

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 190
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB190CS(STA)-LAW-CIV-04-11-17
Title: REGULATION ADOPTION/ORAL COMMENT
Sponsor: TALERICO
Requester: House State Affairs

Department: Department of Law
Appropriation: Civil Division
Allocation: Legislation/Regulations
OMB Component Number: 2209

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2018 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version. This fiscal note is written based on the committee substitute vs. J.

Prepared By:	Valerie Rose, Budget Analyst	Phone:	(907)465-3674
Division:	Administrative Services Division	Date:	04/07/2017 09:21 AM
Approved By:	Jahna Lindemuth, Attorney General	Date:	04/11/17
Agency:	Department of Law		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 190

Analysis

The committee substitute for HB 190 would amend the Alaska Administrative Procedure Act (APA) (AS 44.62) in two main areas. First, secs. 1, 2, and 4 of the bill would remove the requirement that a notice of proposed regulations and a notice of amended material previously adopted by reference be published in a newspaper of general circulation, but would retain a requirement that notice be published in a "trade or industry publication." Bill secs. 1 and 4 would add a requirement that notice be posted on "the state agency's Internet website." Second, bill sec. 3 would amend AS 44.62.210(a) addressing public proceedings on proposed regulations, to require that, on the date and at the time and place designated in a notice of proposed regulations, an agency give an "interested person, the person's authorized representative, or both, the opportunity to present statements, arguments, or contentions in writing or orally." [Emphasis added.] Section 3 of the bill would delete the phrase "with or without the opportunity to present them" that appears before "orally" in the current statute.

As legal counsel for executive agencies, including boards and commissions that adopt regulations under the APA, the Department of Law's role includes advising agencies on legal issues regarding regulation projects, attending agency meetings on proposed regulations, advising agencies on compliance with the APA, and preparing the *Drafting Manual for Administrative Regulations*. Although the Department of Law is the adopting authority for regulations related to oversight of charitable organizations and consumer protection laws, the department itself does not typically adopt many regulations. However, the department reviews agency regulations. In fiscal year 2016 the department's Legislation and Regulation section reviewed approximately 117 regulation projects.

Costs to the department to remove the requirement for publication of regulations in a newspaper of general circulation are indeterminate, but likely minimal. The department is uncertain of what trade or industry publication is available and appropriate for a subject of regulations that the legislature has assigned to the department for proposal and adoption. Also, if a trade or industry publication were available, the department is uncertain whether the publication would accept advertising, or whether the costs of publishing a notice would be higher than publishing notice in a newspaper of general circulation.

Section 5 of the bill would repeal AS 41.21.123(b), a subject-specific requirement requiring an opportunity for oral comments if the Department of Natural Resources proposes regulations on incompatible uses in Chugach State Park. Alaska Statute 41.21.123(b) would presumably become redundant if sec. 3 of the bill were enacted. The Department of Law does not expect a fiscal impact from sec. 5, recognizing that sec. 5 is only a small portion of the bill.

If the bill were enacted into law, the department would need to revise the *Drafting Manual for Administrative Regulations* and forms used by agencies to notice and adopt regulation projects to reflect the changes in law, but the department expects to be able to do this work with current staff and resources.

If the bill were enacted into law, the department would be required to assist with additional hearings. The impact of these additional hearings would include the costs of increased attorney and paralegal time to assist agencies with public proceedings on proposed regulations. Attorney time includes time assisting an agency with questions before a public meeting, and time spent at meetings. If oral comment becomes a required option for all proposed regulations, attorney time required to assist at board meetings may increase. In fiscal year 2016, of the 117 regulations projects reviewed by the department, approximately 38 (32 percent) were supported by the department's general funds, and the remaining 79 (68 percent) were projects where work was billed to the agency through a reimbursable services agreement; this includes legal assistance provided to professional licensing boards. The costs to the department to assist with additional hearings are indeterminate.