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6

COMMITTEE REPORT
SENATE

1/13/81

FURTHER: Finance

Date: 1-27-81

Mr. President:

The Committee on JUDICIARY has had SB 6
establishing the Alaska Administrative Journal

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY OF SENATE JUDICIARY COMMITTEE HEARING
OF
FEBRUARY 20, 1981

Butrovich Committee Room, State Capitol - Juneau, Alaska

Legislation before Committee:

SB 6 "An Act establishing the Alaska Administrative Journal;
and providing for an effective date."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:35 p.m. The following members were present: Senators Rodey, Ray, Parr, and Hohman. Senator Bennett was absent.

Public presentations were made by:

Danith Anderson
Policy & Program Manager
Administrative Code Coordinator
Office of the Lieutenant Governor

Arthur Peterson
Assistant Attorney General
State Department of Law

Ann Metcalf
Legislative Reporting Service

The witnesses responded to questions from Committee members, specifically with respect to cost, frequency of publication, and whether the Journal could be published by a private enterprise.

Chairman Rodey deferred action on SB 6 until a future hearing date.

Hearing no objection, the meeting was adjourned by Chairman Rodey at 2:45 p.m.



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY OF SENATE JUDICIARY COMMITTEE HEARING
OF
FEBRUARY 18, 1981

Butrovich Committee Room, State Capitol - Juneau, Alaska

Legislation before Committee:

SB 102 "An Act relating to delayed registration of birth and annulling regulations relating to delayed birth certificate; and providing for an effective date."

SB 6 "An Act establishing the Alaska Administrative Journal; and providing for an effective date."

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:30 p.m. All Committee members were present (Senators Rodey, Ray, Parr, Hohman, and Bennett).

An overview and history was presented by S.B. 102's sponsor, Senator Ferguson. The Committee then heard public testimony from the following:

Joan Brooks
State Registrar
Bureau of Vital Statistics

Mildred Richards, Supervisor
Delayed Birth Registration
Bureau of Vital Statistics

Robert Clem, Acting Director
State Division of Public Assistance.

Representatives of the Bureau of Vital Statistics voiced opposition to passage of S.B. 102 for the following reasons: (1) certificates prepared as a result of S.B. 102 probably would be rejected as sufficient proof by other agencies, and (2) it may encourage new applications for illegitimate reasons, thereby increasing the potential of fraud.

Following discussion and questions, Chairman Rodey deferred action on S.B. 102 until a future hearing date.

The Committee then heard testimony relating to S.B. 6, with a summary by the Bill's sponsor, Senator Fahrenkamp. Public presentations were made by the following:

Don Smith
Anchorage Businessman

Arthur Peterson
Assistant Attorney General
State Department of Law

The Committee heard specific suggestions from The Attorney General's office, such as the need for consistency in referring to the Journal, consideration of deleting section 2 and changing the phrase "during the week of September 15, 1981," (line 12, page 3) to read, "no later than four calendar months after the date on which this bill becomes effective."

Chairman Rodey deferred action on S.B. 6 until a future hearing date.

Hearing no objections, Chairman Rodey adjourned the meeting at 2:25 p.m.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 6
 Title An Act establishing the Alaska Administrative Journal & providing for an effective
 Requested by Senate Judiciary date _____

Date 2/19/81

II. FISCAL DETAIL

Agency Affected Office of the Governor
 Program Category Affected Office of the Lieutenant Governor
 BRU, Program, or Subprogram(s) Affected Office of the Lieutenant Governor
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	16.1	69.7	76.7	84.4		
200 TRAVEL		1.2	1.3	1.4		
300 CONTRACTUAL	29.0	116.0	127.6	140.4		
400 COMMODITIES	.2	.6	.7	.8		
500 EQUIPMENT	1.9	.2	.3	.4		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	47.2	187.8	206.6	227.4		

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	47.2	0	0	0		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
PROGRAM RECEIPTS		187.8	206.6	227.4		

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

ASSUME:

- 1) Approximate number of administrative journal subscriptions would equal (or exceed) those subscriptions to the Alaska Administrative Code (AAC)-- currently 1000.
- 2) Start-up costs for the last quarter of FY 81 (if effective start-up occurs after the beginning of FY 82, new equipment needs should be carried forward).

(Continued)

IV. DATE February 19, 1981 PREPARED BY Danith Anderson
 AGENCY Office of the Lieutenant Governor
 Original: Legislative Finance PHONE 465-3520
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

- 3) Inflation for FY 82 @8% and FY 83, FY 84 @10%.
- 4) One new administrative assistant (Personal Services Range 16B) and a Secretary I (Range 10B) would be required to handle the coordination and organization of this publication. Travel to the National Administrative Codes and Registers Conference for the administrative assistant. Contractual Services includes some telephone, postage and first-class mailing costs, printing and binding (based on current contract for printing the AAC), advertising and equipment rentals. Commodities and Equipment are budgeted as basic supplies for newly-created staff support positions.

Program Receipts (through journal subscription) are designed to pay for the entire cost of this publication after initial start-up.

Formulas for contractual services estimate:

- 1) Postage & Mailing (assume 1000 journal subscriptions)

26 mailings/year, average 30 pages (back-to-back) cost =
 $.80 \text{ 1st class mail each. } .80 \times 1000 \times 30 = \$24,000$

- 2) Printing & Binding

26 mailings with typesetting costs based on the current cost of printing the AAC

$\frac{\$49.30/\text{page} \times \text{pages typeset}}{1000 \text{ subscribers}}$

Assume 60 pages typeset (or 30 back-to-back for mailing purposes)

$\frac{\$49.30 \times 60}{1000} = \2.96 each

$\$2.96 \times 1000 \text{ subscribers} \times 26 \text{ issues} = \$76,960$

A M E N D M E N T

Offered in the SENATE

TO: SENATE BILL NO. 6

Page 3, between lines 4 and 5, insert:

(f) The purpose of this section is to provide helpful information in addition to that being provided under other statutes. It is not intended to relieve persons of their obligation to use due diligence in protecting their interests that might be affected by state action related to the types of information specified in (a) of this section. No person acquires a cause of action for damages, based on the publication of information, or the failure to publish every item of information required by (a) of this section, in the journal, or in a private publication if publication of the journal has been discontinued under (d) of this section.

A M E N D M E N T

Offered in the SENATE

TO: SENATE BILL NO. 6

Page 2, lines 7, 19, 25, and 26, and page 3, lines 1, 2, and 3:

Delete: "Alaska Administrative"

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811

465-3600

February 23, 1981

RECEIVED

FEB 23 1981

The Honorable Patrick Rodey
Chairman
Senate Judiciary Committee
Alaska State Legislature
Pouch Y
Juneau, Alaska 99811

Re: SB 6 (Administrative Journal)

Dear Senator Rodey:

As I have discussed with you, your committee, and your staff, two amendment sheets for this bill are attached. I understand that you plan to prepare a committee substitute (into which these amendments could be incorporated) and then favorably report the bill.

The first amendment deals with the question of liability, and is fairly self explanatory. It is an attempt to protect the state and its people from the exposure to potential liability which this additional governmental function would create. It is possible that courts would hold the state liable for mistakes made by way of inclusion or omission and for alleged damages due to the wording of information included. The journal is not intended to replace any existing systems of distributing the information involved, as required by various statutes. It is just a helpful publication which does not relieve interested persons from their obligation to watch out for their own interests. The Administrative Journal will help them do that, but it should not provide a basis for imposing additional liability on the sta'.

Please note that, if some of the changes which were discussed at your committee meetings last week concerning proposed AS 44.62.175(d) are adopted, then a corresponding change in the last sentence of this amendment should also be made.

The second sheet of amendments merely deletes the words "Alaska Administrative" in several places, for the sake of consistency and simplicity. The initial reference to the journal's full name in line 12 on page one will serve as the antecedent for the succession of references to the journal.

I understand that Senator Fahrenkamp, the sponsor of this bill, is proposing an amendment to delete sec. 2 and to change the phrase "during the week of September 15, 1981," which appears on line 12 of page three, to read "no later than 4 calendar months after the date on which this bill becomes effective." The deletion of sec. 2 would be helpful. The other change is not clear. Does the reference "4 calendar months" mean that if the bill takes effect in, for example, mid-April, then we begin counting with May as the first month -- giving us actually four and one-half months after the effective date? Or does it mean that, if the bill takes effect in mid-April, then we begin counting with April as the first month -- giving us only three and one-half months after the effective date? Also, if there is to be a reference to the effective date of the Act, the standard language for that date would be preferable. To accomplish what I believe to be the senator's intent, I would suggest the following language for her amendment: "no later than 120 days after the effective date of this Act."


I do not know whether the four-month or 120-day period would give the lieutenant governor's office and all other agencies involved enough time to make all of the arrangements necessary for publication of this new journal. I suspect that it would not, but I am not taking a position on the appropriateness of that period.

I would be pleased to continue working with you, your committee, and your staff on this measure.

Yours truly,

WILSON L. CONDON
ATTORNEY GENERAL

By:


Arthur H. Peterson
Assistant Attorney General

WLC:AHP:cjs

cc w/enc.: Honorable Bettye Fahrenkamp
Alaska State Senate

Alaska State Legislature

SENATOR BETTYE FAHRENKAMP
CHAIRMAN, RESOURCES COMMITTEE

4016 EVERGREEN
FAIRBANKS ALASKA 99701

907-479-3550



Senate

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
OFFICE 907-465-3763
RESOURCES COMMITTEE
907-465-3834
HOME 907-789-9182

MEMORANDUM

TO: Senator Pat Rodey, Chairman, Senate Judiciary

FROM: Senator Bettye Fahrenkamp

RE: Background Information on:
SB 6, "Establishing the Alaska Administrative
Journal; and prov'ding for an effective date."

DATE: February 12, 1981

Purpose

The purpose of this legislation is to place in one publication all the information required to be made public by state agencies. The publication would be available on a subscription basis and would provide a service to the people of the state without increasing the drain on public coffers. The bill, as now written, has the support of the lieutenant governor's office and the Attorney General's office.

The bill would increase the political openness in the state. Alaska is too large to continue the word-of-mouth network of communication that exists when there is no single place in which to gather all notifications.

The bill is intended to emphasize the policy stated in AS 44.62.312. "It is the policy of the state that

- (1) The governmental units mentioned in 310(a) of this chapter exist to aid in the conduct of the people's business;
- (2) It is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;
- (3) The people of this state do not yield their sovereignty to the agencies which serve them;
- (4) The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;
- (5) The people's right to remain informed shall be protected so that they may retain control over the instruments they have created."

Analysis

- Section 1. New section added to article 3, AS 44.62:
Sec. 44.62.175. ADMINISTRATIVE JOURNAL
- a) The journal shall be published every two weeks and will include notices of action, text of regulations, state agency meetings, bid invitations, requests for proposal, and executive and administrative orders.
 - b) Any notice required under a) will be sent to the lt. governor and to any person requesting a copy for the purposes of publication, unless the regulation has not been drafted, in which case it must be sent at the time it is submitted to the Department of Law.
 - c) The lt. governor shall sell subscriptions to the journal at a price to offset the cost of publishing.
 - d) The lt. governor may discontinue publication of the journal if the requirements for the journal are met by a private publication.
 - e) No regulation, amendment to a regulation or order of repeal, except emergency regulations or repeals, will take effect unless notice is published in the journal.

Section 2. Amends AS 44.62.200 to add a new subsection to the notice requirements. A summary prepared under this section must be approved by the lt. governor's office.

Section 3. Publication begins September, 1991. and takes effect immediately.

Discussion

The bill will identify those items of public interest which the public has difficulty obtaining from one source. An earlier version of the bill which generally required all proposals, bid notice, public meetings, etc., to be included in the Alaska Administrative Journal was not acceptable to the Department of Law because of the generality. This draft has been prepared with the aid of the Department of Law and the lt. governor's office.

The intent of the bill, aside from aiding the public, is for the cost of the journal to be offset as much as possible while retaining public access through a reasonable price. This could be a difficulty during the first period of publication and until such time as the journal is widely recognized as an information source.

LEGISLATIVE REPORTING SERVICE

ANN GARDINER METCALFE

KIMBERLY M. HELMAR

510 KENNEDY STREET
JUNEAU, ALASKA 99801

(907) 586-6672

January 26, 1981

Senator Estrope Fahrenkamp
Pouch V
Juneau, Ak. 99811

Dear Senator Fahrenkamp:

We would like to express our support for Senate Bill 6, the creation of the Administrative Journal. During the past year we have researched the feasibility of beginning such a publication privately, and we feel that it is, at the present time, an impossibility without the enactment of a law requiring the various departments and divisions of the state to submit, upon request, copies of proposed regulations, requests for proposals, executive orders, etc., to interested parties.

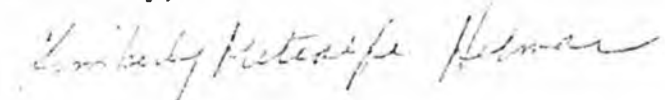
On July 15 of last year we did a mailing to all of the state departments and divisions requesting that our name be put on their mailing list to receive copies of all notices, etc., and the response to the mailing was indicative of the need for some kind of centralization of this process. Most departments complied with our request immediately, but it was apparent that at the divisional level there was confusion as to who was responsible for promulgating regulations, and whether or not the division did indeed generate any at all. Being, as there are over 100 divisions within the state government you can imagine what an organizational effort it would take to get them all to comply with a request from a private publisher, without having a law on the books stating that they must send the information in a timely manner to those so requesting it.

Aside from our initial mailing we followed up with telephone contacts, and have talked several times to Danith Anderson in the Lieutenant Governor's office regarding publication. We have cross-checked that information we do receive with what appears in state newspapers and find that we could not offer our clients such a service without being sure that we are receiving everything.

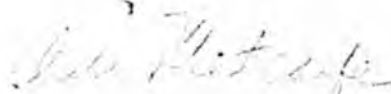
We have had numerous requests from clients currently subscribing to the LEGISLATIVE REPORTING SERVICE for information pertaining to the regulatory

process in Alaska, and we would be interested in providing such a service. We feel that a weekly report on regulatory changes would be a logical expansion for our current business, and that our mailing list of LRS clients would provide a basis for which to begin such a publication. We would enjoy working with you and with the Lieutenant Governor's office on such a project, and we will offer testimony on behalf of the bill if so requested.

Sincerely,



Kimberly Metcalfe Helmer



Ann Gardiner Metcalfe

Introduced: 1/13/81
Referred: Judiciary and Finance

~~BY~~ ~~FAHRENKAMP, BENNETT AND KELLY~~ *JUDICIALED*

1 IN THE SENATE

SSB 6

2 ~~SENATE BILL NO. 6~~

3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Administrative Jour-
7 nal; and providing for an effective date."

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

9 * Section 1. AS 44.62 is amended by adding a new section to article 3 to
10 read:

- 11 Sec. 44.62.175. ADMINISTRATIVE JOURNAL. (a) The lieutenant
12 governor shall publish an Alaska Administrative Journal every two
13 weeks. The journal shall include but is not limited to the following:
- 14 (1) notices of proposed actions given under AS 44.62.190(a);
 - 15 (2) when it becomes available, the text of regulations for
16 which notice is given under AS 44.62.190(a) if the regulations do not
17 exceed 16 legal-size, typewritten pages; in order to remain within
18 budgetary limits, the lieutenant governor may reduce this page limita-
19 tion;
 - 20 (3) notices of state agency meetings required under AS 44.-
21 62.310(e);
 - 22 (4) notices of solicitations to bid issued under AS 37.05.-
23 230;
 - 24 (5) notices of state agency requests for proposals under
25 AS 37.05.230;
 - 26 (6) executive orders and administrative orders issued by the
27 governor; and
 - 28 (7) written delegations of authority made by the governor or
29 by the head of a principal department under AS 44.17.010.

1 (b) When (1) a state agency gives a notice which is to be pub-
2 lished in the journal under (a)(1) or (3) - (5) of this section, (2)
3 the governor issues an executive or administrative order, or (3) the
4 governor or the head of a principal department makes a written delega-
5 tion of authority under AS 44.17.010, a copy of the notice, order, or
6 delegation shall also be sent at the same time to the lieutenant gover-
7 nor for publication in the [Alaska Administrative] Journal and to every
8 person who has filed a request for a copy of the notices, orders or
9 delegations with the state agency and has indicated that he wishes to
10 receive it for the purpose of publishing it. If the notice sent to the
11 person is for a proposed regulation, an amendment to a regulation or a
12 repeal of a regulation, the state agency shall also furnish a copy of
13 the proposed regulation, amendment, or order of repeal, except that if
14 the regulation has not yet been drafted in its entirety, a copy need
15 not be furnished at the time notice is given but a copy must be fur-
16 nished at the same time as one is furnished to the Department of Law
17 under AS 44.62.190(a)(5).

18 (c) The lieutenant governor shall sell subscriptions to the
19 [Alaska Administrative] Journal at a price reasonably calculated to
20 offset the cost of its publication and distribution.

21 (d) If the lieutenant governor determines that the journal's
22 purpose of providing an all-inclusive medium for publishing public
23 notice of proposed agency actions for which public notice is required
24 by law is being met by private publication and is likely to continue to
25 be so met, he shall discontinue publication of the [Alaska Administra-
26 tive] Journal.

27 (e) A regulation, amendment to a regulation, or order of repeal,
28 except an emergency regulation or order of repeal, adopted under AS 44.-
29 62.250, may not take effect unless notice of the proposed action has

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been published either in the [Alaska Administrative] Journal as pre-
scribed by this section, or, if publication of the [Alaska Adminis-
trative] Journal has been discontinued under (d) of this section, in a
private publication.

* Sec. 2. AS 44.62.200 is amended by adding a new subsection to read:

(c) The summary specified in (a)(3) of this section must be ap-
proved by the lieutenant governor as adequate for publication in the
~~Alaska Administrative~~ Journal before notice is given under AS 44.62.-
190.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-
070(c), except that the lieutenant governor shall begin publication of the
Alaska Administrative Journal [during the week of September 15, 1981.]

NO LATER THAN 120 DAYS AFTER THE EFFECTIVE DATE OF
THIS ACT.

(f) No person acquires a cause
of action for damages, based on the publication of infor-
mation, or the failure to publish every item of information
required by (a) of this section, in the journal, or in a
private publication if publication of the journal has
been discontinued under (d) of this section.

Introduced: 1/13/81
Referred: Judiciary and Finance

BY FAHRENKAMP, BENNETT AND
KELLY

1 IN THE SENATE

2 SENATE BILL NO. 6

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska Administrative Jour-
7 nal; and providing for an effective date."

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

9 * Section 1. AS 44.62 is amended by adding a new section to article 3 to
10 read:

11 *Long* Sec. 44.62.175. ADMINISTRATIVE JOURNAL. (a) The lieutenant
12 governor shall ^{publish} ~~publish~~ an Alaska Administrative Journal every two
13 weeks. The journal shall include but is not limited to the following:

- 14 (1) notices of proposed actions given under AS 44.62.190(a);
15 (2) when it becomes available, the text of regulations for
16 which notice is given under AS 44.62.190(a) if the regulations do not
17 exceed 16 legal-size, typewritten pages; in order to remain within
18 budgetary limits, the lieutenant governor may reduce this page limita-
19 tion;
20 (3) notices of state agency meetings required under AS 44.-
21 62.310(e);
22 (4) notices of solicitations to bid issued under AS 37.05.-
23 230;
24 (5) notices of state agency requests for proposals under
25 AS 37.05.230;
26 (6) executive orders and administrative orders issued by the
27 governor; and
28 (7) written delegations of authority made by the governor or
29 by the head of a principal department under AS 44.17.010.

1 (b) When (1) a state agency gives a notice which is to be pub-
2 lished in the journal under (a)(1) or (3) - (5) of this section, (2)
3 the governor issues an executive or administrative order, or (3) the
4 governor or the head of a principal department makes a written delega-
5 tion of authority under AS 44.17.10, a copy of the notice, order, or
6 delegation shall also be sent at the same time to the lieutenant gover-
7 nor for publication in the Alaska Administrative Journal and to every
8 person who has filed a request for a copy of the notices, orders or
9 delegations with the state agency and has indicated that he wishes to
10 receive it for the purpose of publishing it. If the notice sent to the
11 person is for a proposed regulation, an amendment to a regulation or a
12 repeal of a regulation, the state agency shall also furnish a copy of
13 the proposed regulation, amendment, or order of repeal, except that if
14 the regulation has not yet been drafted in its entirety, a copy need
15 not be furnished at the time notice is given but a copy must be fur-
16 nished at the same time as one is furnished to the Department of Law
17 under AS 44.62.190(a)(5).

18 (c) The lieutenant governor shall sell subscriptions to the
19 Alaska Administrative Journal at a price reasonably calculated to
20 offset the cost of its publication and distribution.

21 (d) If the lieutenant governor determines that the journal's
22 purpose of providing an all-inclusive medium for publishing public
23 notice of proposed agency actions for which public notice is required
24 by law is being met by private publication and is likely to continue to
25 be so met, he shall discontinue publication of the Alaska Administra-
26 tive Journal.

27 (e) A regulation, amendment to a regulation, or order of repeal,
28 except an emergency regulation or order of repeal, adopted under AS 44.-
29 62.250, may not take effect unless notice of the proposed action has

1 been published either in the Alaska Administrative Journal as pre-
2 scribed by this section, or, if publication of the Alaska Adminis-
3 trative Journal has been discontinued under (d) of this section, in a
4 private publication.

5 * Sec. 2. AS 44.62.200 is amended by adding a new subsection to read:

6 (c) The summary specified in (a)(3) of this section must be ap-
7 proved by the lieutenant governor as adequate for publication in the
8 Alaska Administrative Journal before notice is given under AS 44.62.-
9 190.

10 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-
11 070(c), except that the lieutenant governor shall begin publication of the
12 Alaska Administrative Journal during the week of September 15, 1981.
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A M E N D M E N T

OFFERED IN THE SENATE:

By: Fahrenkamp

To: Senate Judiciary SENATE BILL No. 6

HOUSE BILL No. _____

PAGE: 3

LINE: 5

Delete all of Sec'ion 2 (Lines 5 through 9)

A M E N D M E N T

OFFERED IN THE SENATE:

By: Fahrenkamp

To: Senate Judiciary Com SENATE BILL No. 6

HOUSE BILL No. _____

PAGE: 1

LINE: 23

After, "AS 37.05.230", delete ";", add ", AS 18.55.255,
AS 18.55.320, AS 19.10.190, AS 19.40.020, AS 35.15.030,
AS 37.05.315(d), AS 38.05.120, AS 43.40.010, and AS 46.11.030;"

AMENDMENT

OFFERED IN THE SENATE:

By: Fahrenkamp

To: Senate Judiciary SENATE BILL No. 6

HOUSE BILL No. _____

PAGE: 3

LINE: 12

After, "Journal", delete "during the week of September 15, 1981."
Insert after "Journal" the words "no later than 4 calendar
months after the date on which this bill becomes effective."

SENATE AMENDMENT

By Fahrenkamp

To: Senate Judiciary Committee SENATE BILL No. 6

To: _____ HOUSE BILL No. _____

PAGE: 1 LINE: 23

After, "AS 37.05.23", delete ";", add ", AS 18.55.255,
AS 18.55.320, AS 19.10.190, AS 19.40.020, AS 35.15.030,
AS 37.05.315(d), AS 38.05.120, AS 43.40.010, and AS 46.11.030;"

Cited in *Mukluk Freight Lines v. Nabors Alas. Drilling, Inc.*, Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

Sec. 44.62.190. Notice of proposed action. (a) At least 30 days before the adoption, amendment, or repeal of a regulation, notice of the proposed action shall be

(1) published in the newspaper of general circulation, or trade or industry publication, which the state agency prescribes;

(2) mailed to every person who has filed a request for notice of proposed action with the state agency;

(3) if the agency is within a department, mailed or delivered to the commissioner of the department;

(4) when appropriate in the judgment of the agency, (A) mailed to a person or group of persons whom the agency believes is interested in the proposed action, and (B) published in the additional form and manner the state agency prescribes;

(5) furnished the Department of Law together with a copy of the proposed regulation, amendment, or order of repeal for the department's use in preparing the opinion required after adoption and before filing by AS 44.62.060;

(6) furnished to all incumbent State of Alaska legislators and the Legislative Affairs Agency.

(b) If the form or manner of notice is prescribed by statute, in addition to the requirements of filing and mailing notice under this chapter, the notice shall be published, posted, mailed, filed or otherwise publicized as prescribed by the statute.

(c) The failure to mail notice to a person as provided in this section does not invalidate an action taken by an agency under AS 44.62.180 — 44.62.290. (§ 5 art IV (ch 1) ch 143 SLA 1959; am § 2 ch 149 SLA 1962; am § 1 ch 3 SLA 1968; am § 16 ch 143 SLA 1968; am § 4 ch 64 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "state of Alaska legislators and the Legislative Affairs Agency" for "state legislators" in paragraph (6) of subsection (a).

The rule-making function of an administrative agency frequently resembles the legislative process of passing a statute. Each entity determines the need for a particular enactment in light of chosen policies; each has procedures for the expression of views upon the merits of the proposal; and each, after consideration of the relevant policies and arguments, decides whether to adopt the proposed enactment. When administrative rule making is based upon clear authority from the legislature to formulate policy in the adoption of

regulations, the rule-making activity takes on a quasi-legislative aspect. Under proper standards, such delegations of legislative power to administer agencies are constitutional. *Kelly v. Zamarella*, Sup. Ct. Op. No. 705 (File No. 1253, 1256), 486 P.2d 906 (1971).

Regulations adopted by the Commissioner of Natural Resources are subject to the rule-making provisions of the Administrative Procedure Act (AS 44.62) and must be adopted according to the procedures set forth therein. Among the required procedures for adoption of regulations are notice of the proposed adoption, a public hearing in which any interested person may submit statements to the agency, filing of the regulation, if adopted, with the secretary of state, and

publication. *Kelly v. Zamarella*, Sup. Ct. Op. No. 705 (File No. 1253, 1256) 486 P.2d 906 (1971).

Requirements and notice. — There are few text discussions of the notice and the sufficient proceedings for adoption of regulations. 1959 Op. Atty. Gen., No. 1253.

Lengthy regulations summarized. — Where a regulation on one subject is too long, the best policy would be to summarize the content and purpose of the regulation. 1959 Op. Atty. Gen., No. 1253.

But short regulations full. — If only a very short regulation is proposed then ordinarily it is practicable to set forth the full regulation. 1959 Op. Atty. Gen., No. 1253.

Procedure upon promulgation of many regulations of varying importance. — Where a great many regulations are promulgated which are of varying importance, such as fish and game regulations, the best thing to do would be to list the subjects to be regulated in addition to any other regulations which are promulgated. Informative to the public, industry concerned (such as existing regulations of the department or to the industry) and a brief summary of significant changes which are being effected in the existing body of regulations. In such case it is indicated that copies of the regulations can be obtained from the agency in order to indicate to the public affected by the regulations an opportunity to familiarize themselves with the regulations and to submit their views on the regulations. This should constitute a substitute for the Administrative Procedure Act and would serve the purpose of the Administrative Procedure Act. 1959 Op. Atty. Gen., No. 1253.

And when a summary of proposed regulations is used it would be desirable for the departments and agencies to follow the same practice and to give notice of the regulations to be promulgated by listing the subjects to which the proposed regulations apply. 1959 Op. Atty. Gen., No. 1253.

THESE ADDITIONAL STATUTE REFERENCES NEED TO BE INCLUDED
IN THE ADMINISTRATIVE JOURNAL IN ORDER TO ALLOW THE JOURNAL
TO BE AN ALL-INCLUSIVE MEDIUM FOR PUBLIC KNOWLEDGE OF AGENCY
ACTIONS. THESE STATUTE REFERENCES REFER TO THE FOLLOWING
AGENCY ACTIONS:

AS 18.55.255	ALASKA HOUSING AUTHORITY - Land Sales
AS 19.55.320	ALASKA HOUSING AUTHORITY - Sale of Surplus Property
AS 19.10.190	DEPARTMENT OF HIGHWAYS(DOT/PF) Advertizing, bid, contracts
AS 19.40.020	DEPARTMENT OF HIGHWAYS (DOT/PF) Yukon-Arctic Highway - Request for bids
AS 35.15.030	PUBLIC WORKS (DOT/PF) - Advertising, bids, contracts
AS 37.05.315(d)	DEPARTMENT OF ADMINISTRATION Appropriation for grants, proposals
AS 38.05.120	DEPARTMENT OF NATURAL RESOURCES Timber and Materials sales
AS 43.40.010	DEPARTMENT OF REVENUE Motor fuel tax; construction projects bids
AS 46.11.030	CONSERVATION OF ENERGY AND MATERIALS Energy auditors - competitive bids

SENATE JUDICIARY COMMITTEE

Bill Number 586 Original Sponser(s) _____

Title ACT ESTABLISHING THE ALASKA ADMINISTRATIVE REGISTER JOURNAL AND

PROVIDING FOR AN EFFECTIVE DATE Originally Received From KERTTULA

Contact "ROBIN"/FAHRENKUMPT Date 1-13-81

Committee Recommendation (MAJORITY) _____

Report Attached yes no) Supporters _____

MINORITY _____

Report Attached yes no) Supporters _____

Object of Bill _____

Committee Amendments _____

Fiscal Impact _____

IAA Legal/Research Contact _____ Research/Information _____

Concerned Parties:	
Supporting	Opposing

Supporting

Opposing

Additional Remarks:

HOLD FOR ABA DRAFT ON H.P.H

CONTACTED: ALEC PETERSON
AG (3656)

~~DAVID ANDERSON~~ J.C. BRADSHAW
KT. Gov's FOR
(3521) DEBBIE BAILY

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K—STATE CAPITOL
JUNEAU, ALASKA 99811

465-3600

February 23, 1981

RECEIVED

FEB 23 1981

The Honorable Patrick Rodey
Chairman
Senate Judiciary Committee
Alaska State Legislature
Pouch Y
Juneau, Alaska 99811

Re: SB 6 (Administrative Journal)

Dear Senator Rodey:

As I have discussed with you, your committee, and your staff, two amendment sheets for this bill are attached. I understand that you plan to prepare a committee substitute (into which these amendments could be incorporated) and then favorably report the bill.

The first amendment deals with the question of liability, and is fairly self explanatory. It is an attempt to protect the state and its people from the exposure to potential liability which this additional governmental function would create. It is possible that courts would hold the state liable for mistakes made by way of inclusion or omission and for alleged damages due to the wording of information included. The journal is not intended to replace any existing systems of distributing the information involved, as required by various statutes. It is just a helpful publication which does not relieve interested persons from their obligation to watch out for their own interests. The Administrative Journal will help them do that, but it should not provide a basis for imposing additional liability on the state.

Please note that, if some of the changes which were discussed at your committee meetings last week concerning proposed AS 44.62.175(d) are adopted, then a corresponding change in the last sentence of this amendment should also be made.

The second sheet of amendments merely deletes the words "Alaska Administrative" in several places, for the sake of consistency and simplicity. The initial reference to the journal's full name in line 12 on page one will serve as the antecedent for the succession of references to the journal.

I understand that Senator Fahrenkamp, the sponsor of this bill, is proposing an amendment to delete sec. 2 and to change the phrase "during the week of September 15, 1981," which appears on line 12 of page three, to read "no later than 4 calendar months after the date on which this bill becomes effective." The deletion of sec. 2 would be helpful. The other change is not clear. Does the reference "4 calendar months" mean that if the bill takes effect in, for example, mid-April, then we begin counting with May as the first month -- giving us actually four and one-half months after the effective date? Or does it mean that, if the bill takes effect in mid-April, then we begin counting with April as the first month -- giving us only three and one-half months after the effective date? Also, if there is to be a reference to the effective date of the Act, the standard language for that date would be preferable. To accomplish what I believe to be the senator's intent, I would suggest the following language for her amendment: "no later than 120 days after the effective date of this Act."

I do not know whether the four-month or 120-day period would give the lieutenant governor's office and all other agencies involved enough time to make all of the arrangements necessary for publication of this new journal. I suspect that it would not, but I am not taking a position on the appropriateness of that period.

I would be pleased to continue working with you, your committee, and your staff on this measure.

Yours truly,

WILSON L. CONDON
ATTORNEY GENERAL

By:


Arthur H. Peterson
Assistant Attorney General.

WLC:AHP:cjs

cc w/enc.: Honorable Bettye Fahrenkamp
Alaska State Senate

A M E N D M E N T

Offered in the SENATE

TO: SENATE BILL NO. 6

Page 3, between lines 4 and 5, insert:

(f) The purpose of this section is to provide [helpful] information in addition to that being provided under other statutes. [It is not intended to relieve persons of their obligation to use due diligence in protecting their interests that might be affected by state action related to the types of information specified in (a) of this section.] No person acquires a cause of action for damages, based on the publication of information, or the failure to publish every item of information required by (a) of this section, in the journal, or in a private publication if publication of the journal has been discontinued under (d) of this section.

A M E N D M E N T

Offered in the SENATE

TO: SENATE BILL NO. 6

Page 2, lines 7, 19, 25, and 26, and page 3, lines 1, 2, and 3:

Delete: "Alaska Administrative"

That the Central District Democratic Committee urges our legislative delegation in Juneau to establish a State of Alaska monthly periodical listing all State of Alaska contracts, bids, requests for proposals, etc. with pertinent information concerning such contracts, bids, requests for proposals and that this same monthly periodical list all contracts, bids, requests for proposals, etc. that have been let, with information as to the winning firm/individual, dollar amounts of the contract and other pertinent information. Further that this publication be made available to the general public at a reasonable subscription fee.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for Sponsor Substitute for Senate Bill 355
 Title An Act establishing an administrative journal
 Requested by Senate Finance Committee Date 3/11/80

II. FISCAL DETAIL

Agency Affected Office of the Governor
 Program Category Affected Office of the Lieutenant Governor
 BRU, Program, or Subprogram(s) Affected Office of the Lieutenant Governor

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES	8.4	35.5	39.1	43.0		
200 TRAVEL		1.2	1.3	1.4		
300 CONTRACTUAL	24.9	99.7	109.7	120.7		
400 COMMODITIES	.2	.4	.4	.5		
500 EQUIPMENT	1.1	.3	.3	.4		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	34.6	137.1	150.8	166.0		

FUNDING (Thousands of Dollars)

GENERAL FUND	34.6	0	0	0		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Program Receipts	-	137.1	150.8	166.0		

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III) ASSUME:

- 1) Approximate number of administrative register subscriptions would equal (or exceed) those subscriptions to the Alaska Administrative Code (AAC)--currently 1000.
 - 2) Start-up costs for the last quarter of FY 80 (if effective date occurs after the beginning of FY 81, new equipment needs should be carried forward).
 - 3) Inflation for FY 81 @7% and FY 82 @10%.
- One new administrative assistant (Personal Services Range 16B) would be required to handle the coordination and organization of this publication. Travel for the National Administrative Codes and Registers Conference. Contractual Services includes some telephone, postage and first-class mailing costs, printing and binding (based on current contract for printing the AAC), advertising and equipment rentals. Commodities and Equipment are budgeted as basic supplies for a newly-created staff support position.

IV. DATE March 12, 1980 PREPARED BY John C. Sackett
 AGENCY Senate Finance Committee
 PHONE 465-3753

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 355 *Journal*
 Title An Act establishing an administrative register
 Requested by Senate State Affairs Date 1/23/80

II. FISCAL DETAIL

Agency Affected Office of the Governor
 Program Category Affected Office of the Lieutenant Governor
 BRU, Program, or Subprogram(s) Affected Office of the Lieutenant Governor
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		6.2	27.6	30.4	33.4	
200 TRAVEL (1)		.8	3.5	3.9	4.3	
300 CONTRACTUAL (2)		20.4	87.4	96.1	105.7	
400 COMMODITIES		.2	.4	.5	.6	
500 EQUIPMENT		1.1	.3	.3	.4	
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		28.7	119.2	131.2	144.4	

FUNDING (Thousands of Dollars)

GENERAL FUND		28.7	119.2	131.2	144.4	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1	1	1	1	
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

ASSUME:

- 1) Approximate number of administrative register subscriptions would equal (or exceed) those subscriptions to the Alaska Administrative Code (AAC)--currently 1000.
- 2) Start-up costs for the last quarter of FY80 (if effective date occurs after the beginning of FY81, equipment needs should be carried forward).
- 3) Inflation for FY81 @7% and FY82, FY83 @10%.

One new administrative assistant (Personal Services at a Range 14B with some overtime) would be required to handle the coordination and organization of this publication. Minimum amount of travel for hearings and the annual Administrative Codes and Registers Conference. Contractual Services includes some telephone, postage and mailing costs, printing and binding (based on current contract for printing the AAC), advertising (continued on next page)

IV. DATE January 29, 1980 PREPARED BY Danith Anderson
 AGENCY Office of the Lieutenant Governor

Original: Legislative Finance PHONE 465-3520
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

III. ANALYSIS (continued)

and equipment rentals. Commodities and Equipment are budgeted as basic supplies for a newly-created staff support position.

③ NOTE: This fiscal note does not reflect any subscription fees to be collected for the administrative register but it should be realized that a fair percentage of the cost of publication (printing and mailing) would be returned to the General Fund through the price of subscriptions as determined by the lieutenant governor.

- ① Travel - don't feel its necessary. Perhaps w/ exception of ~~sub~~ once every other year convention of other "register" states
- ② Contractual included 3rd class postage estimate. This is impossible. Must be timely, so 1st class.
- ③ Expect subscriptions to pay for majority of production, if not all. Assuming 25 front-to-back pages.
- ④ Why Adm. Asst 14B?
- ⑤ Can we help by getting list of interested folks prior to effective date - or ...?

State-run journal wins no acclaim

State intrusions into the publishing business strike a troublesome blow at the health of newspapers across Alaska — newspapers whose vigorous, independent voices well serve us all. That's why a proposal before the legislature to create an "Alaska Administrative Journal" — ostensibly designed to package state information in a bi-weekly publication — should be tabled permanently as this confused legislative session draws to a close.

The only rationale to support the proposal is a sense that state residents could benefit by the supposed convenience of a single assemblage of proposed state actions, opportunities to bid, notices of public meetings, administrative actions and executive orders. But that rationale fades to mere gloss when compared to the disadvantages occasioned by state entry into an enterprise that is properly and efficiently carried out by dozens of independent organizations around the state.

The fact is that creation of a journal of this sort would present privately run newspapers with state competition for both readership and revenues derived from legal advertising. Such advertising arises from public notice requirements, and is a major revenue source for many newspapers — particularly the smallest ones — across the state.

More than that, the proposed journal actually is more likely to limit than to enhance the public's right to know about state actions and contracts — because both the concentration of information in a single state source and the threat to the financial health of Alaska newspapers would narrow the availability of public information.

The legislation as now written would maintain current requirements for legal advertisement in local publications. But there would be no safeguard, once the proposed journal was in place and a force of its own, to prevent subsequent legislatures from removing those requirements. If that occurred, notice of state actions and opportunities suddenly would be accessible mainly to those contractors, lawyers and other professionals with the savvy to subscribe to the state-published journal.

This proposal is a step in the wrong direction. Alaska's independent newspapers serve an important function — to readers, to advertisers, to the state as a whole. Government intrusion into the province of newspapers could only injure an industry that has proven itself to be effective and efficient in the exercise of its role.

Wed., 2/18/61

SIGN UP

Name

SEN. FERGUSON

102

JOAN BROOKS

MILDRED RICHARDS - DELAYED REG. PERSON

BOB (Name?)

SB 6

SEN. THORNTON

AMENDMENT TO BILL

DON SMITH -

ENDORSE CONCEPT

WANTS PRIVATE COMPANY TO JOURNAL

ART PETERSON - A.G.

Public - SUBD - PROVIDE TO LIBRARY
NOT SO COMPREHENSIVE - COST

LIABILITY OF STATE

AK AD JOURNAL - JOURNAL

ROADBLOCK BY LTR GOV'S OFFICE
(SEC 2)

Sec 3

DETERMINE - SPECIFIC WORK

SB102 Amendment - 3 person AFFIDAVIT

PROVE BETTER + BIR COMMITTEE
BUS TO:

Imp - WEEKLY PUBLICATION OF RESEARCH
ITEMS "TO ADJUSTED
SERVICE PUBLIC"

FARR "VOLUME REAVENT TO FREQUENT"

Imp - ADDENDUM / SUPPLEMENT

Am Pearce - IN PROOF
PROBLEM WITH NOTIFICATION