

CS FOR SENATE BILL NO. 277(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 3/24/00

Referred: Rules

Sponsor(s): SENATE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the giving of certain state agency notices; relating to the
2 elimination of the Alaska Administrative Journal and to the establishment of the
3 Alaska Online Public Notice System for the giving of certain notices; and
4 providing for an effective date."

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

6 * **Section 1.** AS 36.30.130(a) is amended to read:

7 (a) The procurement officer shall give adequate public notice of the invitation
8 to bid at least 21 days before the date for the opening of bids. If the procurement
9 officer determines in writing that a shorter notice period is advantageous for a
10 particular bid and adequate competition is anticipated, the 21-day period may be
11 shortened. Notice shall be **posted on the Alaska Online Public Notice System**
12 **established under AS 44.62.175** [PUBLISHED IN THE ALASKA
13 ADMINISTRATIVE JOURNAL]. The time and manner of notice must be in
14 accordance with regulations adopted by the commissioner of administration. When

1 practicable, notice may include

2 (1) publication in a newspaper calculated to reach prospective bidders;

3 (2) notices posted in public places within the area where the work is
4 to be performed or the material furnished; and

5 (3) notices mailed to all active prospective contractors on the
6 appropriate list maintained under AS 36.30.050.

7 * **Sec. 2.** AS 39.52.240(h) is amended to read:

8 (h) The attorney general shall **post on the Alaska Online Public Notice**
9 **System established under AS 44.62.175** [PUBLISH IN THE ALASKA
10 ADMINISTRATIVE JOURNAL], with sufficient deletions to prevent disclosure of the
11 persons whose identities are confidential under (g) of this section, the advisory
12 opinions issued under this section that the attorney general determines to be of major
13 import because of their general applicability to executive branch officers.

14 * **Sec. 3.** AS 44.19 is amended by adding a new section to read:

15 **Sec. 44.19.021. Powers of the lieutenant governor.** (a) To promote public
16 awareness and in the best interests of the state, the lieutenant governor, under the
17 provisions of AS 36.30, may provide for the availability of consolidated space in
18 newspapers of general circulation and in trade and industry publications for the
19 publication of notices regarding state agency regulations as required by AS 44.62.010 -
20 44.62.290. The lieutenant governor may require state agencies to participate in the use
21 of consolidated space provided under this section and may waive the requirement if
22 nonparticipation is in the best interests of the state.

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

26 * **Sec. 4.** AS 44.62.175 is repealed and reenacted to read:

27 **Sec. 44.62.175. Alaska Online Public Notice System.** (a) The lieutenant
28 governor shall develop and supervise the Alaska Online Public Notice System, to be
29 maintained on the state's site on the Internet. The lieutenant governor shall prescribe
30 the form of notices posted on the system by state agencies. The Alaska Online Public
31 Notice System must include

- 1 (1) notices of proposed actions given under AS 44.62.190(a);
- 2 (2) notices of state agency meetings required under AS 44.62.310(e),
- 3 even if the meeting has been held;
- 4 (3) notices of solicitations to bid issued under AS 36.30.130;
- 5 (4) notices of state agency requests for proposals issued under
- 6 AS 18.55.255, 18.55.320; AS 36.30.210; AS 37.05.316; AS 38.05.120; and
- 7 AS 43.40.010;
- 8 (5) executive orders and administrative orders issued by the governor;
- 9 (6) written delegations of authority made by the governor or the head
- 10 of a principal department under AS 44.17.010;
- 11 (7) the text or a summary of the text of a regulation or order of repeal
- 12 of a regulation for which notice is given under AS 44.62.190(a), including an
- 13 emergency regulation or repeal regardless of whether it has taken effect;
- 14 (8) notices required by AS 44.62.245(b) regarding an amended version
- 15 of a document or other material incorporated by reference in a regulation;
- 16 (9) a summary of the text of recently issued formal opinions and
- 17 memoranda of advice of the attorney general;
- 18 (10) a list of vacancies on boards, commissions, and other bodies
- 19 whose members are appointed by the governor; and
- 20 (11) in accordance with AS 39.52.240(h), advisory opinions of the
- 21 attorney general.
- 22 (b) The issuer of the notice, order, delegation, text, summary, or list in (a) of
- 23 this section shall post on the Alaska Online Public Notice System the notice, order,
- 24 delegation, text, summary, or list, prepared in the format required by the lieutenant
- 25 governor.
- 26 (c) A request for a printed copy of a required posting on the Alaska Online
- 27 Public Notice System may be made under AS 09.25.110 - 09.25.220 to any state
- 28 employee designated by the lieutenant governor to receive requests.
- 29 (d) The lieutenant governor shall provide for a permanent, electronic archive
- 30 system of notices posted on the Alaska Online Public Notice System under this
- 31 section. Access to the electronic archive system shall be made available to the public.

1 (e) The lieutenant governor may delegate duties under this section to qualified
2 state employees.

3 (f) A person may not maintain an action based on a posting or lack of posting
4 on the Alaska Online Public Notice System.

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

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

8 (1) published in the newspaper of general circulation or trade or
9 industry publication that the state agency prescribes and **posted on** [IN] the **Alaska**
10 **Online Public Notice System** [ALASKA ADMINISTRATIVE JOURNAL]; in the
11 discretion of the state agency giving the notice, the requirement of publication in a
12 newspaper or trade or industry publication may be satisfied by using a combination of
13 publication and broadcasting; [WHEN BROADCASTING THE NOTICE, AN
14 AGENCY MAY USE AN ABBREVIATED FORM OF THE NOTICE IF THE
15 BROADCAST PROVIDES THE NAME AND DATE OF THE NEWSPAPER OR
16 TRADE OR INDUSTRY JOURNAL WHERE THE FULL TEXT OF THE NOTICE
17 CAN BE FOUND;]

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

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

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

23 (A) **furnished** [MAILED] to a person or group of persons **who**
24 [WHOM] the agency believes is interested in the proposed action; and

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

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

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

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

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

10 * **Sec. 6.** AS 44.62.190(c) is amended to read:

11 (c) The failure to **furnish** [MAIL] notice to a person as provided in this
 12 section does not invalidate an action taken by an agency under AS 44.62.180 -
 13 44.62.290.

14 * **Sec. 7.** AS 44.62.200(a) is amended to read:

15 (a) The notice of proposed adoption, amendment, or repeal of a regulation **that**
 16 **is published under AS 44.62.175 on the Alaska Online Public Notice System or is**
 17 **provided under AS 44.62.190(a)(2) - (8)** must include **the information described in**
 18 **(1) - (7) of this subsection. The notice that is published in a newspaper of general**
 19 **circulation or trade or industry publication or that is broadcast must include the**
 20 **information described in (1), (4), and (6) of this subsection. The information that**
 21 **must be provided according to requirements set out in this subsection is**

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

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

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

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

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

1 **(6) a brief general description of the proposed subject of agency**
 2 **action, how more detailed information may be obtained, and the name of the**
 3 **agency contact person;**

4 **(7) the reason for the proposed action, the initial cost to the state**
 5 **agency of implementation, the estimated annual costs to the state agency of**
 6 **implementation, the name of the contact person for the state agency, and the**
 7 **origin of the proposed action.**

8 * **Sec. 8.** AS 44.62.200(c) is amended to read:

9 (c) An agency that issues a notice under this section shall assure that the notice
 10 is prepared in a form adequate for **posting on the Alaska Online Public Notice**
 11 **System** [PUBLICATION IN THE ALASKA ADMINISTRATIVE JOURNAL].

12 * **Sec. 9.** AS 44.62.245(b) is amended to read:

13 (b) When the amended version of a document or other material incorporated
 14 by reference in a regulation as described in (a) of this section becomes available, the
 15 state agency shall

16 (1) make the amended version of the document or other material
 17 available to the public for review; and

18 (2) **post on the Alaska Online Public Notice System, and** publish in
 19 **a newspaper of general circulation, a trade or industry publication, or a regularly**
 20 **published agency newsletter or similar printed publication** [THE ALASKA
 21 ADMINISTRATIVE JOURNAL], not later than 15 days after the amended version of
 22 the document or other material becomes available, a notice that describes the affected
 23 regulation, the effective date of the amended version of the document or other material,
 24 and how a copy of the amended version may be obtained or reviewed.

25 * **Sec. 10.** AS 44.62.310(e) is amended to read:

26 (e) Reasonable public notice shall be given for all meetings required to be
 27 open under this section. The notice must include the date, time, and place of the
 28 meeting and, if the meeting is by teleconference, the location of any teleconferencing
 29 facilities that will be used. Subject to **posting notice of a meeting on the Alaska**
 30 **Online Public Notice System as** [THE PUBLICATION] required by AS 44.62.175(a)
 31 [IN THE ALASKA ADMINISTRATIVE JOURNAL], the notice may be given by

1 using print or broadcast media. The notice shall be posted at the principal office of
2 the public entity or, if the public entity has no principal office, at a place designated
3 by the governmental body. The governmental body shall provide notice in a consistent
4 fashion for all its meetings.

5 * **Sec. 11.** AS 44.62.190(d) is repealed.

6 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 ALASKA ADMINISTRATIVE CODE REVISION INSTRUCTIONS. Wherever in
9 the Alaska Administrative Code the term "Alaska Administrative Journal" is used, it shall be
10 read as "Alaska Online Public Notice System" when to do so would be consistent with the
11 changes made by this Act. Under AS 44.62.125, the regulations attorney shall implement this
12 section in the administrative code.

13 * **Sec. 13.** This Act takes effect immediately under AS 01.10.070(c).