

Offered: 4/14/86  
Referred: Judiciary and Finance  
Original sponsor: Fahrenkamp

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE SENATE

2

CS FOR SENATE BILL NO. 429 (L&C)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to regulations that affect small

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businesses and small municipalities; and providing

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for an effective date."

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

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\* Section 1. AS 24.20.460 is amended to read:

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Sec. 24.20.460. POWERS. The Administrative Regulation Review

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Committee has the following powers:

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(1) to organize and adopt rules for the conduct of its

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business;

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(2) to hold public hearings;

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(3) to require all state officials and agencies of state

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government to give full cooperation to the committee or its staff in

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assembling and furnishing requested information;

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(4) to examine all administrative regulations to determine

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if they properly implement legislative intent;

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(5) to make recommendations for legislative annulment of

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administrative regulations under AS 44.62.320;

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(6) to prepare and distribute reports, memoranda, or other

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materials;

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(7) to promote needed revision or repeal of regulations

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that have been adopted by state departments and agencies and, when the

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committee determines a regulation should be repealed or amended, to

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introduce a bill that would enact a statute that would supersede or

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nullify the regulation;

1 (8) to investigate findings that are transmitted to the  
2 committee by a standing committee in accordance with AS 24.05.182 and,  
3 as appropriate, to either introduce a bill annulling the regulation or  
4 exercise the committee's power to suspend the effectiveness of the  
5 regulation in accordance with AS 24.20.445;

6 (9) to monitor agency compliance with the requirements of  
7 AS 44.62.197, and make recommendations to an agency regarding the  
8 adequacy of its analyses and of its responses to public testimony.

9 \* Sec. 2. AS 44.62 is amended by adding a new section to article 3 to  
10 read:

11 Sec. 44.62.177. REGULATORY AGENDA. (a) During the months of  
12 January and July of each year, each agency shall publish in the Alaska  
13 Administrative Journal a regulatory flexibility agenda that

14 (1) describes briefly the subject area of any regulation  
15 that the agency expects to propose or adopt that is likely to have a  
16 significant economic impact on a substantial number of small entities;

17 (2) summarizes the nature of any proposed regulation under  
18 each subject area listed under (1) of this subsection, the objectives  
19 and legal basis for the proposed regulation, and an approximate sched-  
20 ule for completing action on each regulation for which the agency has  
21 issued a notice of proposed regulation-making; and

22 (3) contains the name and telephone number of an agency  
23 official knowledgeable concerning the items listed in (1) of this  
24 subsection.

25 (b) An agency may consider or act on a matter not included in a  
26 regulatory flexibility agenda. An agency may decline to consider or  
27 act on a matter listed in the agenda. The agency shall state why it  
28 is declining to act on the matter. An agency may not refuse to  
29 consider or adopt a regulation solely because the proposed regulation

1 was not included in the agency's regulatory agenda.

2 (c) In this section, "small entity" has the meaning given in  
3 AS 44.62.197.

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

5 Sec. 44.62.197. ECONOMIC ANALYSIS; SMALL ENTITIES. (a) Before  
6 publishing notice under AS 44.62.190, an agency planning to adopt,  
7 amend, or repeal a regulation shall analyze the probable economic  
8 effect of the proposed action on small businesses and small municipal-  
9 ities. The analysis must

10 (1) consider the types and numbers of small entities that  
11 will probably be affected by the proposed action, including the types  
12 that will bear the costs of the proposed action and those that will  
13 benefit from it;

14 (2) consider the probable economic effect of the proposed  
15 action, both as to kind and amount, upon the affected entities;

16 (3) review the reasons for the proposed action, in light of  
17 the probable economic effect on small entities;

18 (4) identify whether there are less costly or less intru-  
19 sive means of achieving the purpose of the proposed action;

20 (5) identify, to the extent practicable, relevant regula-  
21 tions that may duplicate, overlap, or conflict with the proposed  
22 regulations.

23 (b) After the close of public proceedings under AS 44.62.210,  
24 the agency shall prepare, as a final analysis for a regulation-adop-  
25 tion project, a brief summary from the analysis required by (a) of  
26 this section and the agency's comment on public testimony, whether  
27 that testimony was written or oral. The agency's comment on the  
28 testimony must identify changes made in response to the testimony and  
29 must include a brief statement of the reason for rejecting a proposal,

1 if any, that was not adopted by the agency. The agency's statement  
2 under this subsection may summarize the reasons and the testimony in  
3 aggregate form so as to avoid duplication and unnecessary detail.

4 (c) If the head of the agency certifies in writing that a regu-  
5 lation will not have a significant economic effect on a substantial  
6 number of small entities, the agency shall make a succinct statement  
7 explaining the reasons for the certification and why it is not  
8 required to comply with this section. The certification must be  
9 submitted to the lieutenant governor for filing with the regulation.

10 (d) An agency may consider a series of closely related regula-  
11 tions as one regulation for the purposes of this section.

12 (e) Analyses under this section are not subject to judicial  
13 review. Action taken may not be invalidated on the ground that the  
14 contents of an analysis are insufficient or inaccurate.

15 (f) In this section

16 (1) "small business" means a business corporation or a  
17 nonprofit corporation, a partnership, or a sole proprietorship, that  
18 is licensed in the state and transacts business in the state, and

19 (A) employs 50 or fewer employees in the state, ex-  
20 cluding seasonal employees; or

21 (B) has annual gross sales, or value of services  
22 provided, of \$1,000,000 or less;

23 (2) "small entity" means a small business or small munic-  
24 ipality;

25 (3) "small municipality" means a municipality with a popu-  
26 lation of 10,000 or fewer persons.

27 \* Sec. 4. AS 44.62.200(a) is amended to read:

28 (a) The notice of proposed adoption, amendment, or repeal of a  
29 regulation shall include

- 1           (1) a statement of the time, place, and nature of proceed-  
2 ings for adoption, amendment, or repeal of the regulation;
- 3           (2) reference to the authority under which the regulation  
4 is proposed and a reference to the particular code section or other  
5 provisions of law which are being implemented, interpreted, or made  
6 specific;
- 7           (3) an informative summary of the proposed subject of  
8 agency action;
- 9           (4) other matters prescribed by a statute applicable to  
10 the specific agency or to the specific regulation or class of regula-  
11 tions;
- 12           (5) a summary of the fiscal information required to be  
13 prepared under AS 44.62.195;
- 14           (6) a summary of the analysis required by AS 44.62.197(a)  
15 and the address from which a complete copy of the analysis may be  
16 obtained.

17 \* Sec. 5. REVIEW OF EXISTING REGULATIONS. (a) Before January 1, 1991,  
18 each agency shall review the regulations adopted by that agency and in  
19 effect as of July 1, 1986, that have or will have a significant economic  
20 effect upon a substantial number of small entities. The purpose of the  
21 review is to determine whether the regulations should be continued without  
22 change, or should be amended or repealed to minimize a significant economic  
23 effect on a substantial number of the small entities. If the head of the  
24 agency determines that completion of the review of existing regulations is  
25 not feasible by January 1, 1991, the agency head shall certify that fact in  
26 writing and may extend the completion date by one year.

27           (b) In reviewing regulations under (a) of this section, the agency  
28 shall consider the

- 29           (1) continued need for the regulation;

1 (2) nature of complaints or comments received concerning the  
2 regulation from the public;

3 (3) complexity of the regulation;

4 (4) extent to which the regulation overlaps, duplicates, or  
5 conflicts with other state regulations, and, to the extent feasible, with  
6 federal and local governmental regulations; and

7 (5) length of time since the regulation has been evaluated or  
8 the degree to which technology, economic conditions, or other factors have  
9 changed in the area affected by the regulation.

10 (c) In this section

11 (1) "agency" has the meaning given "state agency" in AS 44.62.-  
12 640(a);

13 (2) "small entity" has the meaning given in AS 44.62.197.

14 \* Sec. 6. AS 44.62.197, enacted by sec. 3 of this Act, does not apply  
15 to regulations for which a notice of proposed action is issued before  
16 July 1, 1986.

17 \* Sec. 7. This Act takes effect July 1, 1986.