

HB

216

<TARGET><BILL>HB 216</BILL><SUBJECT>HB
216</SUBJECT><COMM>HSTA27</COMM></TARGET>

Alaska State Legislature



Chairman
State Affairs Committee

Member
Judiciary Committee
Energy Committee
Joint Armed Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Administration
Corrections
Military and Veterans Affairs

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

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FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, Room 108
Juneau, AK 99801-1182

of Pages (including cover): 3

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Re HB 216 - Draft Final CS 27-LS0701\B

1/19/2012

HB 216 moved from the House State Affairs Committee with some amendments. Please draft a final CS with the amendments as follows:

Amendment #1 (Wilson)
B.2 (attached)

Amendment #2 (Wilson)
B.1 (attached)

Conceptual Amendment #3 (Wilson)
Withdrawn

Conceptual Amendment #4 (Wilson)
Withdrawn

AMENDMENT #1

OFFERED IN THE HOUSE

TO: HB 216

1 Page 2, lines 4 - 5:

2 Delete "include a summary of the existing regulation as well as a summary of the
3 change proposed by the amendment or repeal"

4 Insert "also describe how the amendment or repeal will change the existing
5 regulation"

AMENDMENT #2

OFFERED IN THE HOUSE

TO: HB 216

- 1 Page 2, line 7, following "understand":
- 2 Insert "without following Internet links to the Alaska Administrative Code"

Nancy Manly

From: Nancy Manly
Sent: Friday, January 20, 2012 8:23 AM
To: Sheila Finkenbinder; Arthur Martin
Subject: CSHB 216 (STA) and Legal Memo
Attachments: Scan001.PDF

Sheila - attached is the Committee Substitute for HB 216 (STA) that we got back from Legal yesterday afternoon. The two amendments that passed are included in this bill draft. I'll be delivering the file to the Chief Clerk's office this morning. I did look it over and everything looks good. If you do see any problems though, let me know. If you have questions on the memo, call and talk with legal directly.

Thanks,

Nancy Manly, Chief of Staff and
House State Affairs Committee Aide for
Representative Bob Lynn
House District 31
907-465-2794 Fax: 907-465-4316

LEGAL SERVICES

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Juneau, Alaska 99801-1182
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MEMORANDUM

January 19, 2012

SUBJECT: CSHB 216(STA) relating to regulations
(Work Order No. 27-LS0701\I)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Nancy Manly

FROM:  Terry Bannister
Legislative Counsel

This memo accompanies the bill described above.

Please note that a court is unlikely to void a bill for violating AS 24.08.045, added by sec. 1. The question of what a bill must include is a matter of legislative procedure, which may be determined by each legislature under art. II, sec. 12 of the state constitution. Therefore the courts will not interfere, even when the legislature violates a procedural statute. Abood v. League of Women Voters, 743 P.2d 333 (Alaska 1987).

If I may be of further assistance, please advise.

TLB:ljw
12-030.ljw

Enclosure

CS FOR HOUSE BILL NO. 216(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE PEGGY WILSON

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to deadlines in bills directing the adoption of regulations and to the**
2 **informative summary required for the proposed adoption, amendment, or repeal of a**
3 **regulation."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** AS 24.08 is amended by adding a new section to read:

6 **Sec. 24.08.045. Bills authorizing regulations.** A bill that directs an agency to
7 adopt regulations must set a specific time by which the regulations must be adopted.

8 *** Sec. 2.** AS 44.62.200(a) is amended to read:

9 (a) The notice of proposed adoption, amendment, or repeal of a regulation
10 must include

11 (1) a statement of the time, place, and nature of proceedings for
12 adoption, amendment, or repeal of the regulation;

13 (2) reference to the authority under which the regulation is proposed
14 and a reference to the particular code section or other provisions of law that are being

1 implemented, interpreted, or made specific;

2 (3) an informative summary of the proposed subject of agency action;
3 **if the proposed agency action is to amend or repeal an existing regulation, the**
4 **informative summary must also describe how the amendment or repeal will**
5 **change the existing regulation; the informative summary shall be written in clear,**
6 **easily readable language that a person without a legal background is able to**
7 **understand without following Internet links to the Alaska Administrative Code;**

8 (4) other matters prescribed by a statute applicable to the specific
9 agency or to the specific regulation or class of regulations;

10 (5) a summary of the fiscal information required to be prepared under
11 AS 44.62.195.

12 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 APPLICABILITY. AS 24.08.045, enacted by sec. 1 of this Act, applies to bills that
15 are filed on or after the effective date of this Act.

Nancy Manly

From: Nancy Manly
Sent: Thursday, January 19, 2012 11:40 AM
To: Will Vandergriff; Jeremiah Campbell
Subject: COMMITTEE ACTIVITY - House State Affairs Committee 1/19/2012

1/19/2012

The House State Affairs Committee heard and moved two pieces of legislation from committee today. They were:

HB 182 (Johansen) – Electronic Distribution of Agency Reports. MOVED FROM COMMITTEE with a number of amendments. The bill changes the publication requirements for all departments and state agencies from a printed document to an electronic format that is posted on the agencies website and is easily accessible to the public.

HB 216 (Wilson) – Regulations: Informative Summary Bills. MOVED FROM COMMITTEE with several amendments. HB 216 addresses problems related to the slow manner in which regulations are sometimes implemented and the confusing language of regulations. HB 216 would require that the legislature set up a time to have regulations completed and ready to implement and require agencies to provide descriptive summaries of proposed changes to regulations.

Nancy Manly, Chief of Staff and
House State Affairs Committee Aide *for*
Representative Bob Lynn
House District 31
907-465-2794 Fax: 907-465-4316

recommendations and the accompanying fiscal notes. There being no objection, HCS SB 93(STA) was reported out of the House State Affairs Standing Committee.

HB 216-REGULATIONS: INFORMATIVE SUMMARY/BILLS

9:03:57 AM

CHAIR LYNN announced that the next order of business was HOUSE BILL NO. 216, "An Act relating to deadlines in bills directing the adoption of regulations and to the informative summary required for the proposed adoption, amendment, or repeal of a regulation."

9:04:36 AM

The committee took a one-minute at-ease.

9:05:36 AM

REPRESENTATIVE P. WILSON presented HB 216 as sponsor. She said the bill would address two problems related to changes in state regulations: the slow manner in which regulations are sometimes implemented and the confusing language of regulations.

9:07:26 AM

REPRESENTATIVE P. WILSON said Section 1 of the proposed legislation would require that the legislature set up a time to have regulations completed and ready to implement. She said this information is important to legislators when deciding when to set the effective date of proposed legislation. Section 2, she noted, would require agencies to provide descriptive summaries of proposed changes to regulations. She said this will help legislators to better understand the proposed changes, as well as aid in the public's understanding of those changes, thereby increasing the public's participation in government process. She said the descriptions need not be lengthy and would not be legally binding.

REPRESENTATIVE P. WILSON pointed to a note [included in the committee packet] from Theresa Bannister of Legislative Legal and Research Services. Representative P. Wilson said that based on Ms. Bannister's comments, she realizes that the courts are unlikely to void a bill for violating the requirements under HB 216, and amendments may be necessary to make the proposed legislation more viable. However, she expressed her belief that

there is a great need for improvement in the legislative process, which is the intent of HB 216. She said she open to suggestions from the committee.

9:10:05 AM

REPRESENTATIVE JOHANSEN expressed appreciation to Representative P. Wilson for bringing the proposed legislation forward, but said he thinks a lot of discussion would be required to address issues including the timeline of public process, the complexities of implementing statute, and the difficulty departments have in implementing initiatives.

9:11:41 AM

REPRESENTATIVE KELLER thanked Representative P. Wilson for sponsoring HB 216, concurred with Representative Johansen that the bill needs further consideration, and offered to help the sponsor with the legislation over the interim.

9:12:30 AM

REPRESENTATIVE GRUENBERG mentioned a proposed bill heard a few weeks ago regarding the waiver of attorney client privilege, and said there had been discussion about how rule making under the Administrative Procedure Act (APA) is working. He said he thinks "that would be a ... good project for this committee in the interim." He asked Representative P. Wilson if she would allow HB 216 to be used as a vehicle in considering any necessary changes to the rule-making process.

REPRESENTATIVE P. WILSON answered yes.

9:13:57 AM

REPRESENTATIVE PETERSEN said he likes the concept of HB 216, but expressed concern about the subjective nature of ["easily readable language that a person without a legal background is able to understand" - page 2, lines 6-7].

9:14:24 AM

REPRESENTATIVE P. WILSON noted that the sponsor statement singles out the Department of Health & Social Services in the example given of the length of time taken to adopt a regulation. She emphasized that her intent had not been to insult that entity, and said she would revise the sponsor statement.

9:15:54 AM

WARD HURLBURT, Director and Chief Medical Officer, Division of Public Health, Department of Health & Social Services, in response to the bill sponsor, related that the department had failed to expeditiously publish regulations following the passage of House Bill 277. He assured the committee that the department takes its responsibilities seriously, and he said he would help to ensure such a lapse does not recur. He added that the department has no official position regarding HB 216.

9:17:57 AM

CHAIR LYNN, after ascertaining that there was no one else who wished to testify, closed public testimony.

9:18:18 AM

REPRESENTATIVE SEATON said this is an important issue, and he expressed his appreciation that the committee is addressing it.

[HB 216 was held over.]

HB 182-ELECTRONIC DISTRIBUTION OF AGENCY REPORTS

9:18:47 AM

CHAIR LYNN announced that the next order of business was HOUSE BILL NO. 182, "An Act relating to distribution of annual reports by state agencies."

REPRESENTATIVE JOHANSEN, as sponsor, reported that he is working on a committee substitute and is responding to feedback regarding the need for clarification. He said he plans to work on the bill during the interim and hopes it will be heard again at the start of session in January 2012.

REPRESENTATIVE KELLER opined that [HB 182] is a good bill.

[HB 182 was held over.]

HB 190-PFD ALLOWABLE ABSENCE: MILITARY

9:19:39 AM

LEGAL SERVICES

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Juneau, Alaska 99801-1182
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MEMORANDUM

March 25, 2011

SUBJECT: Bill relating to regulations (Work Order No. 27-LS0701\M)

TO: Representative Peggy Wilson
Attn: Sheila Finkenbinder

FROM: Theresa Bannister
Legislative Counsel

This memo accompanies the bill described above.

Alternate regulation procedures. Certain entities are not covered by AS 44.62.200 in sec. 2 of this bill. They are covered by their own procedures for adopting regulations. The ones that I have located are the Alaska Aerospace Corporation at AS 14.40.871(b), the Alaska Housing Finance Corporation at AS 18.56.088, the Knik Arm Bridge and Toll Authority at AS 19.75.111, and the Alaska Permanent Fund Corporation at AS 37.13.206. These statutes do refer to summaries, and they could be amended to include the language that you are adding in sec. 2 of the bill. If you would like to amend these statutes in the bill, please advise.

Note that a court is unlikely to void a bill for violating AS 24.08.045, added by sec. 1. Aside from constitutional requirements, the question of what a bill must include is a matter of legislative procedure, which may be determined by each legislature under art. II, sec. 12 of the state constitution. Therefore the courts will not interfere, even when the legislature violates a procedural statute. Abood v. League of Women Voters, 743 P.2d 333 (Alaska 1987).

If I may be of further assistance, please advise.

TLB:plm
11-180.pm

Enclosure

ALASKA STATE LEGISLATURE

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Session:
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REPRESENTATIVE PEGGY WILSON HOUSE DISTRICT 2

SPONSOR STATEMENT House Bill 216

“An Act relating to deadlines in bills directing the adoption of regulations and to the informative summary required for the proposed adoption, amendment, or repeal of a regulation.”

HB 216 will accomplish two goals relating to changes to state regulations; increasing the speed with which regulations are written, and describing in plain, easy-to-understand language all regulations that are adopted, amended or repealed.

Legislators and the public have often been frustrated by the fact that months, or even years, sometimes pass between the time that a bill is passed by the legislature and the time the regulation is implemented. The result is Alaska residents, businesses and legislators who are confused, and sometimes unable to plan, because they are not clear about what regulations are currently in effect. As an example: as we were looking at the governor’s House Bill 110, on oil taxes, we didn’t have proof of what regulations were currently being enforced because the ACES regulations hadn’t even been written – three years after we passed the legislation. The same confusion can impact individuals who are unclear about when, or if, new regulations concerning their business or recreational activities take effect. HB 216 states that any bill requiring creation or modification of any regulation must include a regulation completion deadline.

The other problem addressed by this bill is the confusion and lack of understanding of many proposed regulation changes or new additions. This confusion is caused by the legalese used to describe proposed regulations. This language, while accurately and legally describing proposed regulations, is difficult to understand by the average individual. HB 216 will require that all proposed regulation changes include descriptions, in plain English, of what the original regulation does and what the proposed change will do.

Passage of this legislation will encourage public participation in the regulation review process, as people find it easier to understand what the regulations mean to them. It will also help speed passed legislation to implementation when regulations are completed on a recommended schedule set in statute.

ALASKA STATE LEGISLATURE

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**REPRESENTATIVE PEGGY WILSON
HOUSE DISTRICT 2**

MEMORANDUM

Date: April 5, 2011

To: Representative Bob Lynn, Chair, State Affairs Committee

From: Representative Peggy Wilson ^{OW}

RE: **HB 216 "Regulations: Informative Summary/Bills"**

I respectfully request a hearing in the State Affairs Committee for HB 216, "An Act relating to deadlines in bills directing the adoption of regulations and to the informative summary required for the proposed adoption, amendment, or repeal of a regulation".

If you have any questions, please call me at 465-3824 or my staff, Sheila Finkenbinder, at 465-6887.

Thank you for considering this important piece of legislation.

Library
FISCAL NOTE

**STATE OF ALASKA
2012 LEGISLATIVE SESSION**

Bill Version HB 216
Fiscal Note Number _____
() Publish Date _____

Identifier (file name) HB216-GOV-OMB-1-13-2012 Dept. Affected All
Title Deadlines in bills for the Adoption of Regulations Appropriation _____
Allocation _____
Sponsor P. Wilson
Requester House State Affairs OMB Component Number _____

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services	***	***	***	***	***	***	***	***
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
TOTAL OPERATING	***	***	***	***	***	***	***	***

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		***	***	***	***	***	***	***

POSITIONS								
Full-time								
Part-time								
Temporary								

CHANGE IN REVENUES								

Estimated **SUPPLEMENTAL (FY12) operating costs** _____ (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** _____ (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Updated for the 2012 legislative session.

Prepared by Arnold Liebelt, Policy Analyst
Division Office of Management and Budget
Approved by Karen Rehfeld, Director
Office of Management and Budget

Phone 907-465-4676
Date/Time 1/13/12 12:30 PM
Date 1/13/2012

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. HB 216

Analysis

HB 216 sets out to accomplish two objectives.

1. Requires bills to include language that establishes a date when regulations must be implemented;
2. Requires that all proposed regulation changes include descriptions in plain English that is easily understood by the public, of what the existing regulation does and what the proposed change will do.

Based on the language of the bill, the extent of the fiscal impact cannot be quantified for every agency, but we do believe the impact would be extensive, and that it would be statewide. With regards to objective 1, fiscal notes for bills introduced will need to consider the cost associated with the time required to implement regulations. Depending on the nature and the complexity of the bill, the fiscal impact could include the need for additional staff or a consultant to assist with implementing the regulations within the time allowed. Departments such as Health & Social Services, Environmental Conservation, Fish & Game, Commerce Community and Economic Development, and Natural Resources have historically had more complex legislation than other departments and as such, could be impacted to a higher degree. Quantifying this impact is not possible.

The second objective of this bill will raise the amount departments need to pay for public notices as they would be required to print a summary of the existing regulation as well as a summary of the proposed change. This will need to be written in clear, easily readable language that can be understood by those without a legal background. The additional amount of information that will need to be written will have a fiscal impact, and the cost of framing the regulation without legal language could also have an immediate fiscal impact and a long term fiscal impact if the language needs legal interpretation in the future.

FISCAL NOTE

STATE OF ALASKA cost # codes
 2012 LEGISLATIVE SESSION

Bill Version HB 216
 Fiscal Note Number 1
 Publish Date 3/30/2011

Identifier (file name) HB216-GOV-OMB-10-7-2011 Dept. Affected All
 Title Deadlines in Bills for the Adoption of Regulations Appropriation _____
 Allocation _____
 Sponsor WILSON
 Requester House State Affairs OMB Component Number _____

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES	FY13	FY13	FY14	FY15	FY16	FY17	FY18
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	***	***	***	***	***	***	***

FUND SOURCE		(Thousands of Dollars)					
1002	Federal Receipts						
1003	GF Match						
1004	GF						
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
TOTAL		***	***	***	***	***	***

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							
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Estimated SUPPLEMENTAL (FY12) operating costs 0.0 (separate supplemental appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 (separate capital appropriation required)
 (discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Prepared by Arnold Liebelt, Senior Policy Analyst
 Division Office of Management and Budget
 Approved by Karen Rehfeld, Director
Office of Mangement and Budget

Phone 907-465-4676
 Date/Time 10/7/11 9:00 AM
 Date 10/7/2011

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. HB 216

Analysis

HB 216 sets out to accomplish two objectives.

1. Requires bills to include language that establishes a date when regulations must be implemented;
2. Requires that all proposed regulation changes include descriptions in plain English that is easily understood by the public, of what the existing regulation does and what the proposed change will do.

Based on the language of the bill, the extent of the fiscal impact cannot be quantified for every agency. Depending on the nature and the complexity of the bill, the fiscal impact could include the need for additional staff or a consultant to assist with implementing the regulations within the time allowed. Departments such as Health & Social Services, Environmental Conservation, Fish & Game, Commerce Community and Economic Development, and Natural Resources have historically had more complex legislation than other departments and as such, could be impacted to a higher degree. Quantifying this impact is not possible at this time.

The second objective of this bill will raise the amount departments need to pay for public notices as they would be required to print a summary of the existing regulation as well as a summary of the proposed change. This will need to be written in clear, easily readable language that can be understood by those without a legal background. The additional amount of information that will need to be written will have a fiscal impact, and the cost of framing the regulation without legal language could also have an immediate fiscal impact and a long term fiscal impact if the language needs legal interpretation in the future.