

HB

114

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF
HB 114

Leg Council Review of Court Opinions

Received January 25, 1989
by the Judiciary Committee

Heard February 14, 1989

Passed Out of Committee February 14, 1989
5 Do Pass
1 No Recommendation

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February 7, 1989

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 HOUSE BILL NO. 114

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the examination of regulations
7 and of opinions and decisions issued by courts and
8 agencies on the law of the state."

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

10 * Section 1. AS 24.20.065(a) is amended to read:

11 (a) The legislative council shall annually examine
12 administrative regulations, published opinions of state and federal
13 courts and of the Department of Law [THAT RELY ON STATE STATUTES], and
14 ~~final decisions adopted under the Administrative Procedure Act~~ c.g?
15 (AS 44.62) that rely on state statutes or the common law of the state
16 to determine if [WHETHER OR NOT]

17 (1) the courts and agencies are properly implementing
18 legislative purposes;

19 (2) there are court or agency expressions of dissatisfac-
20 tion with state statutes or the common law of the state;

21 (3) the opinions, decisions, or regulations indicate un-
22 clear or ambiguous statutes;

23 (4) the courts have modified or revised the common law of
24 the state.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to the examination
of regulations and of opinions and decisions...
Sponsor: House Judiciary
Requestor: House State Affairs

Affect Agency Legislative Affairs Agency
BRU: Legislative Council BRU
Components Legal Services

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Personal Services	0	0	0	0	0	0
Travel	0	0	0	0	0	0
Contractual	0	0	0	0	0	0
Supplies	0	0	0	0	0	0
Equipment	0	0	0	0	0	0
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (THOUSANDS OF DOLLARS)

General Fund	0	0	0	0	0	0
Federal Fund						
Other						
TOTAL	0	0	0	0	0	0

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

There would not be a fiscal impact for the Division of Legal Services under the Legislative Council BRU relating to adding examination of common law. However, it should be noted that the annual examination of administrative regulations and final decisions adopted under the Administrative

Prepared By: Pamela Stoops, Director Phone: 465-3850
Division: Administrative Services Date: 2/6/89

Approved By: Warren Endicott, Executive Director
Agency: Legislative Affairs Agency Date: 2/6/89

DISTRIBUTION (BY PREPARER)
LEGISLATIVE FINANCE
LEGISLATIVE SPONSOR

REQUESTOR
OFFICE OF MANAGEMENT & BUDGET
AGENCY (IES)

CONTINUATION OF FISCAL NOTE - HB 114

ANALYSIS (continued)

~~Procedure Act~~ is not currently being done by Legal Services for Legislative Council.

The ~~Administrative Regulation Review Committee~~ is in charge of administrative regulations.

There are insufficient funds at this time to support the attorney time needed to fully examine the ~~administrative regulations and Administrative Procedures Act~~. A substantial fiscal impact would be realized to comply with these aspects of this statute.

Item 3

Alaska State Legislature



House of Representatives
House Judiciary Committee

P. O Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4968
465-4968, 465-4986

February 7, 1989

MEMORANDUM

TO: Rep. Red Boucher
Chair, State Affairs Committee

FROM: Rep. Max Gruenberg and Rep. Peter Goll, Co-Chairmen
Judiciary Committee

Re: Analysis of HB 114, relating to the examination
of regulations and of opinions and decisions issued by
courts and agencies on the law of the state

HB 114 would amend AS 24.20.065(a). That statute requires the legislative council to annually review judicial and administrative decisions and administrative regulations for their effect on state law. HB 114 amends the statute to include a review for the effects of court decisions on state common law (non-statutory) provisions.

Thank you for providing a prompt hearing on the bill.

Admin Reg Review COM.

HB 114

Conflict - Add to review of COMMON
LAW -

STATUTE POWER + COURT, BUT
RULES HAVE EVOLVED

C.C. DATE BACK TO EARLY TIME -
THIS PROVISION ALLOWS LEG
TO BE APPROVED OF COMMON
LAW + TAKE CORRECTIVE ACTION.

NO ADD WORK, LOOKING
AT STATUTE + COMMON LAW.
NO ADDED TIME - CONCEPT
ACQUISITION IN LAW.

HAWLEY

HOW REVIEW DONE - ?

LEG AFFAIRS AGENCIES -
STATUTE + DECISIONS (ADMIN)
INTERCEPTED CONSISTENCY -

CONSISTENT? ?

RATIO OF CONFLICT CASES -

consistent with the statutory duties and powers of each permanent committee and its agency. (§ 1 ch 85 SLA 1978)

Revisor's notes. — Formerly AS 24.15.060(c). Renumbered in 1985.

Chapter 15. Compensation of Legislators, Officers and Employees.

Sec. 24.15.010. *Legislative per diem.* [Repealed, § 7 ch 83 SLA 1983.]

Secs. 24.15.020 — 24.15.060. [Renumbered as AS 24.10.100 — 24.10.210.]

Sec. 24.15.070. *Conditions of compensation.* [Repealed, § 9 ch 126 SLA 1966.]

Chapter 20. Agencies of the Legislature.

Article

- 1. Legislative Council (§§ 24.20.010 — 24.20.140)
- 2. Legislative Budget and Audit Committee (§§ 24.20.151 — 24.20.311)
- 3. Administrative Regulation Review Committee (§§ 24.20.400 — 24.20.460)
- 4. Legislative Board of Retirement Benefits (Repealed)

Article 1. Legislative Council.

Section

- 60. Legislative council established
- 61. Membership
- 62. Term of membership
- 63. Vacancies
- 64. Executive director and staff
- 65. Powers
- 66. Administrative services for legislature
- 67. Legislative internship program
- 68. Examination of regulations and opinions

Section

- 70. Revision of statutes
- 75. Alaska Code Revision Commission
- 80. Intergovernmental cooperation
- 90. Assignment of projects
- 100. Research and drafting services for legislators
- 110. Meetings
- 120. Reports
- 130. Budgets
- 132. Legislative budget and expenses
- 140. Appropriations

Sec. 24.20.010. **Legislative council established.** The Alaska Legislative Council is established as a permanent interim committee and service agency of the legislature. The establishment of the council recognizes the need of the legislature for full-time technical assistance in accomplishing the research, reporting, bill drafting, and examination and revision of statutes, and general administrative services essential to the development of sound legislation in the public interest. (§ 1 ch 17 SLA 1960)

Marital and Domestic Relations

ata is within the
nded to be afforded
der Alaska Const.
t'y Gen.

Sec. 24.20.310. [Repealed, § 1 ch 95 SLA 1971.]

Sec. 24.20.311. Reports. The committee shall file copies of its approved audit reports including any committee recommendations with the governor, the agency concerned and the legislature. An annual report summarizing the audit reports and committee recommendations made during the year shall be filed with the governor and with the legislature within the first five days of each regular session of the legislature. Reports shall be approved by a majority of the committee before their release and shall be open to public inspection after their release to the legislature. (§ 2 ch 95 SLA 1971)

Secs. 24.20.320 — 24.20.370. [Repealed, § 1 ch 95 SLA 1971.]

Article 3. Administrative Regulation Review Committee.

Section	Section
400. Administrative Regulation Review Committee established	440. Meetings
410. Membership	445. Power of suspension
420. Term of membership	450. Staff
430. Vacancies	460. Powers

Sec. 24.20.400. Administrative Regulation Review Committee established. The Administrative Regulation Review Committee is established as a permanent interim committee of the legislature. The establishment of the committee recognizes the need for prompt legislative review of administrative regulations filed by the lieutenant governor to determine whether annulment under AS 44.62.320 is appropriate. (§ 1 ch 27 SLA 1975)

NOTES TO DECISIONS

Constitutionality of legislative veto. — The legislative veto contained in AS 44.62.320 (a), which provides that the legislature, by a concurrent resolution adopted by a vote of both houses, may annul a regulation of an agency or department," violates art. II of the state constitution. No implied general power to veto agency regulations by informal legislative action exists. State v. A.L.I.V.E. Voluntary, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

Sec. 24.20.410. Membership. The Administrative Regulation Review Committee is composed of three members of the house appointed by the speaker of the house, and three members of the senate appointed by the president of the senate. The membership from each house shall include at least one member from each of the two major political parties. The committee elects a chairman from among its members. (§ 1 ch 27 SLA 1975)

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