

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

No. 41
Bill Version: CSSB 24 (JUD)
(S) Publish Date: 3-5-99

Revision Date _____	Dept. Affected <u>Alaska Court System</u>
Title <u>The Alaska Regulations Reform Act</u>	BRU <u>Alaska Court System</u>
Sponsor <u>Sen. Donley</u>	Component <u>Trial Courts</u>
Requester <u>Senate Judiciary</u>	Component Serial No. <u>769</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	52.9	52.9	52.9	52.9	52.9	52.9
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	52.9	52.9	52.9	52.9	52.9	52.9

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	52.9	52.9	52.9	52.9	52.9	52.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	52.9	52.9	52.9	52.9	52.9	52.9

Estimate of any current year (FY99) cost: none

POSITIONS

POSITIONS	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Full-time						
Part-time	2	2	2	2	2	2
Temporary						

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

See attached fiscal analysis.

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Agency: <u>Alaska Court System</u>	Date/Time: <u>3/5/99 9:48 AM</u>
Approved by: <u>Stephanie J. Cole, Administrative Director</u>	Date: <u>3/5/99</u>
Agency: <u>Alaska Court System</u>	

Alaska Court System
Fiscal Analysis
CSSB 24 (JUD)
The Alaska Regulations Reform Act

This bill reflects a significant change in the policies regarding the amendment or adoption of state agency regulations. Two areas in particular will have a fiscal impact on the court system. Section 4 of the bill requires that most state regulations be accompanied by a cost-benefit analysis. Under section 13, if a regulation is challenged in court, the agency must prove that it accomplishes its purpose with the least intrusion possible on the rights and property of the persons affected. If the state cannot meet that standard then it must show a "substantial state interest" in the regulation that it did adopt. Both the cost-benefit requirement and the enhanced burden of proof will make it easier to challenge agency regulations in court and lead to an increase in court cases.

A cost benefit analysis is fertile ground for court challenges. It is much like an environmental impact statement in that it is relatively easy to allege that some factor or another was not considered or given proper weight. It is anticipated that this change will increase the number of challenges filed in court.

Likewise, because the enhanced burden of proof required by section 13 would significantly increase the likelihood of a successful challenge to any given regulation, the bill can be expected to significantly increase the number of challenges brought. Under current law, a regulation will be upheld as long as it has been properly adopted and is consistent with its authorizing statute. Committee Substitute for Senate Bill 24(JUD) raises that standard by requiring the state to prove that "the regulation accomplishes its goal by using an approach that causes the least intrusion on the rights and property of the persons affected by the regulation." This is a significantly higher burden and one that is much more susceptible to challenge. If the agency cannot meet this burden then it must show that a "substantial state interest requires using the approach taken by the regulation." The substantial state interest is a new standard and it is not clear how difficult it will be for the state to meet it. What is clear, however, is that it is substantially less deferential to the state than the current standard so a plaintiff will have a greater chance of prevailing against the state.

It is conservatively estimated that the court system currently sees a minimum of 20 regulatory review cases a year. It is estimated that the changes made by CSSB 24(JUD) will double that number to 40. This note assumes that the additional 20 cases will take an average of 5 days of judicial time (3 day trial with 2 more days for motions and record review). (No costs are figured for jurors, as these cases will be bench trials.)

Because these estimates are conservative, it is possible, even likely, that the number of challenges brought and the amount of judicial time required to resolve them will both be greater than assumed. If this is true, the court system may return to the legislature for additional funding.

This note does not include the costs associated with additional appeals to the supreme court and the costs associated with the lengthening of the regulatory challenges that the court currently sees.

Alaska Court System
Fiscal Analysis
CSSB 24 (JUD)

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro Tem Superior Court Judge, Anchorage ⁽¹⁾ , PPT, 5 months	\$24,375	\$11,038	\$35,413
In-Court Clerk, Anchorage ⁽¹⁾ , 12A, PPT, 5 months	12,125	5,378	<u>17,503</u>
Estimated Personal Services and Total Cost			<u><u>\$52,916</u></u>

(1) *Estimated statewide impact. Positions placed in Anchorage for analysis purposes.*