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Bullard  
4/15/23

**CS FOR SENATE BILL NO. 68(RES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

**BY THE SENATE RESOURCES COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): SENATOR GIESSEL**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to public notice for certain state actions and public hearings; and**  
2 **providing for an effective date."**

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

4 **\* Section 1.** AS 38.05.073(c) is amended to read:

5 (c) If the commissioner identifies land for recreational facilities development  
6 leasing under (a) of this section, at least 30 days before the commissioner decides to  
7 solicit proposals from potential lessees, the commissioner shall provide public notice  
8 of the location and the specific type of recreational facilities development being  
9 considered and request comments. The notice shall be provided to (1) a municipality if  
10 the land is entirely or partially within the boundaries of the municipality; (2) a regional  
11 corporation organized under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement  
12 Act) if the boundaries of the corporation established by 43 U.S.C. 1606(a) encompass  
13 part or all of the land and the land encompassed by the corporation's boundaries is  
14 entirely or partially outside the municipality; (3) a village corporation organized under

43 U.S.C. 1601 if all or part of the land is within 40 miles of the village for which the corporation was established and the land is located entirely or partially outside a municipality; (4) other persons affected by the specific recreational facility development; and (5) persons who have specifically requested to be notified. Public notice identifying the location and the specific type of recreational facilities development under consideration must also be published, **at the discretion of the commissioner, on either the Alaska Online Public Notice System (AS 44.62.175)** **or** at least twice in a newspaper of general circulation in the state and in a local newspaper in general circulation in the region where the land is located. The comments received under this subsection become part of the public record for the consideration of the commissioner.

\* **Sec. 2.** AS 38.05.073(e) is amended to read:

(e) After preparing a request for proposals under (d) of this section, the commissioner may issue the request to solicit proposals from persons who are interested in leasing the land for recreational facilities development. The request for proposals must be **published, at the discretion of the commissioner, on either the Alaska Online Public Notice System (AS 44.62.175) or** [ADVERTISED] at least three times in a newspaper of general circulation in the state and in a local newspaper in general circulation in the region where the land is located. The proposals submitted to the commissioner must include the specific facts on which the potential lessee bases its ability to develop the land, including its ability to comply with the items identified in (d)(1) - (4) of this section.

\* **Sec. 3.** AS 38.05.205(a) is amended to read:

(a) Prior discovery, location, and recording shall initiate prior rights to mineral deposits subject to AS 38.05.185 - 38.05.275 in or on state land, other than submerged land, which is open to mining leasing. Locations shall be made and certificates of location recorded in accordance with AS 38.05.195. If the located land is available only for leasing, the director shall publish, **at the discretion of the director, on either the Alaska Online Public Notice System (AS 44.62.175) or** in a paper of general circulation in the area of the location, notice of the recording of the location and notice that a mineral lease will be issued. The notice may be combined with notices of

locations either in the same general area or statewide. Unless a conflicting location exists, **not** [NO] later than two weeks after publication of the notice, an application form for a mining lease shall be mailed to the locator by the director. A lease application shall be filed with the director by the locator within 90 days after receipt of the form. If the located land is not available for leasing, notice shall be given the locator by the director and the locator's prior rights shall terminate. A mining lessee has the exclusive rights of possession and extraction of all minerals subject to AS 38.05.185 - 38.05.275 lying within the boundaries of the lease or location. Mining leases may be issued for one location or for a group of contiguous locations held in common. Minerals may not be mined and marketed or used until a lease is issued, except for limited amounts necessary for sampling or testing.

\* **Sec. 4.** AS 38.05.945(b) is amended to read:

(b) When notice is required to be given under this section,

(1) the notice must contain sufficient information in commonly understood terms to inform the public of the nature of the action and the opportunity of the public to comment on it;

(2) if the notice is of a preliminary written finding described in (a)(3)(A) of this section, the department shall give notice at the beginning of the public comment period for the preliminary written finding, notifying the public of the right to submit comments; the department shall give notice by

(A) **either** posting **the** notice on the Alaska Online Public Notice System **(AS 44.62.175)** for at least 30 consecutive days **or publishing the** [;

(B) PUBLICATION OF A] notice in display advertising form describing the proposed action [AND REFERENCING THE ONLINE NOTICE REQUIRED IN (A) OF THIS PARAGRAPH] in newspapers of statewide circulation and in newspapers of general circulation in the vicinity of the proposed action, if available, at least once a week for two consecutive weeks;

**(B)** [(C)] public service announcements on the electronic media serving the area to be affected by the proposed action; and

1 (C) [(D)] one or more of the following methods:

2 (i) publication of a legal notice in newspapers of  
3 statewide circulation or in newspapers of general circulation in the  
4 vicinity of the proposed action, if available, at least once a week for  
5 two consecutive weeks;

6 (ii) posting in a conspicuous location in the vicinity of  
7 the action;

8 (iii) notification of parties known or likely to be  
9 affected by the action; or

10 (iv) another method calculated to reach affected parties;

11 (3) if the notice is of an action described in (a) of this section, other  
12 than notice of an action under (a)(3)(A) of this section, the department shall give  
13 notice at least 30 days before the action by either posting the notice on the Alaska  
14 Online Public Notice System (AS 44.62.175) for at least 30 consecutive days or  
15 publishing the [AND BY ONE OR MORE OF THE FOLLOWING METHODS:

16 (A) PUBLICATION OF A] notice in display advertising form  
17 describing the proposed action [AND REFERENCING THE ONLINE  
18 NOTICE REQUIRED IN THIS PARAGRAPH] in newspapers of statewide  
19 circulation and in newspapers of general circulation in the vicinity of the  
20 proposed action, if available, at least once a week for two consecutive weeks;  
21 the department may also give notice by one or more of the following  
22 methods:

23 (A) [(B)] publication through public service announcements on  
24 the electronic media serving the area affected by the action;

25 (B) [(C)] posting in a conspicuous location in the vicinity of the  
26 action;

27 (C) [(D)] notification of parties known or likely to be affected  
28 by the action; or

29 (D) [(E)] another method calculated to reach affected persons.

30 \* **Sec. 5.** AS 44.62.190(a) is amended to read:

31 (a) At least 30 days before the adoption, amendment, or repeal of a regulation,

notice of the proposed action shall be

(1) published, at the discretion of the state agency giving the notice, in the newspaper of general circulation or trade or industry publication that the state agency prescribes or [AND POSTED] on the Alaska Online Public Notice System (AS 44.62.175); [IN THE DISCRETION OF THE STATE AGENCY GIVING THE NOTICE, THE REQUIREMENT OF PUBLICATION IN A NEWSPAPER OR TRADE OR INDUSTRY PUBLICATION MAY BE SATISFIED BY USING A COMBINATION OF PUBLICATION AND BROADCASTING; WHEN BROADCASTING THE NOTICE, AN AGENCY MAY USE AN ABBREVIATED FORM OF THE NOTICE IF THE BROADCAST PROVIDES THE NAME AND DATE OF THE NEWSPAPER OR TRADE OR INDUSTRY JOURNAL AND THE INTERNET ADDRESS OF THE ALASKA ONLINE PUBLIC NOTICE SYSTEM WHERE THE FULL TEXT OF THE NOTICE CAN BE FOUND;]

(2) furnished to every person who has filed a request for notice of proposed action with the state agency;

(3) if the agency is within a department, furnished to the commissioner of the department;

(4) when appropriate in the judgment of the agency,

(A) furnished to a person or group of persons whom the agency believes is interested in the proposed action; and

(B) published or broadcast in the additional form and manner the state agency prescribes;

(5) furnished to the Department of Law together with a copy of the proposed regulation, amendment, or order of repeal for the department's use in preparing the opinion required after adoption and before filing by AS 44.62.060;

(6) furnished by electronic format to all incumbent State of Alaska legislators.

\* **Sec. 6.** AS 44.62.190(f) is amended to read:

(f) To the extent feasible, the subject line of electronic mail and the title of a [WRITTEN] publication providing the information required by (d) of this section must give the reader a fair idea of the substance of the proposed new regulation, the

proposed amended regulation, or the regulation proposed for repeal.

\* **Sec. 7.** AS 44.62.200(d) is amended to read:

(d) When a state agency, other than the Regulatory Commission of Alaska, the Board of Fisheries, or the Board of Game, posts, furnishes, or otherwise provides a notice of the proposed adoption, amendment, or repeal of a regulation under AS 44.62.190, a brief description of the changes made by the proposed adoption, amendment, or repeal must accompany the notice. However, if, under AS 44.62.190(a), the notice is published [IN A NEWSPAPER OR TRADE OR INDUSTRY PUBLICATION] or [IS] broadcast, this subsection does not require that the brief description otherwise required by this subsection accompany the **notice** [PUBLICATION OR THE BROADCAST]. To the extent practicable, the brief description shall be written in clear, easily readable language that a person without a legal background is able to understand.

\* **Sec. 8.** AS 44.62.245(b) is amended to read:

(b) When the amended version of a document or other material incorporated by reference in a regulation as described in (a) of this section becomes available, the state agency shall

(1) make the amended version of the document or other material available to the public for review; and

(2) post, **at the discretion of the agency,** on the Alaska Online Public Notice System **(AS 44.62.175)** or [AND PUBLISH] in a newspaper of general circulation, [OR] trade or industry publication, or [IN A] regularly published agency newsletter or similar printed publication, not later than 15 days after the amended version of the document or other material becomes available, a notice that describes the affected regulation, the effective date of the amended version of the document or other material, and how a copy of the amended version may be obtained or reviewed.

\* **Sec. 9.** AS 44.62.300(b) is amended to read:

(b) Notwithstanding (a) of this section, a person may not bring an action in court to challenge the adoption, repeal, or amendment of a regulation by a state agency for

(1) insufficiency or inaccuracy of the information provided under

AS 44.62.190(d) or (g);

(2) failure of the subject line of electronic mail or the title of a [WRITTEN] publication to meet the requirements of AS 44.62.190(f);

(3) failure of the brief description required by AS 44.62.200(d) to comply with the requirements of AS 44.62.200(d) relating to

(A) the clarity and readability of the brief description; or

(B) the description of the changes made by the proposed adoption, amendment, or repeal of a regulation; or

(4) inaccuracy or insufficiency of the answer to a question provided by the state agency under AS 44.62.213.

\* **Sec. 10.** AS 46.03.110(b) is amended to read:

(b) After receipt of a proper application for an individual or general permit or a determination by the department that a general permit should be proposed, the department shall publish notice of the application or proposal, or of the availability of a draft permit for comment, as applicable. At the discretion of the department, the notice may be published [,] in at least two publications of a newspaper of general circulation within the general area in which the disposal of waste material is proposed to be made, or [. THE NOTICE SHALL ALSO BE POSTED] on the Alaska Online Public Notice System (AS 44.62.175). The department [MAINTAINED UNDER AS 44.62.175 AND] may also publish the notice [BE PUBLISHED] in other appropriate information media. The notice must include a statement that a person who wants to present views to the department with regard to the application or proposal may do so in writing to the department within 30 days after the first publication of the notice. The written response entitles the writer to a copy of the application or draft permit, and, in the case of an application or proposal to issue a general permit, the application or proposal shall also be posted by the department on the Internet at the same time that notice is published under this subsection.

\* **Sec. 11.** AS 46.15.065(b) is amended to read:

(b) The commissioner shall, as soon as practicable, determine the rights of persons owning existing appropriations. To accomplish this, the commissioner shall

(1) by order set a definite period for filing a declaration of

appropriation within a specified area or from a specified source;

(2) publish notice of the order on the Alaska Online Public Notice System (AS 44.62.175) or, at the discretion of the commissioner, once a week for three weeks before the beginning of the period in a newspaper of general circulation in the affected area;

(3) give notice of the order by certified mail to any appropriator within the specified area or from the specified source who has requested mailed notice or of whom the commissioner can readily obtain knowledge, including each owner of a recorded mining claim.

\* **Sec. 12.** AS 46.15.133(b) is amended to read:

(b) The commissioner shall publish the notice either on the Alaska Online Public Notice System (AS 44.62.175) or, at the discretion of the commissioner, in one issue of a newspaper of general distribution in the area of the state in which the water is to be appropriated, removed, or sold. The commissioner shall also have notice served personally or by certified mail on [UPON] an appropriator of water or applicant for or holder of a permit who, according to the records of the division of lands, may be affected by the proposed sale, appropriation, or removal and may serve notice on [UPON] any governmental agency, political subdivision, or person; notice shall also be served on [UPON] the Department of Fish and Game and the Department of Environmental Conservation. An applicant for an appropriation or removal shall pay the commissioner's costs in providing publication and notice under this subsection. The commissioner may require as a condition of a sale of water under AS 46.15.037 [,] that a purchaser of water reimburse the department for the costs associated with providing notice of the proposed sale.

\* **Sec. 13.** This Act takes effect immediately under AS 01.10.070(c).