

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE KELLER

TO: HB 229

1 Page 1, line 1, following "**legislature**";:

2 Insert "**providing for legislative review, amendment, approval, disapproval,**
3 **annulment, and delay of proposed agency regulations**;"

4

5 Page 1, lines 4 - 6:

6 Delete all material.

7

8 Page 1, line 7:

9 Delete "**Sec. 2**"

10 Insert "**Section 1**"

11

12 Renumber the following bill sections accordingly.

13

14 Page 2, lines 1 - 8:

15 Delete all material and insert:

16 "*** Sec. 2.** AS 24.05.182(a) is amended to read:

17 (a) A standing committee of the legislature furnished notice of a proposed
18 action under AS 44.62.190 **or 44.62.320(d)** shall, **consistent with the committee's**
19 **jurisdiction as provided in the uniform rules of the legislature**, review the
20 proposed regulation, amendment of a regulation, or repeal of a regulation before the
21 date the regulation is scheduled by the department or agency to be adopted, amended,
22 or repealed.

23 * **Sec. 3.** AS 24.05.182(d) is amended to read:

1 (d) **A standing committee that receives a copy of a proposed regulation,**
 2 **amendment, or order of repeal under AS 44.62.320(d) shall, within 35 days after**
 3 **receipt of the proposed regulation, amendment, or order of repeal, approve or**
 4 **disapprove the proposed regulation, amendment, or order of repeal. If the**
 5 **standing committee does not take action within 35 days after receipt of the**
 6 **proposed regulation, amendment, or order of repeal, the proposed regulation,**
 7 **amendment, or order of repeal shall be considered approved.** If a standing
 8 committee determines that a regulation, amendment to a regulation, or repeal of a
 9 regulation does not properly implement legislative intent **and disapproves or returns**
 10 **the proposed regulation, amendment, or order of repeal to the department or**
 11 **agency,** the standing committee's findings shall, **within 35 days after receipt of the**
 12 **proposed regulation, amendment, or order of repeal,** be transmitted to the

13 **(1) department or agency;**

14 **(2) regulations attorney at the Department of Law; and**

15 **(3) senate secretary and the chief clerk of the house of**
 16 **representatives** [ADMINISTRATIVE REGULATION REVIEW COMMITTEE].

17 * **Sec. 4.** AS 24.05.182 is amended by adding new subsections to read:

18 (e) Except as provided in (h) of this section, a proposed regulation,
 19 amendment, or order of repeal that is disapproved under this section or that is returned
 20 to the department or agency with a proposed amendment shall be suspended until the
 21 adjournment of the next regular legislative session following the date of the
 22 committee's disapproval. The notice of disapproval under this section expires upon
 23 adjournment of the regular legislative session during which the disapproval or
 24 amendment was made or, if the legislature is not in regular session, the next regular
 25 legislative session following the date of disapproval, unless the legislature enacts a law
 26 that annuls the proposed regulation or order of repeal.

27 (f) If the standing committee that is reviewing a proposed regulation,
 28 amendment, or order of repeal under this section disapproves the regulation,
 29 amendment, or order of repeal or proposes an amendment to the regulation,
 30 amendment, or order of repeal, the department or agency that proposed the regulation,
 31 amendment, or order of repeal may request leave of the standing committee to

1 withdraw or amend the proposed regulation, amendment, or order of repeal.

2 (g) In determining whether to approve, disapprove, or amend a proposed
3 regulation, amendment, or order of repeal under this section, the standing committee
4 shall consider

5 (1) whether the absence of a regulation would significantly harm or
6 endanger public health, safety, or welfare;

7 (2) whether a less restrictive regulation would address the regulatory
8 concerns while adequately protecting the public;

9 (3) whether the regulation would directly or indirectly increase the cost
10 of any goods or services;

11 (4) whether the increased cost of implementing and enforcing the
12 regulation would be more detrimental than the purpose of the regulation;

13 (5) whether the regulation was designed solely for the purpose of the
14 protection of the public and would have the primary effect of protecting the public;
15 and

16 (6) any other factors the committee considers to be appropriate.

17 (h) A proposed regulation, amendment, or order of repeal by the Regulatory
18 Commission of Alaska, the Board of Fisheries, the Board of Game, the Alaska Oil and
19 Gas Conservation Commission, the office of victims' rights, or the office of the
20 ombudsman, or an emergency regulation adopted under AS 44.62.250, are not subject
21 to suspension under (e) of this section."
22

23 Renumber the following bill sections accordingly.

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25 Page 3, lines 4 - 7:

26 Delete all material.
27

28 Renumber the following bill sections accordingly.

29
30 Page 3, line 24, through page 4, line 19:

31 Delete all material.

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Renumber the following bill sections accordingly.

Page 5, following line 5:

Insert a new bill section to read:

"* **Sec. 10.** AS 44.62.180 is amended to read:

Sec. 44.62.180. Effective date. A regulation or an order of repeal filed by the lieutenant governor becomes effective on the 30th day after the date of filing unless

(1) otherwise specifically provided by the statute under which the regulation or order of repeal is adopted, in which event it becomes effective on the day prescribed by the statute;

(2) it is a regulation prescribing the organization or procedure of an agency, in which event it becomes effective upon filing by the lieutenant governor or upon a later date specified by the state agency in a written instrument submitted with, or as part of, the regulation or order of repeal;

(3) it is an emergency regulation or order of repeal adopted under AS 44.62.250, in which case the finding and the statement of the facts constituting the emergency shall be submitted to the lieutenant governor, together with the emergency regulation or order of repeal, which, in that event only, becomes effective upon filing by the lieutenant governor or upon a later date specified by the state agency in a written instrument submitted with, or as part of, the regulation or order of repeal;

(4) a later date is prescribed by the state agency in a written instrument submitted with, or as part of, the regulation or order of repeal;

(5) a proposed regulation, amendment, or order of repeal has been suspended under AS 24.05.182, in which case, if the proposed regulation, amendment, or order of repeal takes effect, it takes effect on the later of

(A) adoption by the agency of an amendment proposed by a standing committee of the legislature; or

(B) one day following adjournment of both houses of the legislature as provided under AS 44.62.325."

1 Renumber the following bill sections accordingly.

2

3 Page 5, line 31, following "legislators":

4 Insert "and to the presiding officer of each house"

5

6 Page 6, line 4, through page 9, line 9:

7 Delete all material and insert:

8 **"* Sec. 12.** AS 44.62.190(b) is amended to read:

9 (b) If the form or manner of notice is prescribed by statute, in addition to the
10 requirements of filing and furnishing notice under AS 44.62.010 - 44.62.300, or in
11 addition to the requirements of filing and mailing notice under other sections of this
12 chapter, the notice shall be published, posted, mailed, filed, or otherwise publicized as
13 prescribed by the statute. **In the notice furnished to the legislature under**
14 **AS 44.62.190(a)(6), new language added to an existing regulation shall be**
15 **underlined, and language deleted from an existing regulation shall be bracketed**
16 **and capitalized.**

17 *** Sec. 13.** AS 44.62.195 is amended to read:

18 **Sec. 44.62.195. Fiscal notes on regulations.** If the adoption, amendment, or
19 repeal of a regulation **has an economic effect on a department, agency, or person,**
20 **the proposed regulation or order of repeal must include a fiscal note prepared by**
21 **the department or agency in accordance with this section** [WOULD REQUIRE
22 INCREASED APPROPRIATIONS BY THE STATE, THE DEPARTMENT OR
23 AGENCY AFFECTED SHALL PREPARE AN ESTIMATE OF THE
24 APPROPRIATION INCREASE FOR THE FISCAL YEAR FOLLOWING
25 ADOPTION, AMENDMENT, OR REPEAL OF THE REGULATION AND FOR AT
26 LEAST TWO SUCCEEDING FISCAL YEARS].

27 *** Sec. 14.** AS 44.62.195 is amended by adding a new subsection to read:

28 (b) A fiscal note required under this section must include, where applicable,

29 (1) a determination of the present need for the regulation and the
30 expected need for the regulation;

31 (2) a determination of the costs and benefits of the regulation and an

1 explanation by the department or agency of whether the proposed regulation is the
 2 most cost-effective, efficient, and feasible means of allocating public and private
 3 resources to achieve the stated purpose;

4 (3) the effect of the regulation on market competition;

5 (4) the effect of the regulation on the cost of living, employment, and
 6 doing business in the geographical regions where the regulation would have the
 7 greatest effect;

8 (5) the source of revenue to implement and enforce the regulation;

9 (6) a summary of the short-term and long-term economic effects of the
 10 regulation, including an analysis of the persons or groups that would bear the costs of
 11 the regulation and the persons or groups that would benefit directly or indirectly from
 12 the regulation;

13 (7) the difficulties the department or agency encountered, if any, in
 14 estimating the persons or groups that would benefit from the regulation or bear the
 15 costs of the regulation;

16 (8) the effect that adopting or failing to adopt the regulation would have
 17 on the environment and public health.

18 * **Sec. 15.** AS 44.62.245(c) is amended to read:

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

21 (1) a person who has placed the person's name on a distribution list
 22 kept by the agency that lists persons who want to receive the notice; the agency may
 23 allow a person to request that distribution of the notice be by electronic means and
 24 shall honor that request if appropriate means are available;

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

26 (3) **the presiding officer of each house of the legislature** [THE
 27 MEMBERS OF THE ADMINISTRATIVE REGULATION REVIEW
 28 COMMITTEE].

29 * **Sec. 16.** AS 44.62.320(b) is amended to read:

30 (b) At the same time a regulation is filed by the lieutenant governor, the
 31 lieutenant governor shall submit the regulation to the **presiding officer of each house**

1 **of the legislature** [CHAIRMAN AND ALL MEMBERS OF THE
 2 ADMINISTRATIVE REGULATION REVIEW COMMITTEE FOR REVIEW
 3 UNDER AS 24.20.400 - 24.20.460] together with the fiscal information required to be
 4 prepared under AS 44.62.195.

5 * **Sec. 17.** AS 44.62.320(c) is amended to read:

6 (c) At the same time as a regulation is submitted to the governor under
 7 AS 44.62.040(c), the state agency shall submit the regulation to the **presiding officer**
 8 **of each house of the legislature** [CHAIR AND ALL MEMBERS OF THE
 9 ADMINISTRATIVE REGULATION REVIEW COMMITTEE FOR REVIEW
 10 UNDER AS 24.20.400 - 24.20.460] together with the fiscal information required to be
 11 prepared under AS 44.62.195.

12 * **Sec. 18.** AS 44.62.320(d) is amended to read:

13 (d) Within 10 days after receiving a regulation under **(b) or** (c) of this section
 14 **or under AS 44.62.190(a)(6), the presiding officer of each house of the legislature**
 15 **shall provide copies of the regulation to the standing committee with jurisdiction**
 16 **over the subject matter of the regulation as provided in the uniform rules of the**
 17 **legislature for review under AS 24.05.182** [, THE CHAIR OF THE
 18 ADMINISTRATIVE REGULATION REVIEW COMMITTEE MAY SUBMIT TO
 19 THE GOVERNOR, BY LEGISLATIVE MEMORANDUM OR LETTER,
 20 COMMENTS ON THE REGULATION].

21 * **Sec. 19.** AS 44.62 is amended by adding a new section to article 7 to read:

22 **Sec. 44.62.325. Legislative annulment of regulations.** (a) The legislature
 23 may, in the regular legislative session during which a disapproval or amendment is
 24 made or, if the legislature is not in regular session, the next regular session following
 25 the disapproval or amendment of a proposed regulation, amendment, or order of repeal
 26 by a standing committee under AS 24.05.182, annul the proposed regulation,
 27 amendment of the proposed regulation, or order of repeal by law.

28 (b) If the legislature, following adjournment of the regular legislative session
 29 during which a disapproval or amendment is made or, if the legislature is not in
 30 regular session, the next regular session following disapproval or amendment of a
 31 proposed regulation, amendment, or order of repeal by a standing committee under

1 AS 24.05.182, has not enacted a law that annuls the proposed regulation, amendment
2 of the proposed regulation, or order of repeal, the proposed regulation, amendment of
3 the proposed regulation, or order of repeal takes effect one day after adjournment of
4 both houses of the legislature."
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6 Renumber the following bill sections accordingly.
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8 Page 9, line 13:

9 Delete "**AS 44.62.040 - 44.62.319**" [AS 44.62.040 - 44.62.320]"

10 Insert "(AS 44.62.040 - 44.62.320)"
11

12 Page 9, line 20:

13 Delete "AS 24.05.182(b), 24.05.182(c), 24.05.182(d);"
14

15 Page 9, line 22:

16 Delete "AS 40.25.120(a)(11); and AS 44.62.320"

17 Insert "and AS 40.25.120(a)(11)"