

HOUSE BILL NO. 463

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES MASEK, Foster

Introduced: 2/2/96

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing restrictions on certain regulatory enforcement."**

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

3 * **Section 1.** AS 44.66 is amended by adding new sections to read:

4 ARTICLE 2. RESTRICTIONS ON REGULATORY ENFORCEMENT.

5 Sec. 44.66.100. APPROVAL REQUIRED. If a state employee whose
6 responsibilities include enforcement of state regulations in the field determines that
7 regulatory enforcement action that is not usually necessary is required when
8 discharging the employee's duties, the employee may not proceed with regulatory
9 enforcement action if the enforcement action will place an unusually heavy burden of
10 cost or time on the person being regulated, unless the employee obtains the approval
11 of the employee's immediate supervisor to take the enforcement action.

12 Sec. 44.66.110. CONTENTS OF APPROVAL REQUEST. (a) When
13 requesting the approval of the state employee's immediate supervisor under
14 AS 44.66.100, the employee shall state in writing the reasons for the requested
15 regulatory enforcement action, the anticipated effects of the enforcement action on the

1 person being regulated, the alternatives considered by the employee to the
2 enforcement action, the costs to the agency of the enforcement action, and an estimate
3 of the cost for the regulated person to comply.

4 (b) The supervisor of the state employee submitting information under (a) of
5 this section shall provide a copy of the submitted information to the commissioner of
6 the department in which the state agency considering the regulatory enforcement action
7 is located.

8 Sec. 44.66.120. CRITERIA FOR APPROVAL. A supervisor who receives a
9 request for approval under AS 44.66.100 - 44.66.110 may not provide the requested
10 approval unless the supervisor determines that the requested regulatory enforcement
11 action is appropriate under the circumstances.

12 Sec. 44.66.130. APPEAL ALLOWED. If an employee receives approval
13 under AS 44.66.110 to proceed with the requested regulatory enforcement action, the
14 employee shall notify the person being regulated that the person may appeal the
15 approval to the immediate supervisor of the employee. The notification must be in
16 writing and shall be made before beginning the regulatory enforcement action. The
17 commissioner of administration shall establish by regulation procedures for the appeal.

18 Sec. 44.66.140. PUBLIC RECORDS. The approval request, the supervisor's
19 decision, and records of an appeal of the decision, if any, are public records subject
20 to disclosure under AS 09.25.110 - 09.25.125.

21 Sec. 44.66.150. DEFINITIONS. In AS 44.66.100 - 44.66.150,

22 (1) "regulatory enforcement action" means action to enforce state
23 agency regulations;

24 (2) "state agency" means a department, institution, board, commission,
25 division, authority, public corporation, or other administrative unit of the executive
26 branch of state government.