

HB

424

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB424CS(JUD)-DHSS-DAS-03-24-04

Revision Date/Time (Note if correction): _____

() Publish Date: _____
Dept. Affected: Health & Social Services

Title REVIEW OF REGULATIONS BY LEGISLATIVE AFFAIRS

RDU Departmental Support Services

Component Commissioner's Office

Sponsor HOLM

Requester _____

Component No. 317

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Enactment of this legislation will not result in significant costs to the Department of Health and Social Services.

Prepared by: Sherry Hill, Special Assistant

Phone 465-1618

Division Office of the Commissioner

Date/Time 03/24/2004

Approved by: Joel S. Gilbertson, Commissioner

Date 03/24/2004

Agency Department of Health and Social Services

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 424 (JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Legislature
Title "An Act relating to review by BRU Legislative Council
LAA of certain state agency..." Component Council and Subcommittees
Sponsor Representative Holms
Requester House Finance Component No. 2028

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

W.F. Williams
Co-Chair Williams, House Finance Committee
John Harris
Co-Chair Harris, House Finance Committee

Phone 465-3424
Date/Time 3/24/04 11:24 AM
Date 3/24/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: HB424CS-LAW-L&R-3-2
Bill Version: CSHB 424 (JUD)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to review of regulations under the RDU ADMINISTRATION & SUPPORT
Administrative Procedure Act by the Legislative Affairs Agency..." Component Legislation & Regulations
Sponsor Representative Holm
Requester House Finance Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1007 Interagency Receipts						
1141 RCA Receipts						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill establishes a process by which the Legislative Affairs Agency reviews certain regulations subject to the Administrative Procedure Act. The Department of Law will be impacted in three major ways by legislation:

- 1) The Department of Law will need to provide training to covered state agencies and to update the Drafting Manual for Administrative Regulations to reflect the new process;
- 2) The Department of Law may be consulted during the review process to discuss legal concerns with the Legislative Affairs Agency and the covered state agency;
- 3) Department of Law will be notified in writing if any proposed regulations fail to meet the legal standards set out in this bill.

The fiscal impact is indeterminate and dependent on the volume of regulations subject to the process in

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
Division Administrative Services Date/Time 3/24/04 3:48 PM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 3/24/2004
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. HB 424

ANALYSIS CONTINUATION

any fiscal year and the level of legal assistance that agencies will need to appropriately consider the comments and to respond to requests.

STATE OF ALASKA
HOUSE OF REPRESENTATIVES
Representative Jim Holm



119 N. Cushman
Fairbanks, AK 99701
TEL 456-7423, FAX 451-9293

State Capitol
Juneau, AK 99801
TEL 465-3466, FAX 465-2937

HB 424

Sectional Analysis

Version CSHB 424(JUD) (23-LS0732/U)

"An Act relating to review by the Legislative Affairs Agency of certain state agency regulations proposed for adoption, amendment, or repeal under the Administrative Procedure Act; repealing provisions relating to annulment of regulations; and providing for an effective date."

Section 1 amends AS 18.56.088(a) to make conforming amendments for the repeal of AS 44.62.320(a) regarding legislative annulment of regulations by concurrent resolution. See sec. 7 of the bill.

Section 2 adds a new section AS 24.20.105, establishing standards for legislative review of proposed regulations.

Subsection (a) expressly authorizes the Legislative Affairs Agency to review administrative regulations. The subsection also requires that the review be conducted by an attorney employed at that agency.

Subsection (b) establishes an order of priority for the review authorized by subsection (a) of administrative regulations.

Subsection (c) requires that the notice of proposed regulatory actions, along with a copy of the proposed regulations, be forwarded electronically to named legislative agencies and committees, and to the legislative council.

Subsection (d) requires the Legislative Affairs Agency to assign one or more attorneys, within available staff resources and priorities of legislative council, to conduct the review. The subsection establishes the legal standards for the review.

Subsection (e) authorizes the assigned attorneys to consult with the Department of Law, with the legislative committee or legislative council that requested the review, and with the affected state agency. If the assigned attorney in the Legislative Affairs Agency determines that the proposed regulations do not meet the standards set in the bill, the assigned attorney shall notify in writing the Department of Law, the state agency, the Administrative Regulation Review Committee, the president of the senate, and the speaker of the house.

Subsection (f) requires the assigned attorney to notify the Administrative Regulations Review Committee, the president of the senate, and the speaker of the house of any provision of the proposed regulation that may be inconsistent with legislative intent and appropriate for additional legislative oversight.

Subsection (g) precludes the Legislative Affairs Agency from releasing information about the review, except as provided in the section.

Subsection (h) expressly clarifies that the process of review does not affect the state agency's authority to complete its proposed regulatory action, and that suggestions for changes to a proposed regulation are not binding on the state agency.

Subsection (i) prohibits an action from being brought for a failure of the Legislative Affairs Agency to conduct a review under this section.

Subsection (j) makes the provisions of (b) - (i) of AS 24.20.105 not applicable to proposed regulations by the Board of Fisheries or the Board of Game.

Subsection (k) provides a definition of "proposed regulations."

Section 3 is a conforming amendment to recognize the repeal of AS 44.62.320. *See* sec. 7 of the bill.

Section 4 makes notification and communications regarding the review under AS 24.20.105 not accessible through a public records request.

Section 5 requires the affected state agency to provide electronic copies of notices and proposed regulations as required by proposed AS 24.20.105(c). *See* sec. 2 of the bill.

Section 6 is a conforming amendment for the repeal of AS 44.62.320(a).

Section 7 repeals AS 24.20.460(5) and AS 44.62.320(a). In *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769 (Alaska 1980), the Alaska Supreme Court found that the provisions of AS 44.62.320(a) by which the legislature, by concurrent resolution adopted by a vote of both houses, might annul regulations of an agency or department violated art. II of the state constitution.

Section 8 establishes an effective date of July 1, 2004 for the bill.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 424(JUD)
 (H) Publish Date: 3/8/04
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title REVIEW OF REGULATIONS BY LEGISLATIVE AFFAIRS RDU Departmental Support Services
 Component Commissioner's Office

Sponsor HOLM

Requester HOUSE (JUD) Component No. 317

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Enactment of this legislation will likely result in significant costs to the Department of Health and Social Services. However those costs are indeterminate given the department's inability to predict with any certainty the timeliness or consequences of the Legislative Affairs Agency's reviews of the department's regulations.

Under current law incumbent legislators and the Legislative Affairs Agency receive copies of notices of regulatory changes as part of the normal public comment process. Individual legislators, legislative committees including the Administrative Regulation Review Committee, and Legislative Affairs all have the ability to comment on the proposed regulations.

Prepared by: Sherry Hill, Special Assistant
 Division Office of the Commissioner
 Approved by: Joel S. Gilbertson, Commissioner
 Agency Department of Health and Social Services

Phone 465-1618
 Date/Time 02/23/2004
 Date 02/23/2004

FISCAL NOTE

FN # 1

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 424(JUD)

ANALYSIS CONTINUATION

The proposed legislation would require the Department of Law to provide a copy of proposed regulations to the Legislative Affairs Agency prior to opening the normal public comment period. The bill prohibits the agency from adopting the regulations pending receipt of the Legislative Affairs Agency review.

At this point in time a majority of the department's new regulations are necessary to achieve cost-savings in order for the department to live within its budget. Many of these cost-savings have been explicitly mandated by the legislature as discrete transactions in the department's budget. It is likely that the reviews conducted by the Legislative Affairs Agency will result in delays in implementing cost-containment activities. Delays may result from 1) Lack of timeliness of reviews; 2) Additional redrafting of regulations to address perceived deficiencies; or 3) Legal challenges arising from an unfavorable review.

If the department is unable to achieve its cost containment goals through the timely adoption of regulations, the department would have two choices: 1) To request a supplemental appropriation; or 2) Undertake alternative cost containment activities which may not have been envisioned in the budget passed by the legislature and signed by the Governor.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 424(JUD)
 (H) Publish Date: 3/8/04

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to review of regulations under the RDU ADMINISTRATION & SUPPORT
Administrative Procedure Act by the Legislative Affairs Agency..." Component Legislation & Regulations
 Sponsor Representative Holm
 Requester House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1007 Interagency Receipts						
1141 RCA Receipts						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill establishes a process by which the Legislative Affairs Agency reviews certain regulations subject to the Administrative Procedure Act. The Department of Law will be impacted in three major ways by legislation:
 1) The Department of Law is required to submit regulations to the Legislative Affairs Agency for review;
 2) the Legislative Affairs Agency may consult with the Department of Law in the review process;
 3) Department of Law will be notified of Legislative Affairs Agency's conclusions and assist agencies in analyzing comments.
 4) Regulations may not be adopted until after the Department of Law receives notice from Legislative Affairs Agency that the review has been completed.
 It is anticipated that the Legislative Affairs Agency's review will lengthen the time for finalizing

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
 Division Administrative Services Date/Time 2/25/04 9:05 AM
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/25/2004
 Agency Department of Law

FISCAL NOTE #2

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

BILL NO. CSHB 424(JUD)

ANALYSIS CONTINUATION

regulations. The Drafting Manual will require revision to reflect the changes in the process and training will be needed on the changes. Agencies will require assistance from the Department of Law in responding to public records requests for the analysis produced by the Legislative Affairs Agency. Precluding agencies from acting on regulations absent approval from Legislative Affairs creates a separation of powers issue, and may result in a court test on constitutionality.

The fiscal impact is indeterminate and dependent on the volume of regulations subject to the process in any fiscal year and the level of legal assistance that agencies will need to appropriately consider the comments and to respond to requests.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 424(JUD)
(H) Publish Date: 3/8/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Legislature
Title "An Act relating to review by the BRU Legislative Council
Legislative Affairs Agency of certain state agency...." Component: Council and Subcommittees
Sponsor Representative Holm
Requestor Representative Holm Component No. 2028

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	98.0	98.0	98.0	98.0	98.0	98.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	98.0	98.0	98.0	98.0	98.0	98.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	98.0	98.0	98.0	98.0	98.0	98.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	98.0	98.0	98.0	98.0	98.0	98.0

Estimate of any current year (FY2004) cost: _____

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CS HB424 (JUD) proposes establishing in statute, a review of proposed regulations, other than regulations of the Boards of Game or Fisheries, that would implement newly enacted legislation, or any proposed regulations a standing legislative committee, the Administrative Regulation Review Committee, or the Legislative Council requested be reviewed as implicating major policy development. This review would be conducted by the LAA-Legal and Research Services Division, within available staff resources and priorities set by Legislative Council. This legislation directs the Legislative Affairs Agency to assign one or more attorneys to conduct a review of the proposed regulations. Legal Services is currently at it's workload capacity and could not, without additional staff, review more than one, possible two, regulations per year.

Prepared by: Karla Schofield, Deputy Director Phone 465-6626
Division Administrative Services Date/Time 3/8/04 2:01 PM

Approved by: Pamela Varni, Executive Director Date 3/8/2004
Agency Legislative Affairs Agency

STATE OF ALASKA
2004 LEGISLATIVE SESSION
ANALYSIS CONTINUATION

A legislative staff regulation reviewer in Colorado, which performs a limited regulation review function, estimates that reviewing one regulation of average complexity could take up to 5 hours. Taking on the additional responsibilities of regulation review with existing division staff is unworkable because the impact of reviewing regulations as the session is gearing up in December, on top of the need to adequately research and draft prefiled bills for the upcoming session, or at the end of session when attorneys are working on rewrites or amendments does not allow time to perform this new function. During the remaining portion of the year, the division is not fully staffed as some employees are seasonal and others are on annual leave. The division performs interim projects on other matters such as examining and preparing a report on all court decisions and opinions of the Attorney General construing Alaska Statutes, contract and litigation work, and interim projects such as title reviews and annual statute revision to incorporate new laws. During the interim the division receives and assigns between 50 and 100 new drafting requests per month.

The language in the legislation states that the Legislative Affairs Agency

- 1."...may review each proposed regulation.."
- 2."...that the review by LAA-Legal Services does not affect a state agency's authority to complete its proposed action regarding the regulation.."
- 3."...suggestions for changes to a proposed regulation by the Legislative Affairs Agency are not binding on a state agency..."
- 4."...No action may be brought for the failure of the Legislative Affairs Agency to conduct a legal review under this section..."

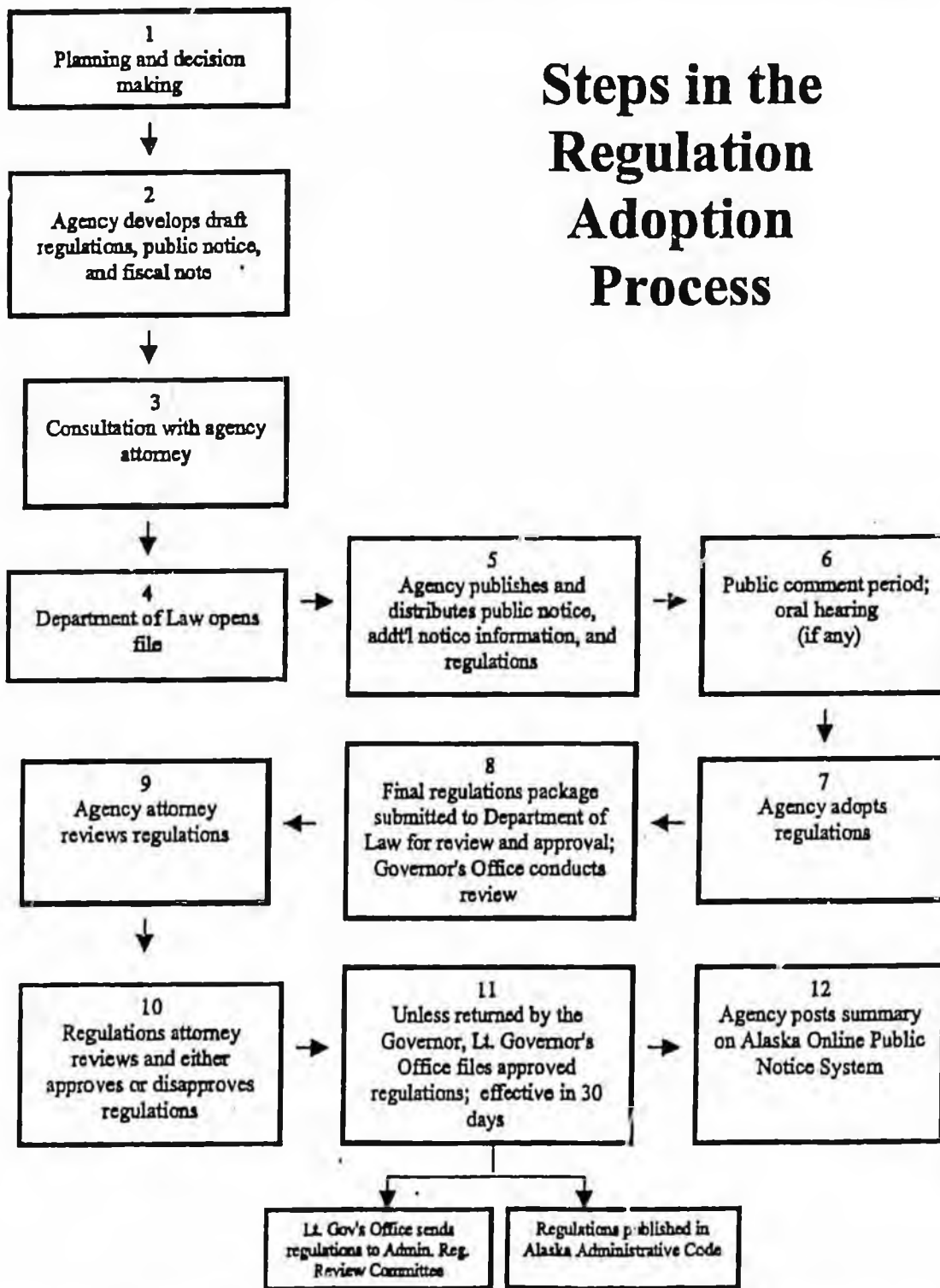
This makes it is clear that there are no consequences if the Legislative Affairs Agency does not have the staff to carry out the legislation. The legislation does make it very clear that the Legislature would like to have the ability to review a certain percentage of regulations proposed by state agencies over the course of a year.

As we are unable to determine exactly how many regulations, whether simple or complex, would actually be reviewed under this legislation, we have included funding for one attorney to perform this work. It is anticipated that the Legislature would wish to review, at a minimum, 30% of all proposed regulations. The 98.0 included in this fiscal note to fund the new attorney position represents approximately 30% of the 348.4 cost to review all proposed regulations for the State of Alaska. If the demand by the Legislature for regulation review exceeded the amount of work one attorney could accomplish, the Legislature would have at least two ways of increasing funding for this function, or they could choose to cease reviewing regulations. Method one for increasing funding for this function would be to increase the Legislative Affairs Agency budget request in subsequent fiscal years to include more positions and more funding for Legal Services. Method two would be for the Legislative Council to authorize the expenditure of Legislative Council funds for the Legislative Affaris Agency to retain a law firm to accomplish the review of specific regulations.

Personal Services

Legal Admin Reg Review Attorney IV position (R24) - 98.0

Steps in the Regulation Adoption Process



THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



(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;

(6) the use of teleconferencing under this chapter is for the convenience of the parties, the public, and the governmental units conducting the meetings.

(b) AS 44.62.310(c) and (d) shall be construed narrowly in order to effectuate the policy stated in (a) of this section and to avoid exemptions from open meeting requirements and unnecessary executive sessions. (§ 3 ch 98 SLA 1972; am § 4 ch 54 SLA 1985; am § 9 ch 69 SLA 1994)

Effect of amendments. — The 1994 amendment, effective June 3, 1994, in subsection (b), made a section reference substitution and substituted "and to avoid exemptions from open meeting requirements and unnecessary executive sessions" for "and avoid unnecessary executive sessions."

NOTES TO DECISIONS

Public disclosure of applications. — Strong public interest in the disclosure of the affairs of government generally, and in an open selection process for high public officials in particular requires public disclosure and inspection of applications for posts having substantial discretionary authority. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, 642 P.2d 1316 (Alaska 1982).
Quoted in *Hammond v. North Slope Borough*, 645

P.2d 750 (Alaska 1982); *Alaska Community Colleges Fed'n of Teachers, Local 2404 v. University of Alaska*, 677 P.2d 886 (Alaska 1984); *Brookwood Area Homeowners Ass'n v. Municipality of Anchorage*, 706 P.2d 1317 (Alaska 1985); *KILA, Inc. v. State, Dept of Admin.*, 876 P.2d 1102 (Alaska 1994).
Cited in *Anchorage Sch. Dist. v. Anchorage Daily News*, 779 P.2d 1191 (Alaska 1989); *Hickel v. Southeast Conference*, 368 P.2d 919 (Alaska 1994).

Article 7. Legislative Review of Rules.

Section
320. Legislative annulment of regulations and review

Sec. 44.62.320. Legislative annulment of regulations and review. (a) The legislature, by a concurrent resolution adopted by a vote of both houses, may annul a regulation of an agency or department.

(b) At the same time a regulation is filed by the lieutenant governor, the lieutenant governor shall submit the regulation to the chairman and all members of the Administrative Regulation Review Committee for review under AS 24.20.400 — 24.20.460 together with the fiscal information required to be prepared under AS 44.62.195. (§ 1 art VII (ch 1) ch 143 SLA 1959; am § 3 ch 149 SLA 1962; am § 2 ch 72 SLA 1963; am § 2 ch 27 SLA 1975; am § 5 ch 64 SLA 1978; am § 3 ch 16 SLA 1980)

NOTES TO DECISIONS

Legislative veto unconstitutional. — The legislative veto contained in subsection (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. *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769 (Alaska 1980).

No implied general power to veto agency regulations by informal legislative action exists. *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769 (Alaska 1980).
Cited in *Wickersham v. State, Com. Fisheries Entry Comm'n*, 680 P.2d 1135 (Alaska 1984).

Article 8. Administrative Adjudication.

Section
330. Application of AS 44.62.330 — 44.62.630
340. Delegation of power by agencies
350. Appointment of hearing officers
360. Accusation
370. Statement of issues
380. Service of accusation

Section
390. Notice of defense
400. Amended or supplemental accusation
410. Time and place of hearing
420. Form of notice of hearing
430. Subpoenas; witness fees
440. Depositions

Section
450. Hearing
460. Evidence
470. Evidence
480. Official r
490. Amendr
500. Decision
510. Form an
520. Effective
530. Default
540. Reconsid

Applicabili hearings. — employed by termination he represented by

Sec. 44.6:
state boards
reorganizati
44.62.630. T
issues, servi
concerning e
judicial revis
contempt, m
chapter, notv
commissions
under AS 44.

- (1) [Repeal
- (2) Board
- (3) Board
- (4) State E
- (5) [Repeal
- (6) Board
- (7) [Repeal
- (8) State M
- (9) Division
- (10) Board
- misappropria
- 08.68.333;
- (11) Board
- (12) Board
- (13) Depart
- employment s
- (14) Real E
- (15) Alaska
- expressly prov
- (16) Depart
- aeronautics ar
- (17) [Repeal
- (18) [Repeal
- (19) [Repeal

HB 424

Looking Out For Business...

A report from the Alaska State Chamber of Commerce - The Voice of Alaska Business



ALASKA
 ★ STATE ★
 CHAMBER
 OF COMMERCE

With 40,000 regulations in Alaska and 93% of all regulations proposed becoming law, it is important for business to watch exactly how regulations are formed, enforced and reviewed to ensure we are able to navigate the system. Senator Gene Therriault has introduced a three-tier package on regulatory reform this session to render the system more efficient and flexible. The three bills are: SB 203, Fair Hearing Bill, SB 287, Legislative Legal Review of Proposed Regulations and SB 333, Judicial Extraction from Administrative Review.

Currently State agencies that write and enforce administrative law also hear complaints against those laws. This can be compared to getting a traffic ticket, going to court to appeal the ticket and finding the judge not only wrote the law but also is the officer who gave you the ticket. SB 203 provides a fix for this system by separating the administrative adjudication process from the agencies.

SB 203 establishes a central hearing panel that gives hearing officers a more independent and protected station from which to deliver timely due process through fair and objective hearings, thereby creating an efficient and more professional administrative hearing process. Initial start-up costs will be recouped and significant savings will accrue through these efficiencies over time. The reductions in time due to the efficiencies will also reduce costs to businesses.

SB 287 addresses two segments of the administrative regulatory development process in need of reform: 1) the lack of formal legal review before proposed regulations are put out for public comment, and 2) a review for consistency, conformity and quality of all regulations by the legislative legal team. Text of regulations adopted are often not the same as the proposed regulations on which the public commented because currently the Attorney General's Office can not conduct their final review and make changes until after public comment. Regulations amended by the AG's office do not always go back for public comment before final certification. SB 287 would establish a legislative legal services review prior to the public comment period thus ensuring that the public comments on regulations that

are closer to their final form. It also makes sense that the Legal Services team, who actually drafts the legislation and follow it's evolution throughout the entire process, reviews the regulations for quality control.

The two steps above will not only mean higher quality proposed regulations, but also more timely and less frequently challenged regulations. This reform will create savings to government, to the public, to the Attorney General, and a more stable and responsible regulatory scheme for businesses.

The final tier of Sen. Therriault's package is SB 333, which allows a person (petitioner) who is unable to obtain a final administrative

decision from a government agency to ask the Superior Court for assistance. Under the present system, agency regulators have the power to keep a petitioner tied up in its process for extended periods of time because they cannot be sent to the court system until administrative remedies are exhausted. Abuse of authority can block or delay due process, especially if a state agency fears losing a contested rule in court. Long delays can mean high costs to the state and the petitioner and damage to the integrity of the administrative process itself. Some petitioners who have been bogged down by the agency review process have called this bill "The Jaws of Life".

These bills can be read on line in their entirety by going to www.legis.state.ak.us and selecting "Bill Search". Reform of the regulatory system has been a priority of the business community for many years. If you support these bills, it is important that you let your legislators know.

"These bills are designed to require government to administer a more efficient, fair and timely regulation process."

Senator Gene Therriault

Join ASCC today and be heard through the "Voice of Alaska Business"

*e-mail: info@alaskachamber.com
www.alaskachamber.com*

STATE OF ALASKA
HOUSE OF REPRESENTATIVES
Representative Jim Holm



119 N. Cushman
Fairbanks, AK 99701
TEL 456-7423, FAX 451-9293

State Capitol
Juneau, AK 99801
TEL 465-3466, FAX 465-2937

SPONSOR STATEMENT

HB 424

Legislative Review of Proposed Regulations

3/4/4

House Bill 424 requires legislative legal review of regulations before they are finalized.

Under current statute, only the Attorney General formally reviews proposed regulations, and this review comes late in the process, when public comment has already been closed. After the Attorney General approves proposed regulations they are transmitted to the Lt. Governor's office, where they are seldom changed. And then the public justifiably gets frustrated when they see regulations adopted that are different from the ones on which they commented.

Under HB 424, legislative attorneys who actually draft the bills will review regulations being promulgated from those bills. By working cooperatively with the Attorney General's office, differences of opinion can be worked out before the regs are finalized. In the event differences cannot be worked out, the legislature will have an opportunity for input.

Overall impact to the state's economy will be positive. Adding legislative review to the regulation process will help eliminate conflicts, create a more stable business environment, and increase the public's trust in government.