

Introduced: 4/7/80
Referred: Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE ADMINISTRATIVE
REGULATION REVIEW COMMITTEE

1 IN THE SENATE

2 SENATE BILL NO. 548

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the processing of permits by state
7 agencies; and providing for an effective date."

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

9 * Section 1. FINDINGS. The legislature finds that

10 (1) the economic development of the state is being unnecessarily
11 delayed by the length of time required to obtain permits from state agencies;

12 (2) the uncertainty created by the lack of specific time limits
13 and the proliferation of unjustified agency requirements upon the processing
14 of permit applications has cost Alaskans millions of dollars in lost employ-
15 ment and higher prices;

16 (3) the public interest has not been advanced by protracted delay
17 in the processing of permit applications by state agencies; and

18 (4) by requiring state agencies to process permit applications in
19 an expeditious manner within a reasonable period of time, the state will
20 promote the social, economic and environmental health and well-being of its
21 citizens.

22 * Sec. 2. AS 44.62 is amended by adding new sections to read:

23 ARTICLE 9. ISSUANCE OF PERMITS.

24 Sec. 44.62.632. TIME LIMIT ON THE PROCESSING OF PERMITS. (a)

25 Upon receipt of a permit application, the responsible state agency shall
26 issue a final decision granting, denying or conditioning the issuance of
27 the permit within 30 days from date of receipt of the application,
28 unless the person filing the application has designated the application
29 as a master application under AS 46.35.030 or unless another statute

1 provides a specific time period in which the agency must act with
2 respect to the subject matter of the permit application.

3 (b) The final decision on a permit application under (a) of this
4 section shall set out the following information:

5 (1) the name and address of the state agency, and the divi-
6 sion of the agency, if any, issuing the final decision;

7 (2) the name of the state employee or employees responsible
8 for issuing the final decision;

9 (3) the name and address of the applicant or applicants;

10 (4) the statute which requires the issuance of the permit and
11 empowers the agency to process the application;

12 (5) a general statement concerning the nature of the project
13 for which the permit is sought;

14 (6) findings made by the agency concerning the project's
15 compliance with applicable state laws;

16 (7) conclusions of the agency which support its decision
17 concerning the permit application, including justification of any con-
18 ditions or stipulations to which the permit is subject; and

19 (8) the final disposition of the permit application by the
20 agency.

21 (c) The final decision under (a) of this section must bear a fair
22 and substantial relation to the object of the legislation under which
23 the agency is empowered to act.

24 (d) A permit applied for under (a) of this section

25 (1) may not be denied because of the lack of any other per-
26 mit; and

27 (2) may not be conditioned upon the acquisition of any other
28 permit.

29 (e) A permit application which has not received a final decision

1 by the responsible state agency within the time period specified in (a)
2 of this section is approved as submitted. The permit is presumed to
3 have been issued on the last day on which the state agency could have
4 announced a final decision on the application.

5 Sec. 44.62.634. DEFECTIVE APPLICATIONS; NOTICE TO APPLICANT. (a)
6 If an agency receives a permit application requesting a permit which the
7 agency believes it does not have authority to issue, or which it be-
8 lieves is unnecessary, it shall notify the applicant within 10 days of
9 its receipt of the application. When appropriate, the agency shall
10 specify the agency to which it believes the application should be di-
11 rected.

12 (b) If an agency receives a permit application which it believes
13 does not contain sufficient information concerning the location and
14 nature of the project to allow the agency to determine compliance of the
15 project with state law, it shall notify the applicant within 10 days of
16 its receipt of the application. The notice must specify all information
17 which the agency requires to determine compliance of the project with
18 state law.

19 (c) A notice given under this section is the final decision re-
20 quired by AS 44.62.632.

21 Sec. 44.62.636. REVIEW BY THE SUPERIOR COURT. (a) Judicial
22 review by the superior court of a final decision issued by a state
23 agency under AS 44.62.632 or 44.62.634 may be had by filing a notice of
24 appeal in the superior court in accordance with the applicable rules of
25 appellate procedure. The right to appeal is not affected by the failure
26 to seek reconsideration. The review shall be governed by the provisions
27 of AS 44.62.560(b) - (e).

28 (b) On an appeal to the superior court, the agency which issued
29 the final decision has the burden of proving that the decision is in

1 accordance with AS 44.62.632 and 44.62.634.

2 (c) An appeal taken under (a) of this section has preference on
3 the calendar of civil actions before the court and shall be decided
4 without unnecessary delay.

5 * Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

6 (c) In AS 44.62.632 - 44.62.636,

7 (1) "permit application" includes the following documents:

8 (A) a document requesting the issuance of a permit which
9 contains sufficient information concerning the location and nature
10 of a project to allow the state agency to which it is directed to
11 determine compliance of the project with state law,

12 (B) a document, submitted to a state agency by a govern-
13 mental entity, which solicits comments in connection with a permit
14 being processed by the governmental entity;

15 (2) "date of receipt" means the date on which an agency
16 actually receives an application requesting issuance of a permit;

17 (3) "disposition" means the grant, denial or conditional
18 grant of a permit;

19 (4) "permit" means a permit, license, certification, con-
20 sistency determination, plan review or other authorization or approval
21 issued as a written document which is required to be obtained from a
22 state agency before the construction or operation of a project;

23 (5) "project" means a new activity or expansion or addition
24 to an existing activity, fixed in location, for which permits are re-
25 quired before construction or operation;

26 (6) "state agency" means a state department, commission,
27 board or other agency of the state; for the purposes of AS 44.62.632 -
28 44.62.636, "state agency" also means a local or regional air pollution
29 control authority established under AS 46.03.210, and a coastal resource

1 district and a coastal resource service board established under AS 46.-
2 40.010 - 46.40.210.
3 * Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-
4 070(c).

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