

CS FOR HOUSE BILL NO. 140(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 3/31/14

Offered: 3/25/14

Sponsor(s): REPRESENTATIVES REINBOLD, Hughes, Herron, LeDoux, Higgins, Thompson, Gara, Costello, Neuman, Tammie Wilson, Olson, Keller, Lynn, Tarr, Isaacson, Kawasaki

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the proposed adoption, amendment, or repeal of a regulation; and**
2 **relating to contact with agencies about regulations."**

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

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

6 SHORT TITLE. This Act may be known as the Regulation Impact Transparency Act.

7 * **Sec. 2.** AS 44.62.040(c) is amended to read:

8 (c) Before submitting the regulations and orders of repeal to the lieutenant
9 governor under (a) of this section, every state agency that by statute possesses
10 regulation making authority, except [BOARDS AND COMMISSIONS,] the office of
11 victims' rights [,] and the office of the ombudsman, **and except as otherwise**
12 **provided by statute for the state agency,** shall submit to the governor for review a
13 copy of every regulation or order of repeal adopted by the agency, except regulations
14 and orders of repeal identified in **(a)(1) and (2)** [(a)(1) - (2)] of this section. The

governor may review the regulations and orders of repeal received under this subsection. The governor may return the regulations and orders of repeal to the adopting agency before they are submitted to the lieutenant governor for filing under (a) of this section within 30 days (1) if they are inconsistent with the faithful execution of the laws, or (2) to enable the adopting agency to respond to specific issues raised by the Administrative Regulation Review Committee. The governor may not delegate the governor's review authority under this subsection to a person other than the lieutenant governor.

* **Sec. 3.** AS 44.62.190(d) is amended to read:

(d) Along with a notice furnished under (a)(2), (4)(A), or (6) of this section, the state agency shall include

(1) the reason for the proposed action, **including, if applicable, an identification of the law, order, decision, or other action of the federal government or a federal or state court that requires the proposed action, that is the basis for the proposed action, or to which the proposed action is responding; in this paragraph, "federal government" means a department, agency, corporation, or instrumentality of the United States government;**

(2) the initial cost to the state agency of implementation;

(3) [,] the estimated annual costs, **based on a good faith effort to estimate the costs in the aggregate for each of the following categories using the information available to the state agency,** to

(A) **private persons to comply with the proposed action;**

(B) the state agency **for** [OF] implementation **and to other state agencies to comply with the proposed action; and**

(C) **municipalities to comply with the proposed action;**

(4) [,] the name of the contact person for the state agency; [,] and

(5) the origin of the proposed action.

* **Sec. 4.** AS 44.62.190 is amended by adding new subsections to read:

(f) Notwithstanding AS 44.62.300, a person may not bring an action in court to challenge the adoption, repeal, or amendment of a regulation by a state agency for inaccuracy or insufficiency of the good faith cost estimates provided under (d)(3) of

1 this section.

2 (g) To the extent feasible, the subject line of electronic mail and the title of a
3 written publication providing the information required by (d) of this section must give
4 the reader a fair idea of the substance of the proposed new regulation, the proposed
5 amended regulation, or the regulation proposed for repeal.

6 * **Sec. 5.** AS 44.62.200(c) is amended to read:

7 (c) An agency that issues a notice under this section shall **ensure** [ASSURE]
8 that the notice is prepared in a form adequate for posting on the Alaska Online Public
9 Notice System. **A complete copy of each proposed adoption, amendment, or**
10 **repeal of a regulation and, if feasible and not prohibited by copyright, any**
11 **document or other material incorporated by reference, including any document**
12 **or other material incorporated by reference under this section, in the proposed**
13 **adoption or amendment shall be posted on the Alaska Online Public Notice**
14 **System.**

15 * **Sec. 6.** AS 44.62.200(d) is amended to read:

16 (d) When a state agency [, OTHER THAN THE REGULATORY
17 COMMISSION OF ALASKA, THE BOARD OF FISHERIES, OR THE BOARD OF
18 GAME,] posts, furnishes, or otherwise provides a notice of the proposed adoption,
19 amendment, or repeal of a regulation under AS 44.62.190, a brief description of the
20 changes made by the proposed adoption, amendment, or repeal must accompany the
21 notice. However, if, under AS 44.62.190(a), the notice is published in a newspaper or
22 trade or industry publication or is broadcast, this subsection does not require that the
23 brief description otherwise required by this subsection accompany the publication or
24 the broadcast. To the extent practicable, the brief description shall be written in clear,
25 easily readable language that a person without a legal background is able to
26 understand. Notwithstanding AS 44.62.300, an action may not be brought for failure
27 of the brief description to comply with the requirements of this subsection relating to
28 the description of the changes or its clarity and readability.

29 * **Sec. 7.** AS 44.62 is amended by adding a new section to read:

30 **Sec. 44.62.213. Agency contact with the public.** (a) Notwithstanding any
31 other provision of this chapter, while an agency is developing a regulatory action and

1 before the agency provides a notice of proposed action under AS 44.62.190, the
 2 agency may contact a person about the development of the regulatory action and the
 3 agency may answer a question from a person that is relevant to the development of the
 4 regulatory action. In this subsection, "regulatory action" means the adoption,
 5 amendment, or repeal of a regulation.

6 (b) Notwithstanding any other provision of this chapter, after an agency
 7 provides a notice of proposed action under AS 44.62.190, the agency shall make a
 8 good faith effort to answer, before the end of the public comment period, a question
 9 that is relevant to the proposed action, if the question is received in writing or asked at
 10 a public meeting at least 10 days before the end of the public comment period. If a
 11 question is received after the 10-day cut-off date, the agency may answer the question.
 12 When an agency answers a question under this section, the agency shall answer the
 13 question in writing and make the question and answer available to the public.

14 (c) Notwithstanding AS 44.62.300, a person may not bring an action in court
 15 to challenge the adoption, repeal, or amendment of a regulation by an agency for
 16 inaccuracy or insufficiency of the answer to a question provided by the agency under
 17 this section.

18 * **Sec. 8.** AS 44.62.215 is amended to read:

19 **Sec. 44.62.215. Record of public comment.** In the drafting, review, or other
 20 preparation of a proposed regulation, amendment, or order of repeal, an agency, other
 21 than [A BOARD OR COMMISSION,] the office of victims' rights [,] and the office of
 22 the ombudsman, shall keep a record of its use or rejection of factual or other
 23 substantive information that is received electronically, orally, or [SUBMITTED] in
 24 writing as public comment and that is relevant to the accuracy, coverage, or other
 25 aspect of the proposed regulatory action.

26 * **Sec. 9.** AS 44.62.245(c) is amended to read:

27 (c) The state agency shall also send the notice described in (b)(2) of this
 28 section to

29 (1) a person who has placed the person's name on a distribution list
 30 kept by the agency that lists persons who want to receive the notice; the agency may
 31 allow a person to request that distribution of the notice be by electronic means and

1 shall honor that request if appropriate means are available; [AND]

2 (2) the regulations attorney in the Department of Law; and

3 (3) the members of the Administrative Regulation Review

4 Committee.

5 * **Sec. 10.** AS 44.62.320(b) is amended to read:

6 (b) At the same time a regulation is submitted to [FILED BY] the lieutenant
7 governor for filing under AS 44.62.040, the lieutenant governor shall submit the
8 regulation to the chair [CHAIRMAN] and all members of the Administrative
9 Regulation Review Committee for review under AS 24.20.400 - 24.20.460 together
10 with the fiscal information required to be prepared under AS 44.62.195.

11 * **Sec. 11.** AS 44.62.320 is amended by adding a new subsection to read:

12 (c) Within 10 days after receiving a regulation, the chair of the Administrative
13 Regulation Review Committee may submit to the lieutenant governor, by legislative
14 memorandum or letter, comments regarding the regulation provided to the
15 Administrative Regulation Review Committee under (b) of this section.

16 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 APPLICABILITY. AS 44.62.040(c), as amended by sec. 2 of this Act,
19 AS 44.62.190(d), as amended by sec. 3 of this Act, AS 44.62.190(f) and (g), added by sec. 4
20 of this Act, AS 44.62.200(c), as amended by sec. 5 of this Act, AS 44.62.200(d), as amended
21 by sec. 6 of this Act, AS 44.62.213(b), enacted by sec. 7 of this Act, AS 44.62.213(c), enacted
22 by sec. 7 of this Act, AS 44.62.215, as amended by sec. 8 of this Act, AS 44.62.245(c), as
23 amended by sec. 9 of this Act, AS 44.62.320(b), as amended by sec. 10 of this Act, and
24 AS 44.62.320(c), added by sec. 11 of this Act, apply to proposed regulations first published
25 under AS 44.62.190 on or after the effective date of this Act.