

**CS FOR HOUSE BILL NO. 295(STA) am**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - FIRST SESSION**

**BY THE HOUSE STATE AFFAIRS COMMITTEE**

**Amended: 5/16/03**

**Offered: 5/14/03**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the publishing, furnishing, and contents of certain notices regarding**  
2 **regulations or rules of certain state agencies and entities; relating to distribution of the**  
3 **Alaska Administrative Code, Alaska Administrative Register, and supplements to the**  
4 **code or register; and providing for an effective date."**

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

6 \* **Section 1.** AS 06.26.900(2) is amended to read:

7 (2) in addition to other authority in this chapter to adopt regulations,  
8 adopt regulations necessary to interpret and implement this chapter, including  
9 regulations providing for the retention and preservation of records; **the requirement**  
10 **of AS 44.62.190(a)(7) for newspaper or other publication of a notice of proposed**  
11 **action does not apply to a notice for regulations proposed to be adopted under**  
12 **this chapter;**

13 \* **Sec. 2.** AS 09.25.510 is amended by adding a new subsection to read:

14 (d) The requirement of AS 44.62.190(a)(7) for newspaper publication of a

1 notice of proposed action does not apply to a notice for regulations proposed to be  
2 adopted by the lieutenant governor or a state agency under this section.

3 \* **Sec. 3.** AS 14.25.022(c) is amended to read:

4 (c) At least 30 days before the adoption, amendment, or repeal of a regulation  
5 under this chapter, the Alaska Teachers' Retirement Board shall provide notice of the  
6 action that is being considered. The notice shall be

7 (1) posted in public buildings throughout the state;

8 (2) published in **a newspaper** [ONE OR MORE NEWSPAPERS] of  
9 general circulation in [EACH JUDICIAL DISTRICT OF] the state;

10 (3) **furnished** [MAILED] to each person or group that has filed a  
11 request for notice of proposed action with the Alaska Teachers' Retirement Board; and

12 (4) furnished to each member of the legislature and to the Legislative  
13 Affairs Agency.

14 \* **Sec. 4.** AS 14.25.022(d) is amended to read:

15 (d) **Notwithstanding (c)(3) of this section, if a person who is to receive a**  
16 **notice under (c) of this section requests that the Alaska Teachers' Retirement**  
17 **Board mail the notice, the Alaska Teachers' Retirement Board shall furnish the**  
18 **notice to the person by mail.** Failure to **furnish** [MAIL] notice to a person as  
19 required under **this subsection or** (c)(3) of this section does not invalidate an action  
20 taken by the Alaska Teachers' Retirement Board.

21 \* **Sec. 5.** AS 14.40.871(d) is amended to read:

22 (d) Except as provided in (e) of this section, at least 15 days before the  
23 adoption of a regulation, the corporation shall give public notice of the proposed  
24 action by publishing the notice in **a newspaper** [AT LEAST THREE  
25 NEWSPAPERS] of general circulation in the state and by **furnishing** [MAILING] a  
26 copy of the notice to every person who has filed a request for notice of proposed  
27 regulations with the corporation. **If a person who is to receive a notice under this**  
28 **subsection requests that the corporation mail the notice, the corporation shall**  
29 **furnish the notice to the person by mail.** The public notice must include a statement  
30 of the time, place, and nature of the proceedings for the adoption of the regulation and  
31 must include an informative summary of the subject of the proposed action. On the

1 date and at the time and place designated in the notice, the corporation shall give each  
 2 interested person or an authorized representative of the person, or both, the  
 3 opportunity to present statements, arguments, or contentions orally or in writing and  
 4 shall give members of the public an opportunity to present oral statements, arguments,  
 5 or contentions for a total period of at least one hour. The corporation shall consider all  
 6 relevant matter presented to it before taking the proposed action on the regulation. At  
 7 a hearing under this subsection, the corporation may continue or postpone the hearing  
 8 to a time and place determined by the corporation and announced at the hearing before  
 9 taking the action to continue or postpone the hearing. A regulation adopted by the  
 10 corporation may vary from the informative summary specified in this subsection if the  
 11 subject matter of the action taken on the regulation remains the same and if the  
 12 original notice of the proposed action was written so as to assure that members of the  
 13 public are reasonably notified of the subject matter of the proposed action in order for  
 14 them to determine whether their interests could be affected by the corporation's  
 15 proposed action on that subject.

16 \* **Sec. 6.** AS 18.56.088(d) is amended to read:

17 (d) Except as provided in (e) of this section, at least 15 days before the  
 18 adoption, amendment, or repeal of a regulation on a subject specified in (c)(1) - (4) of  
 19 this section, the board shall give public notice of the proposed action by publishing the  
 20 notice in a newspaper [AT LEAST THREE NEWSPAPERS] of general circulation in  
 21 the state and by furnishing [MAILING] a copy of the notice to every person who has  
 22 filed a request for notice of proposed regulations with the board or the corporation. **If**  
 23 **a person who is to receive a notice under this subsection requests that the board**  
 24 **mail the notice, the board shall furnish the notice to the person by mail.** The  
 25 public notice must include a statement of the time, place, and nature of the  
 26 proceedings for the adoption, amendment, or repeal of the regulation and must include  
 27 an informative summary of the proposed subject of the regulation. On the date and at  
 28 the time and place designated in the notice, the board shall give each interested person  
 29 or an authorized representative, or both, the opportunity to present statements,  
 30 arguments, or contentions in writing, and shall give members of the public an  
 31 opportunity to present oral statements, arguments, or contentions for a total period of

1 at least one hour. The board shall consider all relevant matter presented to it before  
 2 adopting, amending, or repealing a regulation. At a hearing under this subsection, the  
 3 board may continue or postpone the hearing to a time and place that it determines. A  
 4 regulation that is adopted, or its amendment or repeal, may vary in content from the  
 5 informative summary specified in this subsection if the subject matter of the  
 6 regulation, or its amendment or repeal, remains the same and the original notice was  
 7 written so as to assure that members of the public are reasonably notified of the  
 8 proposed subject of the board's action in order for them to determine whether their  
 9 interests could be affected by the board's action on that subject.

10 \* **Sec. 7.** AS 21.06.090(a) is amended to read:

11 (a) The director may adopt reasonable regulations to effectuate this title. **The**  
 12 **requirement of AS 44.62.190(a)(7) for newspaper or other publication of a notice**  
 13 **of proposed action does not apply to a notice for regulations proposed to be**  
 14 **adopted under this title.** A regulation may not extend, modify, or conflict with any  
 15 law of this state or the reasonable implications thereof. Except for regulations adopted  
 16 under AS 21.06.250, a regulation affecting a person or matter other than the personnel  
 17 or the internal affairs of the director's office shall be adopted or amended only after a  
 18 hearing, of which notice was given as required by AS 21.06.200. If reasonably  
 19 possible, the director shall set out the proposed regulation or amendment in or with the  
 20 notice of hearing. A regulation or amendment as to which a hearing is required is not  
 21 effective until it has been on file as a public record in the director's office for at least  
 22 10 days.

23 \* **Sec. 8.** AS 22.25.027(c) is amended to read:

24 (c) At least 30 days before the adoption, amendment, or repeal of a regulation  
 25 under this chapter, the commissioner of administration shall provide notice of the  
 26 action that is being considered. The notice shall be

- 27 (1) posted in public buildings throughout the state;  
 28 (2) published in **a newspaper** [ONE OR MORE NEWSPAPERS] of  
 29 general circulation in [EACH JUDICIAL DISTRICT OF] the state;  
 30 (3) **furnished** [MAILED] to each person or group that has filed a  
 31 request for notice of proposed action with the commissioner of administration; and

1 (4) furnished to each member of the legislature and to the Legislative  
2 Affairs Agency.

3 \* **Sec. 9.** AS 22.25.027(d) is amended to read:

4 (d) **Notwithstanding (c)(3) of this section, if a person who is to receive a**  
5 **notice under (c)(3) of this section requests that the commissioner of**  
6 **administration mail the notice, the commissioner of administration shall furnish**  
7 **the notice to the person by mail.** Failure to **furnish** [MAIL] notice to a person as  
8 required under **this subsection or** (c)(3) of this section does not invalidate an action  
9 taken by the commissioner of administration.

10 \* **Sec. 10.** AS 31.05.030(c) is amended to read:

11 (c) The commission shall adopt regulations and orders and take other  
12 appropriate action to carry out the purposes of this chapter. **The requirement of**  
13 **AS 44.62.190(a)(7) for newspaper or other publication of a notice of proposed**  
14 **action does not apply to a notice for regulations proposed to be adopted under**  
15 **this chapter, including regulations under AS 31.05.040.**

16 \* **Sec. 11.** AS 39.25.140(c) is amended to read:

17 (c) At least 30 days before the adoption, amendment, or repeal of a personnel  
18 rule, the secretary to the personnel board shall provide notice that the personnel board  
19 has the proposed action under consideration. The notice shall be

20 (1) posted in public buildings throughout the state;

21 (2) **posted on the Alaska Online Public Notice System**  
22 **(AS 44.62.175)** [PUBLISHED IN ONE OR MORE NEWSPAPERS OF GENERAL  
23 CIRCULATION THROUGHOUT THE STATE];

24 (3) **furnished** [MAILED] to each person or group that filed a request  
25 for notice of proposed action with the secretary to the personnel board;

26 (4) furnished to each member of the legislature and to the Legislative  
27 Affairs Agency.

28 \* **Sec. 12.** AS 39.25.140(f) is amended to read:

29 (f) Failure to **furnish** [MAIL] notice to a person as required in this section  
30 does not invalidate an action taken by the personnel board.

31 \* **Sec. 13.** AS 39.35.042(c) is amended to read:

1 (c) At least 30 days before the adoption, amendment, or repeal of a regulation  
 2 under this chapter, the board shall provide notice of the action that is being considered.  
 3 The notice shall be

- 4 (1) posted in public buildings throughout the state;  
 5 (2) published in **a newspaper** [ONE OR MORE NEWSPAPERS] of  
 6 general circulation in [EACH JUDICIAL DISTRICT OF] the state;  
 7 (3) **furnished** [MAILED] to each person or group that has filed a  
 8 request for notice of proposed action with the board; and  
 9 (4) furnished to each member of the legislature and to the Legislative  
 10 Affairs Agency.

11 \* **Sec. 14.** AS 39.35.042(d) is amended to read:

12 (d) **Notwithstanding (c)(3) of this section, if a person who is to receive a**  
 13 **notice under (c)(3) of this section requests that the board mail the notice, the**  
 14 **board shall furnish the notice to the person by mail.** Failure to **furnish** [MAIL]  
 15 notice to a person as required under **this subsection or** (c)(3) of this section does not  
 16 invalidate an action taken by the board.

17 \* **Sec. 15.** AS 42.06.140(a) is amended to read:

- 18 (a) The commission  
 19 (1) shall regulate pipelines and pipeline carriers in the state;  
 20 (2) may investigate upon complaint or its own motion, the rates,  
 21 classifications, rules, regulations, prices, services, practices, and facilities of pipeline  
 22 carriers, and the performance of obligations under and compliance with the terms of  
 23 leases issued by the state;  
 24 (3) may make, prescribe, or require just, fair, and reasonable rates,  
 25 classifications, regulations, practices, services, and facilities for pipeline carriers;  
 26 (4) may require pipeline carriers and affiliated interests to file with the  
 27 commission reports and other information and data required or permitted to be  
 28 required by other provisions of this chapter;  
 29 (5) may adopt regulations that are necessary and proper to the  
 30 performance of its duties under this chapter, including regulations governing practices  
 31 and procedures of the commission; the regulations may not be inconsistent with state

1 law; **the requirement of AS 44.62.190(a)(7) for newspaper or other publication of**  
 2 **a notice of proposed action does not apply to a notice for regulations proposed to**  
 3 **be adopted under this chapter;**

4 (6) shall, during normal business hours, have access to and may  
 5 designate any of its employees, agents, or consultants to inspect and examine the  
 6 accounts, financial and property records, books, maps, inventories, appraisals,  
 7 valuations, and related reports kept by a pipeline carrier, or kept for it by others, that  
 8 directly affect the interests of the state and directly relate to pipelines located in the  
 9 state;

10 (7) may initiate, intervene in, and appear personally or by counsel and  
 11 offer evidence in and participate in, any proceedings involving a pipeline carrier, and  
 12 affecting the interests of the state, before any officer, department, board, commission,  
 13 or court of this state;

14 (8) shall require permits for the construction, enlargement in size or  
 15 operating capacity, extension, connection and interconnection, operation, or  
 16 abandonment of any oil or gas pipeline facility or facilities, subject to necessary and  
 17 reasonable terms, conditions, and limitations;

18 (9) may prescribe the system of accounts and regulate the service of an  
 19 oil or gas pipeline facility;

20 (10) shall provide all reasonable assistance to the Department of Law  
 21 in intervening in, offering evidence in, and participating in proceedings involving a  
 22 pipeline carrier or affiliated interest and affecting the interests of the state, before an  
 23 officer, department, board, commission, or court of another state or the United States.

24 \* **Sec. 16.** AS 42.40.180(a) is amended to read:

25 (a) The board shall adopt rules to carry out its functions and the purposes of  
 26 this chapter, including rules to safeguard property owned, managed, or transported by  
 27 the corporation and to protect employees and persons using the corporation's property  
 28 or services. At least 15 days before the adoption of a rule, the board shall give public  
 29 notice of the proposed action by publishing a notice in **a newspaper** [AT LEAST  
 30 THREE NEWSPAPERS] of general circulation in the state and by **furnishing**  
 31 [MAILING] a copy of the notice to each person who has requested notice of proposed

1 changes to rules. The notice must state the time, place, and nature of the proceedings  
2 and must contain a summary of the subject of the proposed rule.

3 \* **Sec. 17.** AS 42.40.200(a) is amended to read:

4 (a) **If a person who is to receive a notice under AS 42.40.180(a) or**  
5 **42.40.190(a) requests that the board mail the notice, the board shall furnish the**  
6 **notice to the person by mail.** Failure to **furnish** [MAIL] notice to a person under  
7 **this subsection,** AS 42.40.180(a), or 42.40.190(a) does not invalidate an action taken  
8 by the board.

9 \* **Sec. 18.** AS 43.20.160(c) is amended to read:

10 (c) The department shall prescribe and furnish all necessary forms, and adopt  
11 and publish all necessary regulations in plain and concise language conformable with  
12 this chapter for the assessment and collection of the taxes imposed by this chapter.  
13 The department shall apply as far as practicable the administrative and judicial  
14 interpretations of the federal income tax law. The department shall also prepare a  
15 concise statement of the contents of the code sections referred to in this chapter for the  
16 information of the taxpayer and make them available to the taxpayer making a return.  
17 **The requirement of AS 44.62.190(a)(7) for newspaper or other publication of a**  
18 **notice of proposed action does not apply to a notice for regulations proposed to**  
19 **be adopted to administer AS 43.20.072.**

20 \* **Sec. 19.** AS 43.56.200 is amended to read:

21 **Sec. 43.56.200. Regulations.** The board and the department may adopt  
22 regulations under AS 44.62 (Administrative Procedure Act) as appropriate to carry out  
23 their respective duties under this chapter. **The requirement of AS 44.62.190(a)(7)**  
24 **for newspaper or other publication of a notice of proposed action does not apply**  
25 **to a notice for regulations proposed to be adopted under this section.**

26 \* **Sec. 20.** AS 44.62.140 is amended to read:

27 **Sec. 44.62.140. Distribution of code and register.** **Upon the request of the**  
28 **clerk of a local government unit for a paper or an electronic copy of** [THE  
29 LIEUTENANT GOVERNOR SHALL SUPPLY] a complete set of the Alaska  
30 Administrative Code, and of the Alaska Administrative Register, and of each  
31 supplement to the code or register, **and payment of the costs described in (b) of this**

1 **section, the lieutenant governor shall supply the requested copy** to the clerk of **the**  
 2 [EACH] local government unit, or, if the authority to accept filings is delegated, to the  
 3 person to whom this authority is delegated.

4 \* **Sec. 21.** AS 44.62.140 is amended by adding a new subsection to read:

5 (b) Upon receipt of a request under (a) of this section, the lieutenant governor  
 6 shall inform the requesting clerk of the costs, including mailing costs, of complying  
 7 with the local government unit's request.

8 \* **Sec. 22.** AS 44.62.190(a) is amended to read:

9 (a) At least 30 days before the adoption, amendment, or repeal of a regulation,  
 10 **a state agency**

11 **(1) shall post a** notice of the proposed action [SHALL BE (1)  
 12 PUBLISHED IN THE NEWSPAPER OF GENERAL CIRCULATION OR TRADE  
 13 OR INDUSTRY PUBLICATION THAT THE STATE AGENCY PRESCRIBES  
 14 AND POSTED] on the Alaska Online Public Notice System; [IN THE DISCRETION  
 15 OF THE STATE AGENCY GIVING THE NOTICE, THE REQUIREMENT OF  
 16 PUBLICATION IN A NEWSPAPER OR TRADE OR INDUSTRY PUBLICATION  
 17 MAY BE SATISFIED BY USING A COMBINATION OF PUBLICATION AND  
 18 BROADCASTING; WHEN BROADCASTING THE NOTICE, AN AGENCY MAY  
 19 USE AN ABBREVIATED FORM OF THE NOTICE IF THE BROADCAST  
 20 PROVIDES THE NAME AND DATE OF THE NEWSPAPER OR TRADE OR  
 21 INDUSTRY JOURNAL AND THE INTERNET ADDRESS OF THE ALASKA  
 22 ONLINE PUBLIC NOTICE SYSTEM WHERE THE FULL TEXT OF THE  
 23 NOTICE CAN BE FOUND;]

24 **(2) shall furnish the notice of the proposed action** [FURNISHED] to  
 25 every person who has filed a request for notice of proposed action with the state  
 26 agency;

27 **(3) shall,** if the agency is within a department, **furnish the notice of**  
 28 **the proposed action** [FURNISHED] to the commissioner of the department;

29 **(4) shall,** when appropriate in the judgment of the agency,  
 30 **(A) furnish the notice of the proposed action** [FURNISHED]  
 31 to a person or group of persons whom the agency believes is interested in the

1 proposed action; and

2 (B) **publish the notice of the proposed action** [PUBLISHED]  
3 in the additional form and manner the state agency prescribes;

4 (5) **shall furnish the notice of the proposed action** [FURNISHED] to  
5 the Department of Law together with a copy of the proposed regulation, amendment,  
6 or order of repeal for the department's use in preparing the opinion required after  
7 adoption and before filing by AS 44.62.060;

8 (6) **shall furnish the notice of the proposed action** [FURNISHED]  
9 by electronic format, if the state agency has the technological capability, to all  
10 incumbent State of Alaska legislators, and **furnish the notice** [FURNISHED] to the  
11 Legislative Affairs Agency; if the state agency does not have the technological  
12 capability to furnish the notice by electronic format to the legislators, the state agency  
13 shall furnish the notice to the legislators by other means;

14 (7) **shall publish an abbreviated form of the notice of the proposed**  
15 **action in a newspaper of general circulation or trade or industry publication that**  
16 **the state agency giving the notice prescribes; and**

17 (8) **may broadcast an abbreviated form of the notice of the**  
18 **proposed action.**

19 \* **Sec. 23.** AS 44.62.200 is repealed and reenacted to read:

20 **Sec. 44.62.200. Contents of notice.** (a) The notice of proposed adoption,  
21 amendment, or repeal of a regulation that is posted on the Alaska Online Public Notice  
22 System and that is furnished under AS 44.62.190(a)(2) - (6) must include

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

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

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

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

31 (5) a summary of the fiscal information required to be prepared under

1 AS 44.62.195.

2 (b) The abbreviated form of the notice of proposed action that is published in a  
3 newspaper of general circulation or trade or industry publication, or that is broadcast,  
4 under AS 44.62.190(a)(7) or (8) must include

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

7 (2) a reference to the particular code section or other provisions of law  
8 that are being implemented, interpreted, or made specific;

9 (3) a brief general description of the proposed subject of agency  
10 action; and

11 (4) a statement of how more detailed information may be obtained,  
12 including

13 (A) the Internet address of the Alaska Online Public Notice  
14 System where the full text of the notice of proposed action can be found; and

15 (B) the name, telephone number, and electronic and mailing  
16 addresses of the contact person for the state agency through whom a person  
17 may request a copy of the full text of the notice of, or submit comments on, the  
18 proposed action.

19 (c) A regulation that is adopted, amended, or repealed may vary in content  
20 from the summary specified in (a)(3) of this section, or the brief general description  
21 specified in (b)(3) of this section, if the subject matter of the regulation remains the  
22 same and the original notice was written so as to assure that members of the public are  
23 reasonably notified of the proposed subject of agency action in order for them to  
24 determine whether their interests could be affected by agency action on that subject.

25 \* **Sec. 24.** AS 44.88.085(d) is amended to read:

26 (d) Except as provided in (e) of this section, at least 15 days before the  
27 adoption, amendment, or repeal of a regulation, the authority shall give public notice  
28 of the proposed action by publishing the notice in **a newspaper** [AT LEAST THREE  
29 NEWSPAPERS] of general circulation in the state and by **furnishing** [MAILING] a  
30 copy of the notice to every person who has filed a request for notice of proposed  
31 regulations with the authority. **If a person who is to receive a notice under this**

1 **subsection requests that the authority mail the notice, the authority shall furnish**  
 2 **the notice to the person by mail.** The public notice must include a statement of the  
 3 time, place, and nature of the proceedings for the adoption, amendment, or repeal of  
 4 the regulation and must include an informative summary of the subject of the proposed  
 5 action. On the date and at the time and place designated in the notice, the authority  
 6 shall give each interested person or an authorized representative of the person, or both,  
 7 the opportunity to present statements, arguments, or contentions orally or in writing  
 8 and shall give members of the public an opportunity to present oral statements,  
 9 arguments, or contentions for a total period of at least one hour. The authority shall  
 10 consider all relevant matter presented to it before taking the proposed action on the  
 11 regulation. At a hearing under this subsection, the authority may continue or postpone  
 12 the hearing to a time and place determined by the authority and announced at the  
 13 hearing before taking the action to continue or postpone the hearing. A regulation  
 14 adopted, amended, or repealed by the authority may vary from the informative  
 15 summary specified in this subsection if the subject matter of the action taken on the  
 16 regulation remains the same and if the original notice of the proposed action was  
 17 written so as to assure that members of the public are reasonably notified of the  
 18 subject matter of the proposed action in order for them to determine whether their  
 19 interests could be affected by the authority's proposed action on that subject.

20 \* **Sec. 25.** AS 45.55.960 is amended to read:

21 **Sec. 45.55.960. Administrative Procedure Act applies.** AS 44.62  
 22 (Administrative Procedure Act) applies to all regulations adopted or authorized under  
 23 this chapter, **except that the requirement of AS 44.62.190(a)(7) for newspaper or**  
 24 **other publication of a notice of proposed action does not apply to a notice for**  
 25 **regulations proposed to be adopted under this chapter.**

26 \* **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to  
 27 read:

28 APPLICABILITY. The changes made by this Act do not apply to the adoption,  
 29 amendment, or repeal of an agency regulation or rule unless notice of the proposed adoption,  
 30 amendment, or repeal is first provided to the public in accordance with law on or after the  
 31 effective date of this Act.

1      \* **Sec. 27.** This Act takes effect immediately under AS 01.10.070(c).