

(LIMITED RUN SHOWING ALL ADDITIONAL SPONSORSHIPS)

CS FOR HOUSE BILL NO. 83(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/5/13
Referred: Rules

Sponsor(s): REPRESENTATIVES KELLER, Stoltze, Saddler, Millett, Lynn, Johnson, Higgins, Thompson, Gattis, Isaacson, Tammie Wilson, Olson, Chenault, Austerman, Gruenberg, Hughes, Reinbold, LeDoux, Tuck, Pruitt

SENATORS Micciche, Dyson, Bishop, Fairclough, Giessel

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to certain federal statutes, regulations, presidential executive orders**
2 **and actions, and secretarial orders and actions; relating to the duties of the attorney**
3 **general; and providing for an effective date."**

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

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 **LEGISLATIVE FINDINGS.** The legislature finds that

8 (1) under the Supremacy Clause of the Constitution of the United States, laws
9 of the United States are the supreme law of the land; however, there may be federal statutes,
10 regulations, presidential executive orders and actions, and secretarial orders and actions that
11 exceed the constitutional authority of the United States Congress, and that are unlawfully and
12 unfairly preempting state laws, depriving the legislature and Alaskans of the right to address
13 social issues, develop the state's economy, and manage natural resources as Alaskans; and

14 (2) establishing a process, by providing for an annual report from the attorney

1 general, will assist the legislature in reviewing federal statutes, regulations, presidential
 2 executive orders and actions, and secretarial orders and actions that may exceed the
 3 constitutional authority of the United States Congress, so that the legislature may take
 4 appropriate action.

5 * **Sec. 2.** AS 24.05 is amended by adding a new section to article 4 to read:

6 **Sec. 24.05.188. Federal statutes, regulations, presidential executive orders**
 7 **and actions, and secretarial orders and actions.** After receiving a report from the
 8 attorney general under AS 44.23.020(h) that a state law is in conflict with a federal
 9 statute, regulation, presidential executive order or action, or secretarial order or action
 10 that is unconstitutional or was not properly adopted in accordance with federal
 11 statutory authority, the house and senate committees having jurisdiction over judicial
 12 matters may each consider whether legislative action is necessary in response to the
 13 findings by the attorney general.

14 * **Sec. 3.** AS 44.23.020 is amended by adding a new subsection to read:

15 (h) The attorney general shall continue to review federal statutes, regulations,
 16 presidential executive orders and actions, and secretarial orders and actions that may
 17 be in conflict with and that may preempt state law. If, after review, the attorney
 18 general believes that a federal statute, regulation, presidential executive order or
 19 action, or secretarial order or action would preempt a state law if constitutional and
 20 properly adopted in accordance with federal statutory authority but also believes that
 21 the federal statute, regulation, presidential executive order or action, or secretarial
 22 order or action is unconstitutional or was not properly adopted in accordance with
 23 federal statutory authority, the attorney general shall report the findings to the chairs
 24 of the house and senate committees having jurisdiction over judicial matters. The
 25 report shall be submitted to the legislature on or before January 15th of each year and
 26 must include

27 (1) a copy of the federal statute, regulation, presidential executive
 28 order or action, or secretarial order or action that the attorney general finds was not
 29 properly adopted in accordance with federal statutory authority or is unconstitutional;

30 (2) a citation to the state law that is in conflict with the federal statute,
 31 regulation, presidential executive order or action, or secretarial order or action

1 identified in (1) of this subsection;

2 (3) a written opinion explaining

3 (A) the basis for finding that the federal statute, regulation,
4 presidential executive order or action, or secretarial order or action is
5 unconstitutional or was not properly adopted in accordance with federal
6 statutory authority;

7 (B) the conflict between the federal statute, regulation,
8 presidential executive order or action, or secretarial order or action identified
9 in (1) of this subsection and the state law identified in (2) of this subsection
10 and why, if properly adopted, the federal statute, regulation, presidential
11 executive order or action, or secretarial order or action would preempt the state
12 law;

13 (C) the effect on the state if the state law identified in (2) of this
14 subsection is found by a court to be preempted by the federal statute,
15 regulation, presidential executive order or action, or secretarial order or action
16 identified in (1) of this subsection; and

17 (D) litigation the attorney general is party to or aware of
18 concerning a conflict between a federal statute, regulation, presidential
19 executive order or action, or secretarial order or action that would preempt
20 state law if constitutional, but that the attorney general or another party claims
21 is unconstitutional; and

22 (4) other information relevant to the findings by the attorney general.

23 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).