

HB

295

Subject: FW: forward to house state affairs

Date: Thu, 8 May 2003 17:07:11 -0800

From: "Michael Downing" <mike_downing@dot.state.ak.us>

To: <ginny_austerman@legis.state.ak.us>, <todd_larkin@legis.state.ak.us>

CC: "POSHARD, DENNIS" <dennis_poshard@dot.state.ak.us>

Ginny/Todd:

Please forward to the Committee members and staff as appropriate. Thank you.

MD

-----Original Message-----

From: Jim Cantor [mailto:Jim_Cantor@law.state.ak.us]

Sent: Thursday, May 08, 2003 4:58 PM

To: mike_downing@dot.state.ak.us

Cc: Jim Cantor

Subject: forward to house state affairs

During the House State Affairs hearing today, the Chair asked me to email the suggestions I made in response to committee questions and DOT concerns. My suggestions follow:

- (6) political, non-commercial signs on private property if
 - (A) individual and conjoined signs do not exceed 32 square feet total per side;
 - (B) signs are temporary and in place for less than 6 months [or one year...?]
 - (C) the signs are marked with the date of installation;
 - (D) the signs do not interfere with, obstruct, confuse, or mislead traffic or pose a traffic hazard;
 - (E) the signs are consistent with regulations adopted by the department regarding the time and manner for removal of signs that do not have current relevance; in this subparagraph,
 - (i) "current relevance" means the subject matter of a sign is a non-commercial matter of ongoing public consideration by the public and the date of decision on the subject matter of the sign has not passed;
 - (ii) "date of decision" means the date on which a decision on the subject matter of a sign is no longer subject to influence by public opinion, such as the date of an election for public office or on a ballot measure action by the governor on bill passed by the legislature, formal settlement or formal conclusion of an armed conflict, conclusion of contract negotiations, or similar matters for which a date of decision may be ascertained;
 - (F) no person receives compensation for displaying the signs; and
 - (G) this section does not authorize indirect advertising of commercial products
 - (H) in this section, "private property" does not include that portion of property subject to an easement for public transportation.

NOTE: Subparagraph (E), above, requires DOT to judge when a political issue still has relevance. This presents bureaucratic and potential constitutional problems. Adding the time limit suggested above in paragraph C) would enable the committee to further edit paragraph (E) as follows to remove DOT from this position:

(E) the signs are consistent with regulations adopted by the department regarding the time and manner for removal of signs.

[remainder of paragraph deleted: that do not have current relevance; in this subparagraph, (i) "current relevance" means the subject matter of a sign is a non-commercial matter of ongoing

: forward to house state affairs

public consideration by the public and the date of decision on the subject matter of the sign has not passed;

(ii) "date of decision" means the date on which a decision on the subject matter of a sign is no longer subject to influence by public opinion, such as the date of an election for public office or on a ballot measure action by the governor on bill passed by the legislature, formal settlement or formal conclusion of an armed conflict, conclusion of contract negotiations, or similar matters for which a date of decision may be ascertained; -end deletion]

Please let me know if I can help the committee in any other way. Jim Cantor

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HB 295 Notes

The big sections for oil and gas are sections 10, 11, 16, 19, 20, 23, and 24. Some health facilities regulations are exempted in section 27. And the general notice changes are in sections 23 and 24 (requiring abbreviated newspaper notice).

section 1 - exempting trusts regulations from newspaper notice requirement

section 7 - exempting insurance regulations from newspaper notice requirement

section 10 - exempting oil and gas conservation act regulations (AS 31.05) from newspaper notice requirement

section 11 - exempting oil and gas leasing regulations (AS 38.05.180) from newspaper notice requirement.

section 16 - exempting pipeline act regulations (AS 42.06) from newspaper notice requirement

section 19 - exempting oil and gas producers and pipelines regulations (AS 43.20.072) from newspaper notice requirement.

section 20 - exempting oil and gas exploration, production, pipeline transportation property tax regulations (AS 43.56) from newspaper notice requirement.

section 21 and 22 - requiring local governments to pay for the Administrative Code, Administrative Register, and supplements.

section 23 and 24 - requiring only abbreviated instead of full public notice in newspapers

section 26 - exempting insurance regulations from newspaper notice requirement.

section 27 - exempting health facilities regulations from newspaper notice requirement.

Sectional Analysis of HB 295/SB 211 (Regulation Notices and Distribution)

(Prepared by the Department of Law, May 8, 2003)

HB 295/SB 211 would make notices of proposed regulations more readable, and would reduce the newspaper publishing costs for those notices, by requiring less detail in newspaper notices; by guiding the public to more detailed information, especially through the Internet; by making notice distribution requirements, such as publication in newspapers and on the Internet and by mail or electronic mail, more consistent across agencies; and by omitting newspaper notice for a few specialized subject areas, where interested businesses, firms, and other persons rely on the Internet or other means other than newspapers for notice.

I. Changes to requirements in the Administrative Procedure Act (AS 44.62) for publishing notice (Sections 23 - 24):

Sec. 23: *Abbreviated newspaper notice:* Section 23 amends the distribution requirements in AS 44.62.190(a) for a notice of proposed regulations, to allow an abbreviated notice in a newspaper of general circulation or in a trade or industry publication, and makes technical changes to improve readability.

Sec. 24: *Content requirements:* Section 24 amends the content requirements of AS 44.62.200, specifying requirements for the abbreviated notice that include:

- a statement of what is being changed;
- a brief general description of the changes;
- information on how to obtain more detailed information, through the Alaska Online Public Notice System or from a contact person at the state agency;
- a statement of when hearings, if any, will take place.

II. Changes to make notice distribution consistent across agencies (Sections 3 - 6, 8 - 9, 14 - 15, 17 - 18, and 25):

Under the Administrative Procedure Act (APA), newspaper notice of proposed regulations is required in only one newspaper. For some agencies not subject to the requirements of the APA, newspaper notice of proposed regulatory changes is required in three or more newspapers. The bill allows the publication of notice in only one newspaper, the same as the minimum APA requirement.

The bill also allows agencies not subject to the APA to furnish notice by a means other than mailing, such as electronic mailing. As in the APA, the agency would, in most cases, still have to mail a paper copy of the notice to a person who requests one. This

amendment brings these agencies in conformance with other agencies whose statutes were similarly revised in 2000.

Secs. 3 - 4: Alaska Teachers' Retirement Board

Sec. 5: Alaska Aerospace Development Corporation

Sec. 6: Alaska Housing Finance Corporation

Secs. 8 - 9: Judicial Retirement System (Department of Administration)

Secs. 14 - 15: Public Employees' Retirement Board

Secs. 17 - 18: Alaska Railroad Corporation

Sec. 25: Alaska Industrial Development and Export Authority

III. Notice of proposed regulations for certain specialized subject areas (Sections 1 - 2, 7, 10 - 13, 16, 19 - 20, 26 - 27):

The bill allows some agencies that are subject to the APA to omit newspaper publication of a notice of proposed regulations, for regulations in certain highly specialized subject areas listed in statute, where interested persons are most likely to rely on the Internet or other means to obtain such information.

Sec. 1: Department of Community and Economic Development, Division of Banking, Securities, and Corporations, with respect to all regulations implementing the Revised Trust Company Act (AS 06.26)

Sec. 2: Office of the Lieutenant Governor, with respect to electronic signatures (AS 09.25.510)

Sec. 7: Department of Community and Economic Development, Division of Insurance, with respect to regulations implementing the Insurance Code (AS 21)

Sec. 10: Alaska Oil and Gas Conservation Commission with respect to all regulations adopted by the Commission (AS 31.05)

Sec. 11: Department of Natural Resources, with respect to oil and gas leases, including: competitive bidding regulations; standards, criteria, and definitions of terms that apply to the filing of applications for, and the review and certification of, discovery oil and gas royalty certifications; bidding methods; the rental rate for a plugged or abandoned well; issuance of certain state shoreland leases covering land within the boundaries of existing federal or private leases; cooperative or unit plans among lessees; and the offering of land for lease that

was subject to a best interest finding within the previous ten years (AS 38.05.180)

Secs. 12 - 13: Department of Administration, with respect to the state personnel rules; while not specifically referencing the APA, this change would eliminate the requirement of publication of changes to personnel rules in one newspaper and add a requirement that notice of such changes be posted on the Alaska Online Public Notice System (AS 39.25.140)

An additional change allows furnishing of notice by a means other than mailing, and requires mailing of notice to a person who requests it

Sec. 16: Regulatory Commission of Alaska, with respect to the Pipeline Act and including such matters as issuance of certificates of public convenience and necessity, standards of service and facilities for oil and gas pipeline facilities, tariffs, records, reporting and enforcement (AS 42.06.140)

Secs. 19 - 20: Department of Revenue, with respect to corporate income taxes and oil and gas property taxes (AS 43.20; AS 43.56)

Sec. 26: Department of Community and Economic Development, Division of Banking, Securities, and Corporations, with respect to regulations implementing the Alaska Securities Act (AS 45.55)

Sec. 27: Department of Health and Social Services, with respect to Medicaid regulations related to the setting of rates for service providers (AS 47.07.070, 47.07.073, 47.07.075)

IV. Changes to requirements in the Administrative Procedure Act (AS 44.62) for distribution of the Alaska Administrative Code (AAC) to local government units (Sections 21 - 22):

Sec. 21: *Distribution of the Alaska Administrative Code (AAC) to local government units:* Existing AS 44.62.140 requires the lieutenant governor to supply a paper copy of the Alaska Administrative Code (AAC) to the clerk of a local government unit, at no cost and regardless of whether the local clerk requests or wants the copy. Section 21 amends the statute to require that the local clerk first request a copy, and that the local government unit pay for it. The local clerk could request either a paper or an electronic copy.

Sec. 22: *Disclosure of costs:* Section 22 requires the lieutenant governor to tell a requesting local clerk the costs of complying with a request for the AAC.