of the provisions of
12 this chapter are regular and recurring, it may require forfeiture of the bond to the
13 benefit of the state and arrange for distribution of the proceeds of the bond to the
14 mobile home owners injured by the activities of the dealer or manufacturer, or to
15 mobile home dealers injured by the activities of the manufacturer.

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

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

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

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

31 (b) In conducting a hearing in accordance with (a) of this section, the hearing

1 officer [ADMINISTRATOR] may issue a subpoena to compel the attendance of any
2 witness or party and to compel production of evidence.

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

4 (e) Every hearing in an administrative proceeding shall be public unless the
5 hearing officer, [ADMINISTRATOR] in the exercise of discretion, grants a request
6 joined in by all the respondents that the hearing be conducted privately.

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

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

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

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

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

20 (b) A hearing shall begin within 20 days of the date of filing of the statement,
21 and adjudication shall be made within 30 days of the filing unless extended by the
22 hearing officer [DEPARTMENT] for the convenience of the parties or protection of
23 the offerees.

24 * **Sec. 82.** AS 46.14.410(a) is amended to read:

25 (a) If a municipality or a local air quality district has an approved local air
26 quality control program under AS 46.14.400 and the department determines that the
27 program is being implemented in a manner that fails to meet the terms of the
28 cooperative agreement or is otherwise being inappropriately administered, the
29 department shall give written notice setting out its determination to the municipality or
30 local air quality district. Within 45 days after [GIVING] written notice was given, the
31 office of administrative hearings (AS 44.21.510) [DEPARTMENT] shall conduct a

1 public hearing on the matter. The hearing shall be recorded by any means that ensures
2 an accurate record.

3 * **Sec. 83.** AS 46.15.065(c) is amended to read:

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

12 * **Sec. 84.** AS 47.45.050 is amended to read:

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

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

23 **APPLICABILITY.** (a) Sections 1 - 70, 72 - 81, and 84 of this Act apply to
24 administrative proceedings that begin on or after July 1, 2005.

25 (b) Sections 71, 82, and 83 of this Act apply to administrative proceedings that begin
26 on or after July 1, 2007.

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

29 **REGULATIONS.** The chief administrative hearing officer and any agency affected
30 by this Act may proceed to adopt regulations to implement this Act. A regulation adopted
31 under this section takes effect under AS 44.62 (Administrative Procedure Act) but not before

1 the effective date of the law implemented by the regulation.

2 * **Sec. 87.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

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

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

11 (c) Contracts, rights, liabilities, and obligations created by or under a law amended or
12 repealed on July 1, 2005, by this Act and in effect on July 1, 2005, remain in effect.
13 Contracts, rights, liabilities, and obligations created by or under a law amended or repealed on
14 July 1, 2007, by this Act and in effect on July 1, 2007, remain in effect.

15 (d) Upon the initial appointment of the chief administrative hearing officer under
16 AS 44.21.510(c), added by sec. 2 of this Act, the chief administrative hearing officer and the
17 commissioner of administration, the commissioner of community and economic development,
18 the commissioner of revenue, and the governor's office shall identify hearing officers and
19 support staff to be transferred to the office of administrative hearings on or after January 1,
20 2005. A state employee who is transferred under this section from another agency to the
21 office of administrative hearings shall continue to be compensated at the same range and step
22 of the salary schedule in AS 39.27.011(a) that the employee was receiving before the transfer,
23 and qualifies for salary increases authorized under AS 39.27.011 and 39.27.022.

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

27 * **Sec. 88.** Sections 1, 2, 86, and 87 of this Act take effect immediately under
28 AS 01.10.070(c).

29 * **Sec. 89.** Sections 71, 82, and 83 of this Act take effect July 1, 2007.

30 * **Sec. 90.** Except as provided in secs. 88 and 89 of this Act, this Act takes effect July 1,
31 2005.

ALASKA STATE LEGISLATURE

SENATOR

Gene Therriault

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While in Juneau

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Senate
Senate District F

Memorandum

To: Senator Ralph Seekins / Chairman Senate Judiciary Committee

From: Senator Gene Therriault *JTS la GB*

Date: May 8, 2003

Re: Independent Administrative Hearings / SB 203

.....

As you may know we have been doing extensive work with the administration to formulate a workable piece of legislation to separate the adjudicatory functions of the administration from the prosecutorial (agency) duties. That work is now complete and represents a combination of reforms to be established in the legislation just introduced in the Senate.

I respectfully request a Judiciary Committee hearing on that legislation as we move forward to bring about fairer, more efficient, and higher quality administrative hearings for our constituents.



PERFORMANCE AUDIT REPORT

Centralized Administrative Hearings: Reviewing the Advantages and Disadvantages

A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
March 2001

APPENDIX C

Survey of 8 States' Centralized Administrative Hearing Offices

The following table shows the results of a phone and e-mail survey of 8 states' centralized administrative hearing offices. This data is entirely self-reported and we didn't seek to verify the accuracy of any of the data.

Summary of Interviews with Other States with Centralized Administrative Hearings Offices

Agency Name	Independent ¹ Agency or Part of Another Agency	Unique Features of Agency Structure or Operations	Year Established	How Many Agencies Conduct Hearings For?	How Is the Agency Funded?	Who has Final Decision: Hearing Officer or Agency?	Are Hearing Officers Cross-Trained or Do They Specialize?	Negative Experiences	Positive Experiences
Arizona Office of Administrative Hearings	Independent	Not applicable	1996	about 30	Combination of billing agencies for services provided, general appropriations, and federal funds.	Agency, except for Dept. of Revenue cases	Assigned to subject area "cadres," but will handle other types of cases when needed.	None	<ul style="list-style-type: none"> Appearance of independence is important to citizens, and it increases the integrity of the hearing process. Cross-training hearing officers increases objectivity & efficiency. Office is able to attract higher quality employees. According to the 2000 Annual Report, 91% of the Office's decisions were accepted by the agencies in question.
Iowa Division of Administrative Hearings	Part of another agency	<ul style="list-style-type: none"> The Division got most of the original staff from the Dept. of Transportation. Other agency staff were added later. Agencies that had FTE staff who were transferred to the Division aren't billed by the Division for services. If an agency thinks the hearing officer doesn't have enough expertise, the agency can provide training to the hearing officer at the agency's expense. 	1986	55	Combination of use tax appropriation, general appropriations, and billing agencies for services provided.	Agency	Specialized by subject matter, but also cross-trained to handle other cases as needed.	None	<ul style="list-style-type: none"> Citizens of the state now have independent hearings. The Division can do more with fewer people because staff are cross-trained.

¹ "Independent" is defined as completely autonomous agency—not in any way a part of another agency.