

FISCAL NOTE No. 28

STATE OF ALASKA
1999 LEGISLATIVE SESSION

Bill Version: CSS 24 (Jud)
(S) Publish Date: 3-5-99

Revision Date/Time (Note if correction) _____ Dept. Affected Commerce & Econ Dev.
 Title An Act relating to the adoption ... of regulations; BRU Multiple
 and amending Rule 202, AK Rules of Appellate Procedure Component Multiple
 Sponsor Senators Donley, Taylor
 Requester Senate Judiciary Component Serial No. Multiple

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	69.8	69.8	69.8	69.8	69.8	69.8
Travel						
Contractual	425.6	425.6	425.6	425.6	425.6	425.6
Supplies	0.2	0.2	0.2	0.2	0.2	0.2
Equipment	6.3					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	501.9	495.6	495.6	495.6	495.6	495.6

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	167.1	167.1	167.1	167.1	167.1	167.1
1005 GF/Program Receipts	334.8	328.5	328.5	328.5	328.5	328.5
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	501.9	495.6	495.6	495.6	495.6	495.6

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time	1	1	1	1	1	1
Part-time	1	1	1	1	1	1
Temporary						

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

(See attached pages)

Prepared by (multiple) Phone 465-2500
 Division (multiple) Date/Time 3/4/99 8:31 AM
 Approved by Commissioner Deborah B. Sedwick Date 3/4/99
 Agency Commerce & Economic Development

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. CSSB 24(JUD)
#28

ANALYSIS

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT FISCAL NOTE CALCULATIONS FOR CSSB 24(JUD)

CSSB 24(JUD) requires a state agency to prepare a cost-benefit analysis of the costs to the public to comply with proposed regulation changes. The Division of Occupational Licensing, including the licensing boards and commissions within the division, proposes an average of 30 regulations projects each year. The projects vary widely in complexity and costs. In most cases, analyzing the costs and benefits to the public will include estimating the cost or value of factors such as public protection and professional practice standards.

Many of the Division of Banking, Securities and Corporations regulations are for fees and forms filing. Statutes mandate that fees collected must pay for the services provided. Some of our regulations are driven and supported by industry requests. Cost-benefit analyses would require the division to contract the services of an Economist. The division promulgates regulations on an average of three times per year. Passage of SB 24 would not add anything to the regulation process except adoption costs (cost benefit analysis fees) and potential litigation costs. Should the division have to prove the validity of the regulations as identified in Section 44.62.300 Judicial review of validity, the division would be faced with legal expenses. The division operating expenditures are based on an average of three regulations packages a year at 20 pages each, a cost of \$10,500 each or \$31,500 a year in cost benefit analysis fees as well as an estimate of \$7,500 for potential litigation costs.

The Division of Occupational Licensing does not have an economist or other staff with the expertise to provide such a specialized analysis. To comply with CSSB 24(JUD), the division must contract with an economist. The division estimates that its 30 annual projects can be divided into three levels of complexity requiring three different levels of economic analysis, ranging from five to 20 hours each.

The Division of Insurance has no economists on staff to provide the economic determinations required in this bill. The division will contract for this service. The division estimates an average cost of \$8,250.00 per regulation project, including supplemental notices. The division has averaged five regulation projects per year for the last two years ($\$8,250 \times 5 = \$41,250$).

The current procedures used by the Division of Insurance for developing regulations entail extensive up-front input from affected parties. The division utilizes a process of inviting interested parties to participate in drafting proposed regulations, drafts are circulated to interested parties, comments solicited and discussed. The final proposed regulation for the most part represents consensus of interested parties and the division. This approach greatly facilitates the hearing process, is cost efficient and fully participatory. The proposed legislation would erode and increase costs of the process.

CSSB 24(JUD) also requires supplemental notice and public comment proceedings when an agency makes "significant changes" to a regulations proposal after the original public notice. The division estimates that 70 percent of its regulation projects will require supplemental notice and the majority of the renoticed projects will require an additional public hearing. The licensing boards and commissions adopting the regulation changes will be required to hold additional public meetings by teleconference to

conduct the hearings and take action on the proposals. The costs associated with these new requirements include newspaper advertising costs for the supplemental notices, postage and printing costs for distributing the supplemental notices, the costs of the teleconference meetings for the additional public hearings and board meetings, and a half-time clerk position to assume some of the routine duties of the regulations specialists so that the regulations specialist may handle the increased public notices, public hearings, and board meetings. All divisions also anticipate the need for additional legal services from the Department of Law. The Division of Occupational Licensing will also need to utilize the services of at least a part-time attorney to assist boards and the division in determining whether regulations are "clearly necessary" and defend the determination in court. Additionally, attorney services are needed to assist in legal action resulting from the 60-day decision window.

Passage of SB 24 would not add anything to the regulation process except adoption costs (cost benefit analysis) and potential litigation costs. The Division of Banking, Securities and Corporations, as well as other agencies, would have to prove the validity of the regulations as identified in **Section 44.62.300 Judicial review of validity**. That section requires the division to produce regulations that are the least intrusive on the rights and property of the persons affected by the regulations. The division may endure a number of expenses trying to accomplish this. The division would be responsible for costs of legal counsel from the Department of Law at \$100 per hour, and costs of a hearing officer and staff if this were in a hearing setting. The total cost of a one-week hearing is estimated at **\$7,450.00**. This figure represents DOL attorney at \$100.00/per hour x 37.5 hours plus the cost of the hearing officer and staff of \$3,700 for one week. If the division was unable to prove validity in Section 13, the division may suddenly be in a situation where we would be without regulations; we might not be able to issue orders, process fees (revenue) or provide investor protection to Alaskans. Under this section it will be difficult to please all of the people all of time, and any interested party may request a judicial declaration of validity before the court at the division's expense.