

Introduced: 3/4/68
Referred: Judiciary and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL

2 HOUSE BILL NO. 662

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending the Administrative Procedure Act
7 and relating to the office of regulations attorney.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 44.62.040 is amended to read:

10 Sec. 44.62.040. FILING REGULATIONS. Every state agency
11 possessing regulation-making authority shall

12 (1) send to the secretary of state for filing a certified
13 copy of every regulation adopted by it except one which

14 (A) establishes or fixes rates, prices or tariffs,

15 (B) relates to the use of public works, including
16 streets and highways, under the jurisdiction of a state agency
17 if the effect of the order is indicated to the public by means of
18 signs or signals,

19 (C) is directed to a specifically named person or to a
20 group of persons and does not apply generally throughout the
21 state;

22 (2) send to the secretary of state for filing a certified
23 copy of every order of repeal of a regulation required to be filed
24 under (1) of this section;

25 (3) deliver to the secretary of state at the time of filing
26 two duplicate copies of the regulation or order of repeal together with
27 a citation of the authority under which it or any part of it is adopted.

28 * Sec. 2. AS 44.62.050 is repealed and re-enacted to read:

29 Sec. 44.62.050. STYLE OF AND FORMS FOR FILING. The Legislative

1 Affairs Agency shall prepare and shall revise when necessary a drafting
2 manual for administrative regulations which prescribes the style of
3 and forms for filing regulations under sec. 40 of this chapter.

4 * Sec. 3. AS 44.62 is amended by adding a new section to read:

5 Sec. 44.62.061. PREPARATION AND FILING. (a) Every state agency
6 possessing regulation-making authority shall work with the regulations
7 attorney, under sec. 128 of this chapter, in the preparation and re-
8 vision of its regulations and shall adhere to the drafting manual for
9 administrative regulations prepared by the Legislative Affairs Agency
10 under sec. 50 of this chapter.

11 (b) In the performance of his duties under sec. 128 of this
12 chapter, the regulations attorney shall advise the agencies on legal
13 matters relevant to the promulgation of regulations and may advise the
14 agencies on the need for and the policy involved in particular
15 regulations.

16 (c) The secretary of state may not accept for filing a regulation
17 required by sec. 40 of this chapter unless it conforms to the drafting
18 manual for administrative regulations.

19 (d) If an agency decides to adopt and file a regulation despite
20 the disapproval of the regulations attorney it may do so, but he is
21 authorized to bring an action for declaratory judgment under sec. 300
22 of this chapter. The regulations attorney's expression of disapproval
23 before a regulation is filed is not a prerequisite to his bringing
24 this action.

25 * Sec. 4. AS 44.62 is amended by adding new sections in article 3 to
26 read:

27 Sec. 44.62.125. REGULATIONS ATTORNEY. There is in the office of
28 the secretary of state a regulations attorney.

29 Sec. 44.62.126. REQUIREMENTS FOR REGULATIONS ATTORNEY. To serve

1 in the position of regulations attorney an individual shall

2 (1) have had training or experience in administrative law;
3 and

4 (2) be a graduate of a law school approved by the American
5 Bar Association at the time of graduation; or

6 (3) be admitted to the practice of law in Alaska or another
7 state or territory or the District of Columbia.

8 Sec. 44.62.127. SALARY OF REGULATIONS ATTORNEY. The salary of the
9 regulations attorney shall be determined by the secretary of state and
10 shall be commensurate with the training and experience of the individual
11 appointed.

12 Sec. 44.62.128. DUTIES OF REGULATIONS ATTORNEY. (a) The regula-
13 tions attorney shall

14 (1) advise all state administrative agencies of the nature
15 and use of administrative regulations;

16 (2) alert the agencies to statutes that need to be imple-
17 mented, interpreted or made clear by regulations;

18 (3) continually review the regulations, make recommendations
19 to the respective agencies concerning deficiencies, conflicts and
20 obsolete provisions in and the need for reorganization or revision of the
21 regulations, and prepare regulations to be promulgated by the agencies,
22 correcting or removing the deficiencies, conflicts and obsolete pro-
23 visions;

24 (4) draft all new regulations for all administrative agencies
25 possessing regulation-making power, advising the agencies of legal
26 problems encountered and ensuring compliance with the drafting manual
27 for administrative regulations prepared by the Legislative Affairs
28 Agency under sec. 50 of this chapter;

29 (5) assist the agencies in holding public hearings under

1 sec. 210 of this chapter; and

2 (6) draft bills to be introduced by request of the governor
3 to transfer matter which should be statutory law from the Alaska Admin-
4 istrative Code to the Alaska Statutes and to clarify agency regulatory
5 power when clarification is needed.

6 (b) The regulations attorney shall work with administrative
7 agencies of local governments when time permits.

8 * Sec. 5. AS 44.62.150(a) is amended to read:

9 (a) Until the revision of the code under 1967 SCR No. 15 and sec.
10 2(a), ch. 70 SLA 1966 is completed and a contract with the publisher of
11 the new code is executed the [THE] secretary of state shall sell to the
12 public the Alaska Administrative Register and the Alaska Administrative
13 Code at prices which as nearly as practical will reimburse the state for
14 all costs incurred for printing, publication and distribution.

15 * Sec. 6. AS 44.62.160 is repealed and re-enacted to read:

16 Sec. 44.62.160. DATE AND CONTENT OF REGISTER. (a) The Alaska Ad-
17 ministrative Register shall be published quarterly on the first day of
18 the month, beginning in a month to be designated by the regulations
19 attorney, but not later than October 1968. All regulations required to
20 be filed under sec. 40 of this chapter which are filed by the first day
21 of the month preceding publication shall be published.

22 (b) If during a quarter no regulation, amendment or order of re-
23 peal has been filed the regular quarterly register shall be published
24 reflecting that fact.

25 * Sec. 7. AS 44.62.060, 44.62.090, 44.62.170, 44.62.190(a)(5) are repealed

26 * Sec. 8. Until the revision of the Alaska Administrative Code under 1967
27 SCR No. 15 and sec. 2(a), ch. 70 SLA 1966 has been completed the regulations
28 attorney shall work with the staff of the Legislative Affairs Agency on that
29 project.