

Introduced: 2/10/78  
Referred: Judiciary

1 IN THE HOUSE

BY COWPER

2 HOUSE BILL NO. 803

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the adjudication of challenges to  
7 regulations of state agencies; amending certain rules  
8 of court; and providing for an effective date."

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

10 \* Section 1. The legislature finds that administrative regulations adop-  
11 ted by executive agencies and departments are increasingly viewed as domi-  
12 nating the day-to-day lives of residents of the state. While the larger  
13 portion of the regulations adopted are necessary, in the public interest, and  
14 appropriate, the legislature finds that the frustrations felt by residents of  
15 the state with those regulations which are not necessary, are not in the  
16 public interest, and may be inappropriate, can be largely alleviated by the  
17 establishment of a mechanism for the simple, expeditious, and inexpensive  
18 resolution of the legality of questioned regulations.

19 \* Sec. 2. AS 44.62 is amended by adding a new section to read:

20 Sec. 44.62.302. ALTERNATE PROCEDURE FOR JUDICIAL REVIEW. (a) A  
21 superior court judge may exercise the jurisdiction granted under this  
22 section; the chief justice of the supreme court is requested to assign  
23 one or more judges in the judicial districts in Alaska as judges for  
24 cases brought under this section.

25 (b) An interested party may bring an action challenging the vali-  
26 dity of a regulation by filing a complaint in the superior court under  
27 this section. The procedures established under this section are in-  
28 tended to result in an inexpensive, expeditious, and simplified resolu-  
29 tion of a challenge to the validity of an administrative regulation.

1 (c) A regulation challenged under the procedures established under  
2 this section may be challenged only on the grounds that

3 (1) the regulation is unconstitutional;

4 (2) the regulation is not in conformity with or is outside  
5 the scope of legislative intent of the statute authorizing the regula-  
6 tion;

7 (3) the regulation is unreasonable per se or as applied to  
8 the petitioner; or

9 (4) the regulation has not been validly adopted.

10 (d) The court shall annul a regulation determined to be invalid  
11 under (c) of this section and may enjoin any administrative procedure  
12 initiated against the petitioner which relies on the invalid regulation.

13 (e) The petitioner shall pay a filing fee of \$100 for each regu-  
14 lation challenged not to exceed \$300 for all regulations challenged  
15 within a single title of the Alaska Administrative Code. The petitioner  
16 is entitled to a refund for the fee charged for each regulation on which  
17 he finally prevails under a ground stated in (c) of this section.

18 (f) The supreme court shall establish forms and materials to  
19 assist the petitioner in the preparation and filing of the complaint; no  
20 charge may be required of a petitioner for this assistance. The clerk  
21 of the trial courts shall assist a petitioner in completing the com-  
22 plaint and any ancillary forms if assistance is requested by the peti-  
23 tioner.

24 (g) The clerk shall cause service of the complaint to be made on  
25 the attorney general by regular mail, return receipt requested.

26 (h) The court shall schedule an informal hearing or hearings as  
27 necessary promptly after the case is filed and shall render a decision  
28 on the matter within 30 days after the last hearing; if the court fails  
29 to render a decision in the case within 30 days after the last hearing

1 the court shall file a memorandum indicating the reasons for the delay.  
2 A decision by the court shall contain a minimum amount of formal struc-  
3 ture and shall determine the issues raised in readily understandable  
4 language.

5 (i) Either party may appeal the decision of the superior court to  
6 the supreme court. If the attorney general appeals, the costs of pre-  
7 paring the transcript of the record on appeal shall be assumed exclu-  
8 sively by the state. If the issues on appeal arise solely out of  
9 questions of law, the superior court shall certify the question to the  
10 supreme court and no transcript of the record on appeal will be made.

11 (j) The superior court may order an allocation of the costs of the  
12 proceedings in the superior court and on appeal and attorneys fees as it  
13 considers likely to be just and appropriate in the circumstances.

14 (k) Except as they are changed in this section, AS 44.62 and the  
15 rules of court apply in all proceedings brought under this section.

16 \* Sec. 3. Portions of sec. 2 of this Act amend the following Rules of  
17 Court: Civil Rule 4(d)(7), Appellate Rules 7(b) and 9(1), and Administrative  
18 Rule 11.

19 \* Sec. 4. This Act takes effect July 1, 1978.  
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