

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

No. 35
 BILL Bill Version: CSSB 24 (JUD)
 (S) Publish Date: 3-5-99

Revision Date/Time (Note if correction): _____
 Title: Regulations: Adoption & Judicial Review
 Sponsor: Senator Donley
 Requester: Senate Judiciary

Department Affected: Labor
 BRU: Office of the Commissioner
 Component: Commissioner's Office
 COMPONENT SERIAL NO. 340

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

OPERATING	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES						
TRAVEL	7.3	7.3	7.3	7.3	7.3	7.3
CONTRACTUAL	75.3	53.5	73.5	55.3	73.5	53.5
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	82.6	60.8	80.8	62.6	80.8	60.8

CAPITAL						
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CHANGE IN REVENUE						
FUND SOURCE #						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	82.6	60.8	80.8	62.6	80.8	60.8
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other (Specify Type)						
TOTAL	82.6	60.8	80.8	62.6	80.8	60.8

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY99) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

See Attached

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 Division: Administrative Services Date/Time: 3/2/99 9:56 AM
 Approved by Commissioner: Ed Flanagan, Commissioner *Ed Flanagan*
 Agency: Department of Labor Date: 3/2/99

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CSSB 24(JUD) Analysis

Unemployment Insurance

The Bill would amend the regulation adoption process in AS 44.62 in two primary areas:

Sections 5-6 of the Bill would require a mandatory cost-benefit analysis for each regulation and would allow adoption of the regulation only if benefits exceed costs. A summary of the cost-benefit analysis would be included with each notice.

Section 8 of the Bill would require a supplemental notice before adoption if the agency has made any "significant" change to the regulation after the original notice. The agency would be required to justify any failure to provide supplemental notice, presumably on the basis of whether the re-drafted changes were "significant."

Mandatory cost-benefit analysis

ESD regulations in most cases do not impose additional reporting or other burdens on the public. They interpret eligibility requirements in the statute or define statutory terms. Cost-benefit analysis would be minimal. The personal services cost for this function is based on one regulations project per year, with one staff person completing the analysis in one week. Estimated cost approximately \$1,500.

Supplemental notice

Almost all ESD regulations projects have some "significant" re-drafting before adoption. Personal services cost is based on one project per year, with one supplemental notice per project, and an estimated two staff-weeks to complete the supplemental notice and evaluate the public response. Estimated cost approximately \$2,800.

Anticipated costs to be absorbed within existing budgeted funds.

CSSB 24(JUD) Analysis

Labor Market Information

AS 09.38.115 of the Alaska Exemptions Act provides for the adjustment of the exemption amounts specified in other sections of the Act and requires that the Department of Labor adopt a regulation announcing the changes in the dollar amounts. The dollar amounts change on October 1 of each even-numbered year if the percentage of change is 10 percent or more. Senate Bill No. 24 would require that the department prepare a cost benefit analysis to identify the cost to the public and the benefit that the public would receive from the adjustment. The exemptions Act deals with the exclusion from various legal assessments and proceedings specified values for certain items. These legal proceedings ultimately result in the transfer of funds from one entity to another. The nominal net cost/benefit of this transfer or non-transfer in the case of exempted amounts is zero to the parties involved. The public social cost/benefit is not measurable (i.e., improved fairness, equity) in any reasonably quantifiable way. Doing a cost/benefit analysis for the adjustment of exemption amounts would not be a cost effective use of public funds. Adjustment of dollar amounts in the Exemptions Act should not be done by regulation but should more appropriately be acted upon by the legislature.

The Alaska Exemptions Act deals with all sorts of financial settlements. They range from bankruptcies to divorce settlements. The number of new cases which would involve exemptions each years is unknown. An estimate of the number and type of cases would have to be identified and the adjustment amount related to each case; an estimate of the benefit to interested and unrelated parties would need to be determined. Understanding that a supportable estimate would require such information, we would nonetheless estimate that complying with Senate Bill No. 24 would require 250 hours of contracted economic analysis at \$80 per hour for a cost of \$20,000. This does not include the costs to the Courts system to develop and maintain an electronic database which would provide the data which would be the basis of the above analysis.

Presumably the adjustment would not be made if the cost outweighs the benefit even though the adjustment has also been mandated by state law. However, we question the legality of not acting on the requirements of the Alaska Exemptions Act and would propose an amendment to the Act to eliminate the requirement that adjustments are made by the Department of Labor and noticed by regulation. The amendment would require the legislature to act on future adjustments to the exemption amounts specified in the Alaska Exemptions Act and would clarify the legislature's intent as it relates to exemption amounts.

CSSB 24(JUD) Analysis

Alaska Labor Relations Agency

SB 24 proposes changes to procedures to adopt regulations that will increase the costs of such procedures: AS 44.62.213 would increase publication costs and AS 44.62.035 would add the cost of an economist to do a cost benefit analysis. This note assumes the agency will have one substantial regulation project every three years at a cost of \$1,800.

CSSB 24(JUD) Analysis

Workers' Compensation

The bill provides for a right to judicial review in district or superior court by an interested party for any regulation adopted, amended, or repealed. The bill also requires a cost benefit analysis be performed for each regulation promulgated and supplemental notices and public proceedings to take place when a substantive change in regulation occurs.

To ensure accurate cost benefit analysis data, a contract must be established with an experienced economic cost benefit analyst. It is anticipated that this form of Professional Services contract will cost \$10,000 annually.

Additionally, the required travel, supplemental notices and public proceedings will result in approximately \$9,500 in additional annual expenses.

<u>Line 200 Travel</u>	
Board Members/Hearing Officers	
Travel	7,300
<u>Line 300 Contractual</u>	
Cost Benefit Analysis	
Professional Services Contract	10,000
Advertising	2,200
(Proposed Changes/Public Meetings)	_____
Total	19,500

CSSB 24(JUD) Analysis

Wage & Hour

Section 5 of SB 24 would significantly impact Wage & Hour Administration as it requires agencies to “prepare a cost-benefit analysis of the costs to the public to comply with the proposed regulatory action and the benefits to the public from the proposed regulatory action.”

We do not currently have the funding or qualified staff available to implement this legislation. We would be required to contract with professional economic consulting firms, at a rate of \$65 to \$97 per hour, to conduct analyses. The hours required to conduct the analyses as required by SB24 could vary tremendously depending on the type of regulation project and the level of detail required. Given that these analyses would need to stand up to a court challenge (Sec.13), we must assume significant detail will be required.

This section estimates one regulation adoption per year in response to new legislation, requiring 100 hours of contractual services each. (100 hours x \$82.60 per hour = \$8,260)

CSSB 24(JUD) Analysis

Mechanical Inspection

Section 5 of SB 24 would significantly impact Mechanical Inspection as it requires agencies to “prepare a cost-benefit analysis of the costs to the public to comply with the proposed regulatory action and the benefits to the public from the proposed regulatory action.”

We do not currently have the funding or qualified staff available to implement this legislation. We would be required to contract with professional economic consulting firms, at a rate of \$65 to \$97 per hour, to conduct analyses. The hours required to conduct the analyses as required by SB24 could vary tremendously depending on the type of regulation project and the level of detail required. Given that these analyses would need to stand up to a court challenge (Sec.13), we must assume significant detail will be required.

Mechanical Inspection's regulatory changes could involve fee structure changes, and the incorporation of new plumbing, boiler, and electrical codes in existing regulations.

This section estimates two regulation changes or adoptions per year, requiring 100 hours of contractual services each. (200 hours x \$82.60 per hour = \$16,520)

CSSB 24(JUD) Analysis

Occupational Safety & Health

Section 5 of SB 24 would significantly impact Occupational Safety & Health (OSH) as it requires agencies to “prepare a cost-benefit analysis of the costs to the public to comply with the proposed regulatory action and the benefits to the public from the proposed regulatory action.”

Every federal Occupational Safety & Health Administration final rule which OSH must adopt includes an analysis of costs of compliance, benefits to the public, and national economic effects. Each final rule also includes OSHA's estimated costs of compliance. These federal analyses may be marginally acceptable as a response to Section 5, in cases where we are adopting a federal regulation. However, they often don't have much application to Alaska due to the differences in our geography, infrastructure, climate, and industries. In addition, there are regulatory changes OSH promulgates which are not federal changes, which we would have to analyze completely.

The OSH section currently uses information on occupational safety and health injuries, illnesses and fatalities as an indicator of needed state-specific changes, and OSH should be able to state the benefits to be received by the public with minimal additional effort. However, we do not complete formal cost/benefit analyses, and estimating the costs of compliance in Alaska could be a formidable task.

For example, a cost analysis for implementation of the relatively simple bloodborne pathogens standard in the Alaska Department of Health and Social Services required .5 FTE in 1992 for data gathering, analysis, rechecking assumptions, and report production for approximately four months. A statewide cost/benefit analysis for the implementation of the Process Safety Management standard probably would require several years for a team of safety professionals and professional analysts and economists to complete. We do not have this capability.

Because of the level of review and analysis required of the department, and the number of days allowed for each level of review, OSH would never meet federal deadlines for adoption of regulations. This would continue to be a serious problem for our federal monitors.

We do not currently have the funding or qualified staff to implement this legislation. We would be required to contract with professional economic consulting firms, at rate of \$65 to \$97 per hour, to conduct the cost benefit analyses. The hours required to conduct the analyses as required by SB 24 could vary tremendously depending on the type of regulation project and the level of detail required. Given that these analyses would need to stand up to a court challenge (Sec. 13), we must assume significant detail will be required.

OSH estimates two regulation adoptions or amendments per year will be undertaken by the section, requiring 100 hours of contractual services for each. (200 hours x \$82.60 per hour = \$16,520)