

SB

211

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 5/1/03

FURTHER: Finance

Date of 5-Day Notice: 24 hour rule  
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 5/14/03

State Affairs Committee considered      SENATE BILL NO. 211

### SB 211 REGULATIONS: NOTICE AND DISTRIBUTION

"An Act relating to the publishing and furnishing of certain public notices regarding regulations or rules of certain state agencies; relating to distribution of the Alaska Administrative Code, Alaska Administrative Register, and supplements to the code or register; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
ALL	5/9/03	✓		

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	<del> </del>		✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>		✓		
CHAIR: <i>[Signature]</i>			✓	

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 211  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): 5/9/03 Dept. Affected: All  
 Title An Act relating to the publishing and BRU  
furnishing of certain public notices Component \_\_\_\_\_  
 Sponsor Rules Committee  
 Requester Governor Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	(258.0)	(258.0)	(258.0)	(258.0)	(258.0)	(258.0)
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>(258.0)</b>	<b>(258.0)</b>	<b>(258.0)</b>	<b>(258.0)</b>	<b>(258.0)</b>	<b>(258.0)</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
 Check 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)

This bill would result in reduced costs for newspaper advertising by state agencies for public notices related to state regulations. The savings shown above are an approximate estimate for all state agencies, and are comprised of a mix of general funds and other fund sources. These savings will be utilized by agencies to absorb various budget reductions and cost increases.

Prepared by: Jack Kreinhoder, Senior Analyst Phone 465-4676  
 Division Office of Management and Budget Date/Time 5/9/03 2:30 PM  
 Approved by: Jay Hogan, Deputy Director Date 5/9/2003  
 Agency Office of Management and Budget

## 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.

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**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.

# FISCAL NOTE

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: SB 211  
(S) Publish Date: 5/1/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: All  
Title An Act relating to public notices BRU \_\_\_\_\_  
Sponsor Rules Committee Component \_\_\_\_\_  
Requester Governor Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**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)						
<b>TOTAL</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

Estimate of any current year (FY2003) cost: 0.0  
Check 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)

This bill would result in savings from increased use of online public notices instead of newspaper advertisements. The amount of this savings is currently being researched and will be included in a revised fiscal note.

Prepared by: Jack Kreinheder, Senior Analyst Phone 465-4676  
Division OMB Date/Time 4/23/03 1:10 PM  
Approved by: Cheryl Frasca, Director Date 4/23/2003  
Agency OMB

COMMITTEE COPY

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April 30, 2003

The Honorable Gene Therriault  
President of the Senate  
Alaska State Legislature  
State Capitol, Room 107  
Juneau, AK 99801-1182

Dear President Therriault: *Gene*

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to change the Alaska Administrative Procedure Act and make other statutory improvements to provide for better and more cost-effective notice of regulatory changes.

First, the bill would allow certain state agencies to publish, in a newspaper or other publication, an abbreviated notice of proposed regulatory changes that clearly describes the changes and how an interested person may obtain more detailed information through the Internet or in written form. Second, the bill also would amend a variety of state statutes to allow agencies the flexibility of sending out individual notices by means other than regular mail. This change would make these newspaper publication requirements consistent with the provision in the Administrative Procedure Act, that notice need be published in only one newspaper of general circulation in the state.

Under the Administrative Procedure Act, public notice of changes to regulations must be published in a newspaper of general circulation or other specified type of publication. This notice is to include an informative summary of the changes, which has been interpreted to require a comprehensive description. In practice this results in lengthy notices, usually in the classified advertisement section of the newspapers, that are expensive and often difficult to understand.

This bill would change this practice to allow for a more abbreviated notice in newspapers or other publications, clearly describing the subject matter of the changes and directing interested persons to more detailed information sources. Recognizing the utility and efficiency of the Internet, the bill requires detailed information on the changes to be available on the Alaska

Online Public Notice System. Also, recognizing that the Internet is not available to all citizens, the bill would provide that detailed information be made available to interested persons by other means, if requested. Thus, the bill would allow state agencies to use the Internet to improve communications regarding regulatory changes, while still providing notice for those who do not yet have the access or ability to use the Internet.

The bill also would change statutory notice provisions for specific government entities to allow for the flexibility to use methods of communication other than regular mail in providing public notice of regulation or rule changes. There is a provision that notices shall be delivered by mail, upon request. This flexible approach was put into place in 2000 for regulations under the Administrative Procedure Act, and has proven effective. The changes in this bill would simply extend that flexibility to certain named state agencies. In addition, the bill would amend the statutes relating to publication of newspaper notices to make it consistent with the requirement in the Administrative Procedure Act that notice be published in a single newspaper of general circulation. The governmental entities affected by these changes include the Alaska Teachers' Retirement Board, Alaska Aerospace Development Corporation, Alaska Railroad Corporation, Alaska Housing Finance Corporation, Department of Administration, Public Employees' Retirement Board, and the Alaska Industrial Development and Export Authority.

This bill also excludes specific government entities from having to publish an abbreviated notice in a newspaper or other publication relating to topics of concern to larger institutions and groups that have the ability to or already regularly communicate with the state through electronic means. These statutes include such areas as the Alaska Securities Act, the Alaska Trust Company Act, oil and gas leasing, state personnel rules, certifying authority for an electronic signature, Medicaid rate setting for facilities, and the Pipeline Act. When adopting regulations or rules under these specific statutes, the government agencies would continue to post the notice on the Alaska Online Public Notice System and furnish the notice to interested parties and other government entities, but would not be required to publish the abbreviated notice. The government entities affected by these changes include the lieutenant governor, Department of Administration, Department of Revenue, Department of Health and Social Services, State Assessment Review Board, Alaska Oil and Gas Conservation Commission, Department of Natural Resources, Department of Community and Economic Development, and the Regulatory Commission of Alaska.

The changes to public notice procedures made by the bill would be applicable to public notices issued on or after the effective date of the Act.

The Honorable Gene T. Moriault

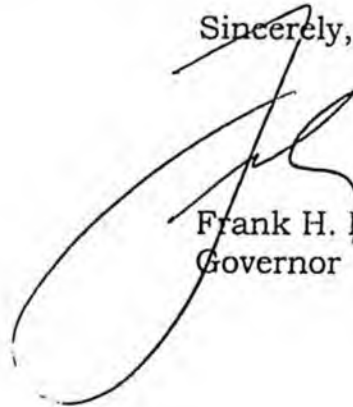
April 30, 2003

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Lastly, this bill would amend the requirement for the lieutenant governor, at state expense, to supply a complete set of the Alaska Administrative Code, the Alaska Administrative Register, and each supplement to the code or register to the clerk of each local government unit. This bill allows local government units' clerks to request a paper or electronic copy of the publications, and would require payment for the requested copy. Because electronic access to the Alaska Administrative Code is currently available through the legislature's website, and through links to that website found on various state agency websites, local governments still would have a "no-cost" option for access to the information.

I urge your prompt consideration and passage of this bill.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'F. Murkowski', is written over the typed name and title.

Frank H. Murkowski  
Governor