

HOUSE BILL NO. 221

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 4/1/97

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Administrative Journal; relating to public notices
2 of state agencies; and relating to material incorporated by reference in
3 regulations and to the content and furnishing of regulation notices under the
4 Administrative Procedure Act."

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

6 * **Section 1.** AS 44.19 is amended by adding a new section to read:

7 **Sec. 44.19.021. Powers of the lieutenant governor.** (a) To promote public
8 awareness and in the best interests of the state, the lieutenant governor, under the
9 provisions of AS 36.30, may provide for the availability of consolidated space in
10 newspapers of general circulation and in trade and industry publications for the
11 publication of notices regarding state agency regulations, or other matters, as required
12 by AS 44.62.010 - 44.62.290 or other provision of law. The lieutenant governor may
13 require state agencies to participate in the use of any consolidated space provided
14 under this section and may waive the requirement if nonparticipation is in the best

1 interests of the state.

2 (b) In this section, "state agency" means a department, board, commission,
3 division, authority, public corporation, or other administrative unit of the executive
4 branch of state government.

5 * **Sec. 2.** AS 44.62.175(a) is amended by adding a new paragraph to read:

6 (11) notices under AS 44.62.245(b)(2) regarding an amended or a
7 revised version of a document or other material incorporated by reference in a
8 regulation.

9 * **Sec. 3.** AS 44.62.175(f) is amended to read:

10 (f) In this section

11 (1) "journal" means the Alaska Administrative Journal; and

12 (2) "publish" means to make available to the public

13 (A) through the legislative data processing system; and

14 (B) in electronic [PRINTED] form on a specific Alaska
15 Administrative Journal page available through a publicly accessible
16 electronic medium or, if appropriate, on other State of Alaska pages
17 electronically linked to the Alaska Administrative Journal page.

18 * **Sec. 4.** AS 44.62.190(a) is amended to read:

19 (a) At least 30 days before the adoption, amendment, or repeal of a regulation,
20 notice of the proposed action shall be

21 (1) published in the newspaper of general circulation or trade or
22 industry publication that the state agency prescribes and in the Alaska Administrative
23 Journal; in the discretion of the state agency giving the notice, the requirement of
24 publication in a newspaper or trade or industry publication may be satisfied by using
25 a combination of publication and broadcasting; [WHEN BROADCASTING THE
26 NOTICE, AN AGENCY MAY USE AN ABBREVIATED FORM OF THE NOTICE
27 IF THE BROADCAST PROVIDES THE NAME AND DATE OF THE NEWSPAPER
28 OR TRADE OR INDUSTRY JOURNAL WHERE THE FULL TEXT OF THE
29 NOTICE CAN BE FOUND;]

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

1 (3) if the agency is within a department, **furnished** [MAILED OR
2 DELIVERED] to the commissioner of the department;

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

4 (A) **furnished** [MAILED] to a person or group of persons
5 whom the agency believes is interested in the proposed action; and

6 (B) **provided** [PUBLISHED] in the additional form and manner
7 the state agency prescribes;

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

11 (6) furnished to all incumbent State of Alaska legislators and the
12 Legislative Affairs Agency;

13 (7) furnished to the standing committee of each house of the legislature
14 having legislative jurisdiction over the subject matter treated by the regulation under
15 the Uniform Rules of the Alaska State Legislature, together with a copy of the
16 proposed regulation, amendment, or order of repeal for the committee's use in
17 conducting the review authorized by AS 24.05.182;

18 (8) furnished to the staff of the Administrative Regulation Review
19 Committee, together with a copy of the proposed regulation, amendment, or order of
20 repeal and, if preparation of an appropriation increase estimate is required by
21 AS 44.62.195, a copy of the estimate.

22 * **Sec. 5.** AS 44.62.190(c) is amended to read:

23 (c) The failure to **furnish** [MAIL] notice to a person as provided in this
24 section does not invalidate an action taken by an agency under AS 44.62.180 -
25 44.62.290.

26 * **Sec. 6.** AS 44.62.200(a) is amended to read:

27 (a) The notice of proposed adoption, amendment, or repeal of a regulation **that**
28 **is published in the Alaska Administrative Journal or is provided under**
29 **AS 44.62.190(a)(2) - (8)** must include **the information described in (1) - (7) of this**
30 **subsection; the notice that is published in a newspaper of general circulation or**
31 **trade or industry publication, or that is broadcast, must include the information**

1 described in (1), (4), and (6) of this subsection; the information that must be
 2 provided according to requirements set out in this subsection is

3 (1) a statement of the time, place, and nature of proceedings for
 4 adoption, amendment, or repeal of the regulation;

5 (2) reference to the authority under which the regulation is proposed
 6 and a reference to the particular code section or other provisions of law that are being
 7 implemented, interpreted, or made specific;

8 (3) an informative summary of the proposed subject of agency action;

9 (4) other matters prescribed by a statute applicable to the specific
 10 agency or to the specific regulation or class of regulations;

11 (5) a summary of the fiscal information required to be prepared under
 12 AS 44.62.195;

13 (6) a brief general description of the proposed subject of agency
 14 action, how more detailed information may be obtained, and the name of the
 15 agency contact person;

16 (7) the reason for the proposed action, the initial cost to the state
 17 agency of implementation, the estimated annual costs to the state agency of
 18 implementation, the name of the contact person for the state agency, and the
 19 origin of the proposed action.

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

21 **Sec. 44.62.245. Material incorporated by reference.** (a) In adopting a
 22 regulation that incorporates a document or other material by reference, a state agency
 23 may incorporate future amended or revised versions of the document or other material
 24 if

25 (1) the document or other material consists of

26 (A) a federal statute or regulation;

27 (B) a regulation of another state agency; or

28 (C) the product of the adopting state agency, another state
 29 agency, or a federal agency and the document or other material and
 30 amendments or revisions to the document or other material are created in a
 31 manner that provides for public notice and an opportunity for public review and

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comment;

(2) the document or other material is one of the following:

(A) a document published, compiled, or prepared by the United States Department of Health and Human Services and listed in this subparagraph:

(i) the international classification of diseases, clinical modifications;

(ii) the common procedure coding system;

(iii) the specifications for national uniform billing data elements;

(iv) the federal poverty guidelines for the state;

(B) the current procedural terminology for physicians published by the American Medical Association;

(C) the diagnostic and statistical manual of mental disorders published by the American Psychiatric Association;

(D) the length of stay in hospitals by diagnosis and operation for the western region of the United States, published by HCIA, Inc.;

(E) the compendium of animal rabies control published by the United States Centers for Disease Control and Prevention;

(F) the control of communicable diseases manual published by the American Health Association;

(G) the standards manual and interpretation guidelines for behavioral health published by the Rehabilitation Accreditation Commission;

(H) the accreditation manual for mental health, chemical dependency, mental retardation/developmental disabilities services, and other health care facilities published by the Joint Commission on the Accreditation of Health Care Organizations;

(I) the national shellfish sanitation program manual of operations published by the federal Food and Drug Administration;

(J) the consumer price index published by the United States Department of Labor; or

1 (3) that action is authorized under the statute under which the
2 regulation is being adopted.

3 (b) When the amended or revised version of a document or other material
4 incorporated by reference in a regulation as described in this subsection takes effect,
5 the state agency shall

6 (1) make the amended or revised version of the document or other
7 material available to the public; and

8 (2) publish in the Alaska Administrative Journal, within 15 days after
9 the effective date of the amended or revised version of the document or other material,
10 a notice that describes the affected regulation, the effective date of the amended or
11 revised version of the document or other material, and how a copy of the amended or
12 revised version may be obtained or reviewed.

13 (c) A person may request that a state agency place the person's name on a
14 distribution list to receive the notice described in (b)(2) of this section. If the state
15 agency is capable of providing the notice by electronic mail, the agency may allow a
16 person to request distribution of the notice by that means.

17 (d) A change in the form, format, or title in a future amended or revised
18 version of a document or other material incorporated by reference in a regulation under
19 this section does not affect the validity of the regulation or the adopting agency's
20 ability to enforce or implement the regulation. The agency shall notify the regulations
21 attorney in the Department of Law if the title of such a document or other material
22 changes; the regulations attorney shall correct the title in the Alaska Administrative
23 Code under AS 44.62.125.

24 * **Sec. 8.** AS 44.62.175(d) and 44.62.190(d) are repealed.

25 * **Sec. 9.** APPLICABILITY. The changes made by this Act do not apply to the adoption,
26 amendment, or repeal of a regulation unless the adoption, amendment, or repeal is first noticed
27 under AS 44.62.190 on or after the effective date of this Act.