

# FISCAL NOTE

No. 7  
 Bill Version: SB 24  
 (S) Publish Date: 2/23/99

**STATE OF ALASKA  
 1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction)	Dept. Affected <u>Law</u>
Title <u>"An Act relating to the adoption, amendment, repeal, legislative review, and judicial review of regulations..."</u>	BRU <u>Criminal Division/Civil Division</u>
Sponsor <u>Senator Donley</u>	Component <u>1st-4th Jud. Dist., Crim Apps/Spec Lit</u>
Requester <u>Senate Judiciary Committee</u>	Component Serial No. <u>2198-99, 2201/03/61/79/09</u>

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	224.6	224.6	224.6	224.6	224.6	224.6
Travel	5.8	5.8	5.8	5.8	5.8	5.8
Contractual	69.0	69.0	69.0	69.0	69.0	69.0
Supplies	3.4	3.4	3.4	3.4	3.4	3.4
Equipment	19.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>322.3</b>	<b>302.8</b>	<b>302.8</b>	<b>302.8</b>	<b>302.8</b>	<b>302.8</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match						
1004 GF	322.3	302.8	302.8	302.8	302.8	302.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>322.3</b>	<b>302.8</b>	<b>302.8</b>	<b>302.8</b>	<b>302.8</b>	<b>302.8</b>

Estimate of any current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time	3	3	3	3	3	3
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*

To be known as the "Alaska Regulations Reform Act," SB 24 makes a number of significant changes to the way regulations are promulgated. Of most significance to the Department of Law from a cost perspective are three of the proposed changes: (1) a requirement for the preparation of cost-benefit analyses on every regulation adoption, repeal and amendment showing that benefits to the public outweigh costs; (2) a requirement for supplemental notices and public comment for "significant changes" in proposed regulations after initial notice and public comment has occurred; and (3), an assumption of invalidity by the courts unless it can be shown that the proposed regulation uses an approach that causes the least intrusion on the rights and property of the persons affected by the regulation, and if it does not, that there is a compelling state interest in using the approach.

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ANALYSIS CONTINUATION

Each of these proposed changes will cause a significant increase in the workload of the department in terms of preventative advice to agencies and additional time for regulations review to ensure the proposed requirements are met, and to defend the regulations when they are challenged in court.

The Department of Law anticipates that a significant increase in the level of litigation attempting to overturn regulations would result. Quantifying costs and benefits of regulations will be, in many cases, a subjective process open to considerable interpretation. In addition, a determination that a regulation uses the least intrusion possible on rights and property of affected individuals would also be open to various interpretations in many cases. For example, it is difficult to determine even who might be affected in the case of many fisheries regulations, and proving a compelling state interest in using a particular allocation scheme, would almost certainly involve extensive litigation because of the economic interests at stake in fisheries and other natural resource allocation decisions.

The department estimates that its attorneys presently spend 7500 hours per year on regulations review projects and litigation challenging regulations. We estimate a 40 percent increase in time for all regulations-related projects would result from this bill. (Increases in fisheries and other natural resource-related litigation over regulations could be substantially higher.) At 40 percent, an additional 3000 hours would be required, a total of 2 full-time equivalent attorneys (3000/1448 hours). In addition, many of the cases in litigation would require the use of "outside" expert economists.

Based on the department's FY00 standard full-time equivalent attorney cost schedule (\$133,926), which includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses, the cost of 2 FTE attorneys is \$267,852. An additional \$5,000 per position is included for direct case costs, \$6,500 per position for one-time equipment purchases, and \$25,000 for outside experts, costs that cannot be included in the rate as overhead.

While clerical support funding is included in the cost schedule, position authorization and one-time equipment costs are separate. The total PFT estimate thus includes one permanent full-time Legal Secretary I position, and the equipment line includes \$6,500 for one-time equipment.