

**ALASKA LEGISLATURE**

**2050**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 1999 - 2000**

201

**SB**

**12**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 2/2/99

FURTHER: S. 2/11/99

DATE TURNED  
IN TO OFFICE: 2/11/99

Finance Committee considered SENATE BILL NO. 12

"An Act classifying anadromous streams and tributaries; relating to the designation of riparian areas; establishing buffers on certain streams and relating to slope stability standards on certain streams; and requiring retention of low value timber along certain water bodies where prudent."

and recommends:

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

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Lyle S. Green</i>	✓	<i>Paul S. Green</i>	✓		
<i>Pete Kelly</i>	✓	<i>Walter Stealy</i>	✓		
<i>Al Adams</i>	X				
<i>Gary White</i>	✓				
<i>Bruce D. Finnan</i>	✓				
Co-Chair: <i>J. Ferguson</i>	✓	Co-Chair:			
Co-Chair:		Co-Chair:			

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal


**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal


APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE: 1

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

Bill Version: SB 12  
(S) Publish Date: 2-2-99

Revision Date: \_\_\_\_\_ Dept Affected: Natural Resources  
 Title: Forest Practices: Streams, Tributaries BRU: Forestry Management & Development  
 Component: Forest Management & Development  
 Sponsor: Senator Mackie  
 Requestor: (S) Resources Component Serial No. 435

Expenditures/Revenues (Inflation not included unless otherwise noted below) (Thousands of Dollars)

	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
<b>OPERATING EXPENDITURES</b>						
PERSONNEL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</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>
<b>CAPITAL EXPENDITURES</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>
<b>CHANGE IN REVENUES (fund code)</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>

FUND SOURCE (Thousands of Dollars)

	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<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 (FY99) cost: \$ 0.0

POSITIONS

	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
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)

This bill changes the Forest Resources and Practices Act requirements on private land along anadromous waters and tributaries to anadromous waters. Notably, it adds buffers on Type B anadromous streams. DNR is the lead agency for enforcing the Act. In the first year (FY00), training will be needed for landowners, operators, and staff on proper implementation of the new standards. This training will be accomplished within existing resources.

Prepared by: Jeff Jahnke, Director Phone: 465-3379  
 Division: Forestry Date: 22-Jan-99  
 Approved by Commissioner: [Signature] Date: 1-22-99  
 Agency: Natural Resources

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# SENATOR JERRY MACKIE

SENATE MAJORITY LEADER

## SPONSOR STATEMENT

### SB 12, Relating to Forests and Forestry Practices.

Senate Bill 12 is the result of a cooperative effort by forest users to evaluate the effectiveness and suitability of the Forest Practices Act and recommend any improvements that would strengthen the protection of Alaska's streams and water quality.

In 1996, the Board of Forestry established a science and technical committee, comprised of scientists from the timber, commercial fishing, and environmental communities as well as state and federal agencies, to review and assess expressed concerns about the adequacy of the act's protections. The committee's two-year study identified several opportunities to improve salmon habitat and water quality. A stakeholders committee then convened to incorporate these findings into recommendations to the Board. The Board subsequently endorsed these recommendations and requested legislative approval of the appropriate measures.

SB 12 affects only the spruce and hemlock forests in the Department of Natural Resources designated Region 1. This is the coastal area from Ketchikan to Kodiak.

Under current regulations, all anadromous streams are protected, although exceptions are allowed for marginal streams. SB 12 will eliminate all exceptions and provide additional protections. As a result, the bill accomplishes several goals:

1. It assigns a "type" classification that covers all streams, putting to rest concerns that some segments of anadromous streams were not included for protection.
2. It extends the no-harvest, riparian buffer zone to ALL anadromous fish streams, relative to "type."
3. It requires the retention of low-value timber along certain tributaries where prudent, so that trees may eventually fall into streams, forming natural pools downstream that are important for fish rearing.

I am pleased to sponsor this legislation that is a product of so much time, effort and deliberation by members of the timber, fishing, and environmental communities. It is a cooperative step forward in the protection and wise utilization of our resources.

*Summary of Legislation Implementing the Recommendations of  
the Forest Practices' Science and Technical Committee*

Alaska's Forest Practices Act (the "FPA") was comprehensively amended in 1990 as a result of a two-year cooperative effort by government agencies, fishing and environmental groups, and the timber industry. An integral part of this consensus-based process was a commitment to periodically reappraise the FPA's effectiveness in protecting Alaska's streams.

As a result of that continuing review, legislation has now been prepared to implement two changes to the FPA that would:

- 1. extend the FPA's mandatory no-harvest riparian zones to additional streams;*
- and*
- 2. extend the width of scope stability standards on some streams.*
- 3. provide additional sources of large woody debris (or "LWD") for fish habitat.*

Both changes affect only the "coastal forest of spruce or hemlock" in DNR's "Region I." Forest practices in Regions II and III--basically, anything north of Mt. St. Elias--will continue to be governed by their own rules under the FPA, which, on private, restrict but do not prohibit timber harvest adjacent to streams.

Like the 1990 FPA itself, these changes reflect a broad-based consensus among forest stakeholders. The agreement arose out of an intensive study of the FPA conducted by a group of public and private sector scientists called the Science and Technical Committee (the "S/TC"). The S/TC found much to commend in the FPA, but also recommended two changes, both of which are mirrored in the proposed statutory language:

1. *Extending no-cut buffers to all anadromous streams.* The public and private scientists who collaborated on the 1990 FPA agreed that the need for no-cut buffer zones varied dramatically according to the characteristics of the stream. Even so, the 1990 legislation required 66-foot no-cut zones along most anadromous streams on private lands. These were so-called "Type A" waterbodies.

Another class of anadromous streams--those with rocky banks and bottoms--were subject to special bank stability requirements, though riparian timber harvest was allowed. These were the so-called "Type B" streams, and because their banks were held in place by rock, rather than vegetation, the scientists who worked on the 1990 legislation could not justify the considerable cost of requiring the retention of all timber adjacent to them.

The proposed legislation would reverse that decision, and require 66-foot no-cut buffers along all anadromous streams, irrespective of stream characteristics. This protection would extend both to all "Type B" streams, as well as a small subclass of anadromous streams that were originally not given a formal "type" designation.

In so doing, the proposed legislation assigns a "type" to all segments of an anadromous stream system. Anadromous streams themselves are labeled "A" or "B," while tributaries to anadromous streams are labeled "C" or "D" streams, depending on their steepness. All Types B and C streams would be subject to special stream bank stability rules.

This puts to rest the concern that some segments of an anadromous system were "unclassified" under the FPA.

2. *Requiring timber to be left along other streams in order to provide LWD.*

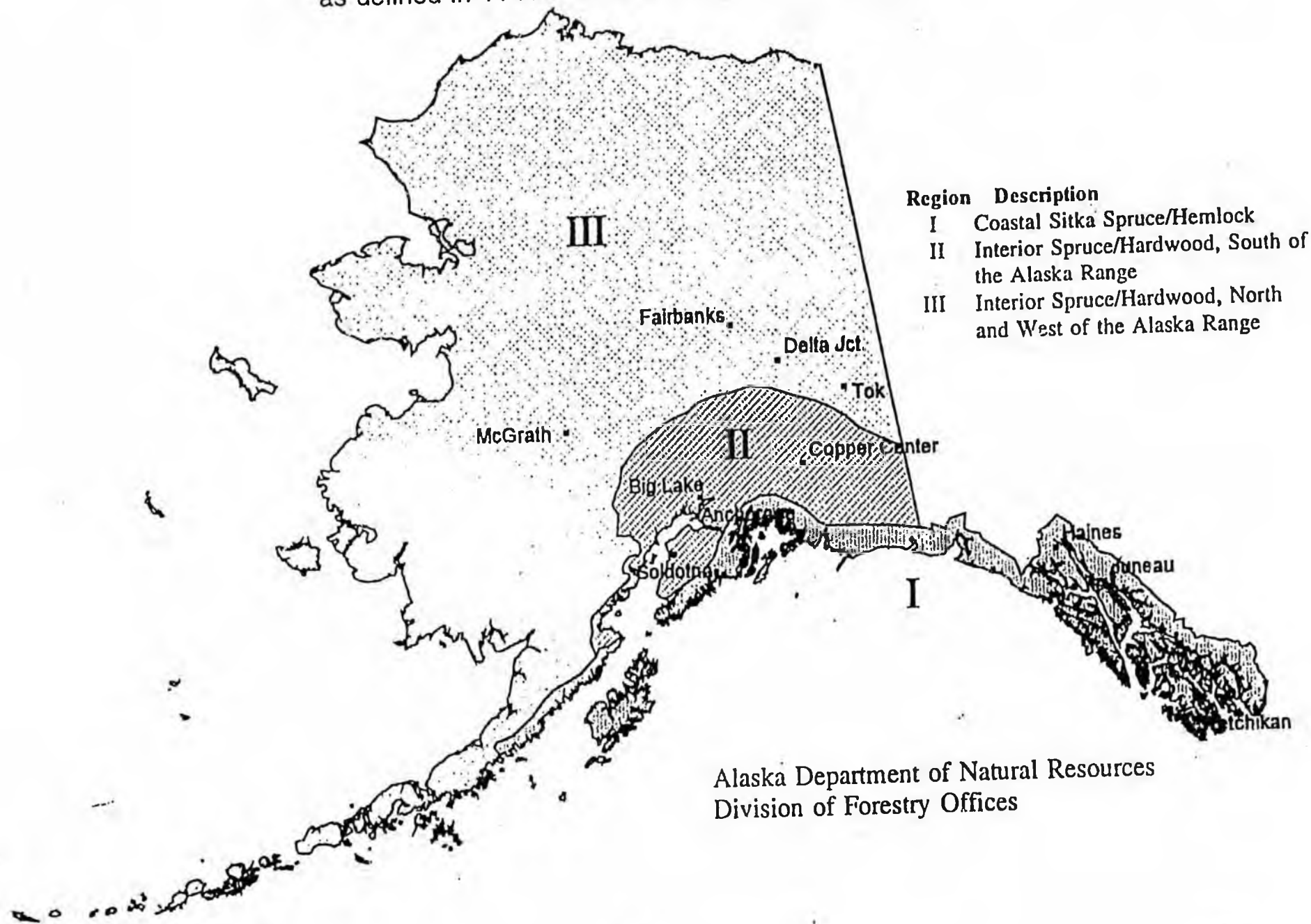
LWD can be an important source of habitat for juvenile fish, and the 1990 FPA encouraged the retention of low-value trees as potential LWD sources even along streams where no formal buffer zone was required.

The proposed legislation goes much further in this respect. It *requires* the retention of low-value timber along certain tributaries to anadromous streams, when it is "prudent" to do so. LWD, of course, is of no direct value to these tributaries, because there are no anadromous fish in them. But, research has shown that certain tributaries--*i.e.*, those of sufficient width and steepness--can transport LWD downstream to the anadromous waterbody itself, and it is for these streams that retention is required.

The "prudence" limitation exists because it is sometimes dangerous to leave wood adjacent to steep tributaries, because the trees can become part of debris torrents. And also, some low-value trees can be damaged as part of the harvest of the more valuable timber that can still be taken along these tributaries. It was never the S/TC's intent to restrict the harvest of valuable, merchantable timber along these tributaries, and the "prudence" limitation assures that operators will still be able to harvest this timber.

# Alaska Forest Resources & Practices Regions

as defined in 11 AAC 95.800 Designation of Regions

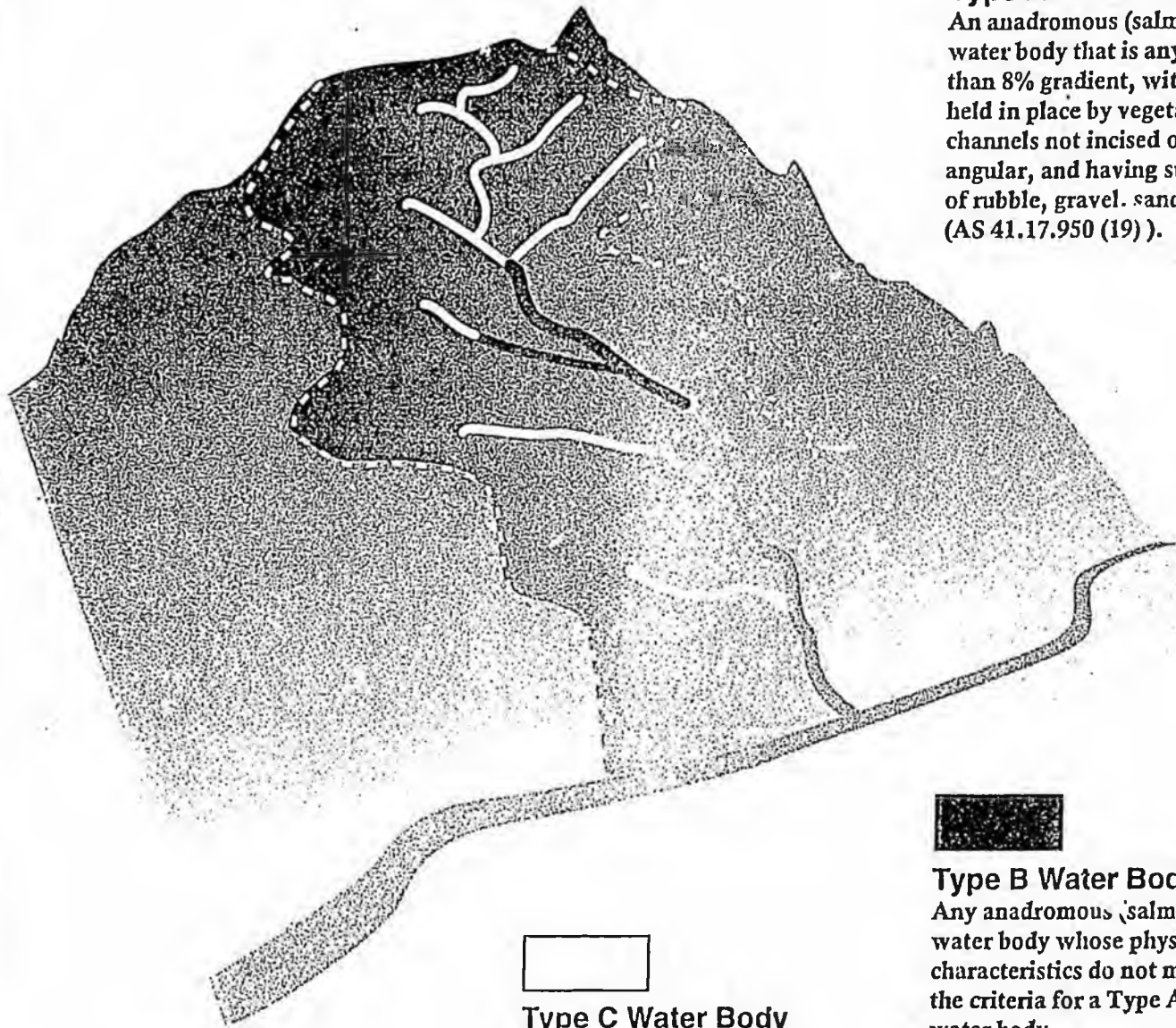


Alaska Department of Natural Resources  
Division of Forestry Offices

Alaska Forest Resources and Practices Act  
**Stream Classification System**



**Type A Water Body**  
An anadromous (salmon) water body that is any size, less than 8% gradient, with banks held in place by vegetation, channels not incised or sharply angular, and having substrate of rubble, gravel, sand or silt. (AS 41.17.950 (19)).



**Type B Water Body**  
Any anadromous (salmon) water body whose physical characteristics do not meet the criteria for a Type A water body.



**Type C Water Body**  
A water body that is not anadromous, is a tributary to a Type A or Type B water body, and has a gradient of 12% or less.



**Type D Water Body**  
A water body that is not anadromous, is a tributary to a Type A or Type B water body, and has a gradient greater than 12%.

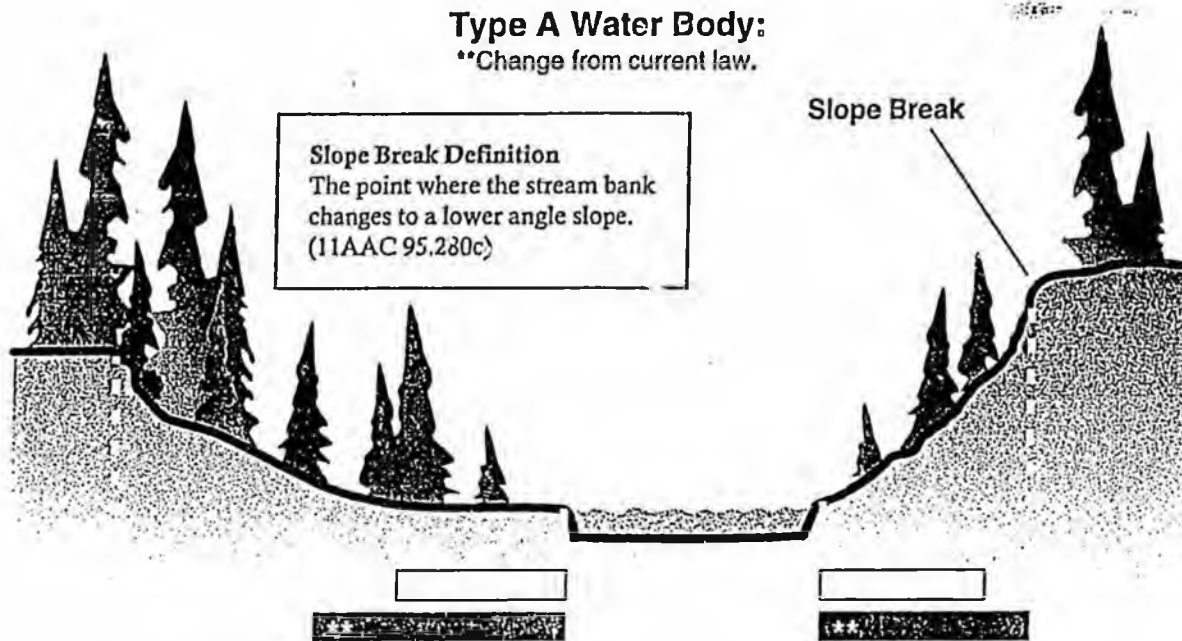


# Alaska Forest Resources and Practices Act

## Revised Riparian Protection Standards Region I

### Type A Water Body:

\*\*Change from current law.



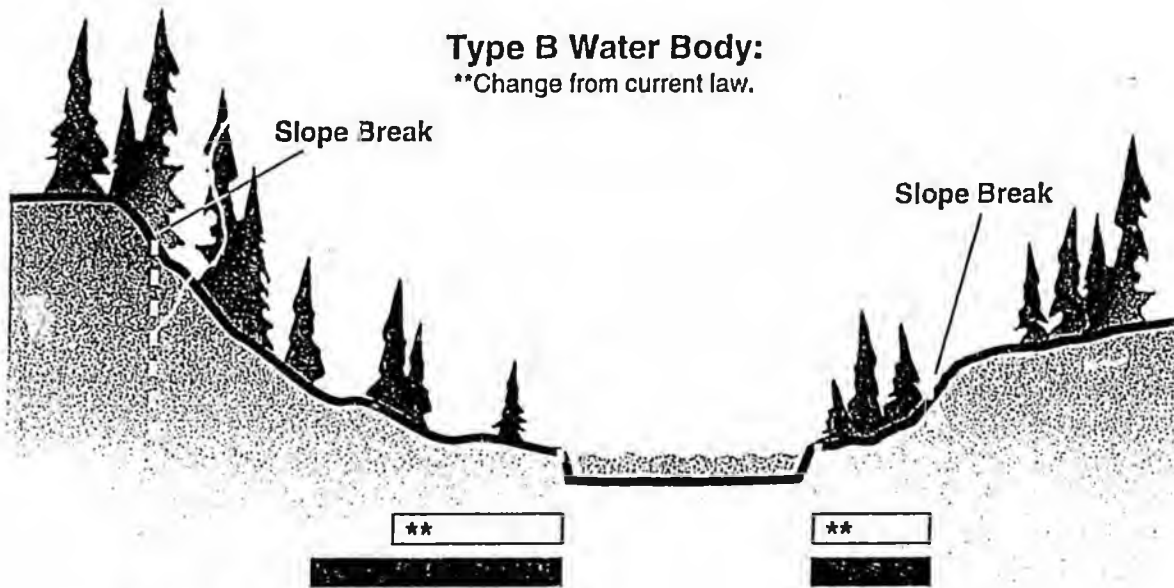
### Type A Water Body:

66' mandatory retention buffer.

\*\*Slope stability BMP's apply, 100' or to slope break, whichever is less.

### Type B Water Body:

\*\*Change from current law.



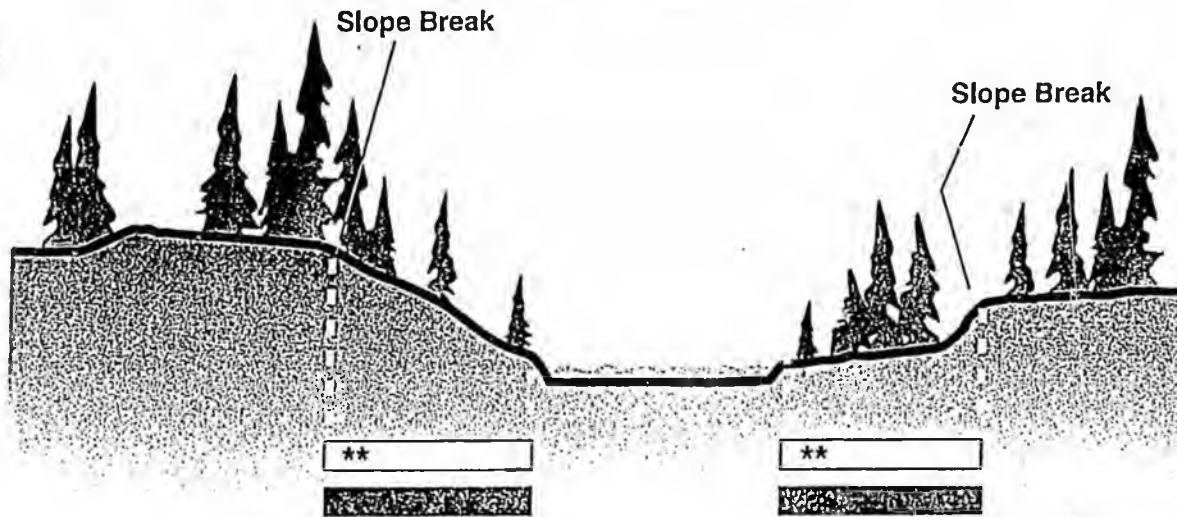
### Type B Water Body:

\*\*Mandatory retention buffer--66' or to slope break, whichever is less.

Slope stability BMP's apply, 100' or to slope break, whichever is less.

**Alaska Forest Resources and Practices Act**  
 Revised Riparian Protection Standards  
 Region I

**Type C Water Body:**  
 \*\*Change from current law.



**Type C Water Body:**

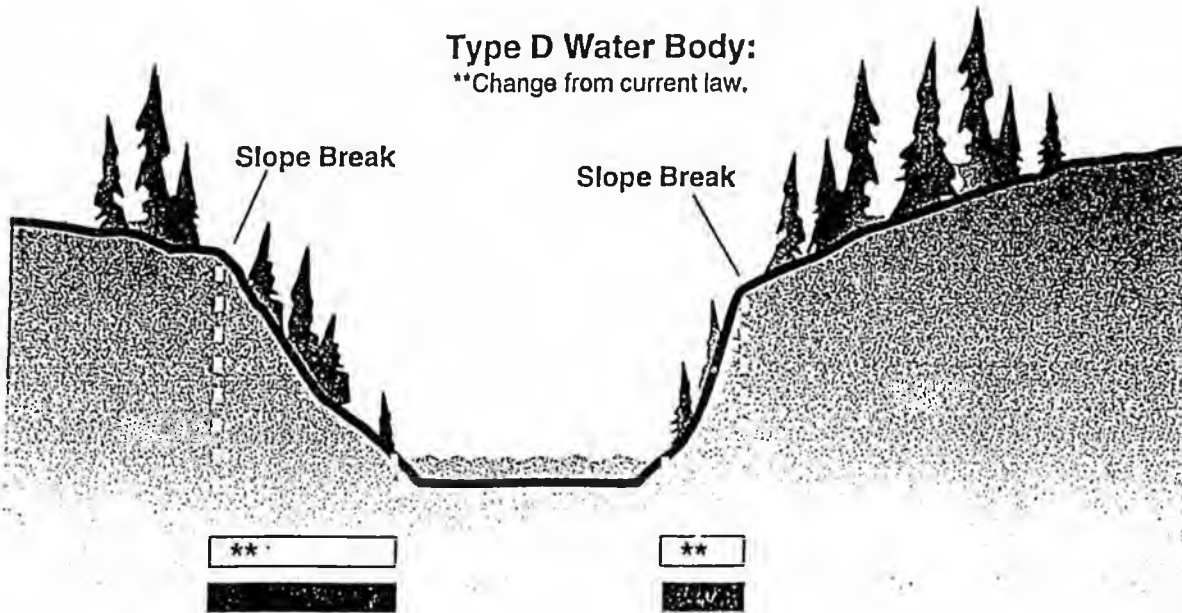


\*\*For streams greater than 8' or 13' (based on channel characteristics), retain low economic value timber 25' up to 100' from the stream depending upon location of slope break.



Slope stability BMP's apply - 100' or to slope break, whichever is less.

**Type D Water Body:**  
 \*\*Change from current law.



**Type D Water Body:**

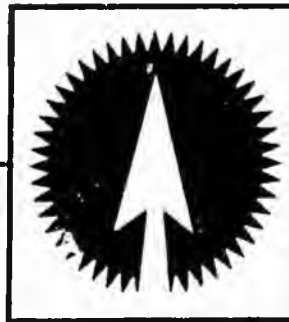


\*\* For streams greater than 8' or 13' (based on channel characteristics), retain low economic value timber 25' up to 50' from the stream depending upon location of slope break.



Slope stability BMP's apply---50' or to slope break, whichever is less.

# Alaska Forest Association, Inc.



111 STEDMAN SUITE 200  
KETCHIKAN, ALASKA 99901-6599  
Phone 907-225-6114  
FAX 907-225-5920

January 25, 1999

The Honorable Jerry Mackie  
Alaska State Senate  
State Capitol  
Juneau, AK 99801

Dear Senator Mackie:

Thank you for introducing Senate Bill 12, proposing changes to the state's Forest Resources and Practices Act (AS 41.17). This measure is AFA's top legislative priority for 1999.

SB12 is the direct result of a proposal AFA presented to the Alaska Board of Forestry one year ago, after a collaborative process involving the timber industry, the fishing industry and the resource agencies of the state. Both the process and the substance of this effort were based upon sound science and a balancing of interests.

Alaska's current forest practices law is based on good science and is very effective in protecting important fish habitat while recognizing the unique relationship between private land rights and related public resources. The law, which was developed through a cooperative process in 1989 and 1990, involves the Division of Forestry, the Division of Habitat and Restoration, and the Division of Air and Water Quality in monitoring and enforcing standards governing forestry practices. It enables timber operators in Alaska who conduct their harvest activities according to best management practices to have the assurance that they are operating in compliance with a variety of laws under which they would otherwise be individually scrutinized. That alternative would cost both the industry and the state more time and money than is necessary under the present system.

Current law also provides for ongoing examination of the effectiveness of Alaska's forest practices standards, so that the law and regulations can be adjusted to reflect new scientific knowledge as it is developed. Throughout 1996 and 1997, the timber industry participated in a thorough review of the science related to logging near anadromous fish streams in Alaska's coastal forests. The review was conducted under the rubric of the Science and Technical Committee appointed by the Board of Forestry with the support of Governor Knowles. The Committee's report and the subsequent stakeholders' meeting led to the introduction of last year's HB373. Your support for last year's bill and your willingness to reintroduce the legislation this year are greatly appreciated by the timber industry.

It is important to note that the Science & Technical Committee did not specifically recommend 66 foot buffers on type B streams as provided in Section 1 of the bill. The committee recommended that these streams be given some means of obtaining large woody debris. AFA member companies

looked at the operational issues and concluded that buffers of 66 feet or to the slope break would satisfy the goals of the recommendation in a way that field personnel believe can be implemented without severe adverse affects on harvest economics. It does mean surrendering trees of value by leaving them in riparian buffers, but the standard can be applied in the field and can be readily monitored by the regulators. AFA believes this is a good solution, the effects of which can be evaluated over time.

A matter of great importance to AFA is the fact that SB12 is the result of a collaborative process. The agreement that makes these changes in the Act possible depends upon the substance of the bill remaining as it is now. Your support in moving the legislation forward with no amendments is vital to maintaining the needed agreement among the affected parties.

In summary, SB12 addresses a real need and represents a balanced approach to resolving an important issue affecting Alaska's forest products sector. When this bill becomes law, it will be a model for broad-based cooperation between affected industries, the agencies, the Governor's office and the legislature. This is a bill that can and should enjoy full, bi-partisan support. Thank you again for sponsoring Senate Bill 12.

Sincerely,



Jack E. Phelps  
Executive Director



# UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112  
Juneau, Alaska 99801  
907/586-2820  
Fax: 907/463-2545  
E-Mail: ufa@alaska.net

January 26, 1999

Senator Rick Halford, Chair  
Senate Resources Committee  
State of Alaska  
Juneau, Ak 99801-1182

Dear Senator Halford

United Fishermen of Alaska adopted a position in support of SB 12 relating to forests and forestry practices.

This bill, introduced by Senator Mackie, is the achievement of industries, assisted by the Board of Forestry and state agency staff, working together to find common ground. The forest products industry and commercial fishing industry worked together to resolve their particular concerns with the proposals advanced by the Board of Forestry, and they were successful. The legislation, as introduced, is supported by UFA because it represents an improvement in the laws governing forest practices. It affords greater protection than now exists for sensitive fish habitat.

United Fishermen of Alaska's mission includes preserving fishery resources through research, development and habitat protection. We will continue to work with other industries, as we did in our work on the forest practices provisions embodied in HB 12, to pursue this important objective.

We hope that the members of the legislature will acquaint themselves with the provisions of this legislation, the language of which was carefully crafted to meet concerns of commercial fishermen and representatives of the forest products industry, and we strongly support the passage of the legislation as introduced.

#### MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Longline Fishermen's Association • Alaska Trollers Association • Bristol Bay Driftnetters Association • Concerned Area "M" Fishermen  
Cook Inlet Aquaculture Association • Cordova District Fishermen United • Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Seiners Association  
North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association • Northwest Seiners Association • Peninsula Marketing Association  
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Puro Soina Vessel Owners Association • Sealood Producers Cooperative  
Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association • United Cook Inlet Drift Association • United Southeast Alaska Gillnetters



February 1, 1999

The Honorable Jerry Mackie  
Alaska State Senate  
Capitol Building, Room 427  
Juneau, AK 99801

Dear Senator Mackie:

This letter is to inform you of Sealaska Corporation's support of SB 12. This bill establishes supplemental environmental protection standards on private lands in Region 1 (hemlock, spruce forests of coastal Alaska) and adds a new stream type.

This Act evolved out of a two year process in which biological, environmental and economic issues associated with timber harvest and its interaction with fisheries habitat and water quality were evaluated. This stakeholder review identified opportunities to strengthen the fish habitat and water quality protection in Alaska's forest Resources and Practices Act. Through this collaborative process the timber industry and landowners could see that the proposed changes will yield measurable, beneficial results to fish habitat and water quality. Conversely the timber industry was able to guide development of legislative changes to achieve protection objectives without unreasonable cost or burden on the industry or private landowners.

This letter is to inform you of Sealaska's endorsement of the process and support for the results that are embodied in the legislation currently before you. The State of Alaska already has one of the most comprehensive and effective Forest Practices Acts in the Nation. The proposed amendments will serve to strengthen that Act and still ensure a healthy timber industry.

We request your support of this legislation and recognize the carefully crafted compromise between the industry, fisherman and environmental community to develop an effective set of amendments. This collaboration has lead to an impressive working relationship and the results of those efforts should be honored by the legislature by passing the bill before you.

Sincerely,

SEALASKA CORPORATION



Richard P. Harris  
Senior Vice President  
Natural Resources

cc: Senator Halford, Senate Resources Committee Chairman  
Senate Resources Committee  
Senator Kim Elton  
Representative Bill Hudson  
Representative Beth Kertula  
Representative Albert Kookesh  
Sam Kito  
S.E. Village/Urban Corporations  
Jack Phelps, AFA  
Thyus Shaub  
Jerry McCune

RPH:mlh

**KFP**  
**Koncor Forest Products Company**

3501 Denali, Suite 202  
Anchorage, Alaska 99503  
(907) 562-3335 FAX (907) 562-0599

January 26, 1999


Senator Jerry Mackie  
State Capital  
Juneau, AK 99801-1182

Dear Senator Mackie:

Koncor participated in the development, and fully supports the passage, of SB 12 which modifies the Alaska Forest Resources & Practices Act. This bill represents a balance between economic considerations and protection of public resources such as water quality and fish habitat. The process used to draft the bill is a model for using scientific review, cost/benefit analysis, and consensus building of stakeholders. Passage of this bill is also important to ensure that our forestry laws are the best in the nation, and that these laws will constantly be reviewed and modified as new scientific information becomes available.

We urge the Legislature to pass SB 12.

Sincerely,

  
John Sturgeon  
President

SENATE FINANCE COMMITTEE

SIGN-IN

SB 12-FOREST PRACTICES: STREAMS/TRIBUTARIES

NAME: Jeff Jabak Sub./Bill No: SB 12

Co./Dept./Title: DNR Dir of Forestry Phone: 908 3377

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond to Questions

NAME: \_\_\_\_\_ Sub./Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond to Questions

NAME: \_\_\_\_\_ Sub./Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond to Questions

NAME: \_\_\_\_\_ Sub./Bill No: \_\_\_\_\_

Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond to Questions

**SB**

**24**

**HFIN**

**FILE**

# FISCAL NOTE

No: 49

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

Bill Version: HCS CSSB 24 (JUD)  
(H) Publish Date: 4/12/00

Revision Date/Time (Note if correction)	01/25/00	11:00 AM	Dept. Affected	Environmental Conservation
Title	The Alaska Regulations Reform Act		BRU	Administration
Sponsor	Senators Donley, Taylor		Component	Commissioner's Office
Requester	House Judiciary		Component No.	633

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

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	148.9	148.9	148.9	148.9	148.9	148.9
Travel	20.0	20.0	20.0	20.0	20.0	20.0
Contractual	50.6	49.6	49.6	49.6	49.6	49.6
Supplies	5.0	5.0	5.0	5.0	5.0	5.0
Equipment	18.0	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
<b>TOTAL OPERATING</b>	<b>242.5</b>	<b>223.5</b>	<b>223.5</b>	<b>223.5</b>	<b>223.5</b>	<b>223.5</b>

<b>CAPITAL EXPENDITURES</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>
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<b>CHANGE IN REVENUES ( )</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>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	242.5	223.5	223.5	223.5	223.5	223.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>242.5</b>	<b>223.5</b>	<b>223.5</b>	<b>223.5</b>	<b>223.5</b>	<b>223.5</b>

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

Full-time	3	3	3	3	3	3
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

See attached.

Prepared by: Janice Adair, Director  
 Division: Environmental Health  
 Approved by: Commissioner *K. J. ...*  
 Agency: Department of Environmental Conservation

Phone: 269-7644  
 Date/Time: 1/25/00 11:34 AM  
 Date: 1-26-00

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As passed by the Senate Finance Committee, CSSB 24(FIN) contains several sections that are of concern to DEC, which, taken together will result in significant costs to the department that are not reflected in the fiscal notes adopted by the Committee.

Section 3 requires that a regulation take a "reasonable approach within the intent of the statute." This is a difficult if not impossible thing to measure: what is reasonable to one person may be completely unreasonable to another. This is particularly true in natural resource management where regulatory requirements are often compromises. This section will also require the department to research legislative intent for old statutes. Many of DEC's public health statutes have been on the books since 1948. This section, coupled with Sections 10 and 14, will require a paralegal and an administrative clerk, and associated costs such as supplies, travel, and equipment.

Section 4 requires we do a cost-benefit analysis. The analysis is to calculate all the costs and all the benefits to the public of a regulatory proposal. Without any parameters as to what costs and what benefits must be considered, the department will be tasked with trying to come up with a comprehensive list. To the extent the department fails to consider some cost or some benefit, parties will seek judicial relief and regulatory projects will be stopped until the department recalculates the cost-benefit analysis. Some projects that may need DEC regulatory action, like site-specific criteria for a water quality standard, could have national significance and thus the "public" cost-benefit analysis would include national costs and national benefits. Thus, groups from outside Alaska could easily weigh in on our regulatory programs.

Many costs and benefits that are aesthetic are quantifiable but at a great cost. As part of the Exxon Valdez Natural Resource Damage Assessment, \$3 million was spent to do a "loss of passive use" benefit study, and that was only one of the benefits that was calculated for the damage assessment.

This section also requires that we "weigh" the costs and the benefits before adopting a regulation. Because the costs and benefits do not have to have dollar amounts attached to them, it is unclear how we would weigh and compare those non-quantified costs and benefits.

Many of the exemptions provided in this section would not cover several DEC regulations, particularly those that deal with public health, e.g. food, seafood processing, public sanitation. In addition, we do not believe any of the oil spill response and prevention regulations will be exempted from the cost-benefit analysis requirement.

This section will require the department employ an economist to prepare the cost-benefit analyses. Additional costs include travel, supplies, and equipment associated with the position.

Section 10 was changed by the Senate Finance Committee to make it clear that regulations would need to be public noticed again only if the changes "substantially" changed the substance of the regulations. We believe this clarification was an important

amendment to make, and should reduce, though not eliminate, the need for successive public comment periods and associated advertising costs. We remain concerned however that the interplay between this section and Section 14, which establishes a two-year deadline on regulatory adoption will result in significant conflicts.

Section 14 will also preclude DEC from using the negotiated rule making process that was adopted into statute last session. Regulations cannot be quickly written by committee.

Section 15 is the other very problematic and very expensive section of this bill. Regulations cannot be held valid unless they cause the least necessary intrusion on the rights and property of persons affected by the regulation. This is a very broad statement – many, many people may be affected by a regulation. Given that natural resource regulations are compromise regulations, there will always be some side that feels the regulation is not the “least necessary intrusion”. For example, most of DEC's regulations allow for activities that disrupt a person's enjoyment of the water, air, or land of the state and they could likely successfully argue that the regulations are therefore not the “least intrusion necessary.” Likewise, the public health regulations adopted by the department “intrude” on some groups in order to protect the health of others.

The state has the burden to prove that its regulations are the least intrusive. The fact is that the department's regulations will be intrusive to one group and not intrusive to another. That is the nature of environmental regulation. This will cause the department to be involved in a great deal of litigation on the intrusiveness of our regulations. Ultimately, the courts will determine our regulatory programs. This section will result in increased costs for the Department of Law.

**Personal Services New Position Detail**

DRAFT

Department of Environmental Conservation

Scenario: FY2001 Legislative Fiscal Note Info  
 Component: Office of the Commissioner (633)  
 BRU Name: Administration

PCN	Job Class Title	Time Status	Relire Code	Barg Unit	Location	Salary Sched	Range & Steps	Budgeted Months	Split / Annual Count	Annual Salary	COLA	Premium Pay	Annual Benefits	Total Costs		
18-#001	Economist I	FT	A	GG	Juneau	2A	18 B / C	12.0		45,796	0	0	14,999	60,797		
Justification: No justification provided.																
Funding Detail:																
													1004	General Fund Receipts	100.00%	60,797
													Total Funding:		100.00%	60,797
18-#002	Administrative Clerk II	FT	A	GG	Juneau	2A	8 B / C	12.0		23,802	0	0	10,665	34,467		
Justification: No justification provided.																
Funding Detail:																
													1004	General Fund Receipts	100.00%	34,467
													Total Funding:		100.00%	34,467
18-#003	Paralegal Asst II	FT	A	GG	Juneau	2A	16 B / C	12.0		39,792	0	0	13,816	53,608		
Justification: No justification provided.																
Funding Detail:																
													1004	General Fund Receipts	100.00%	53,608
													Total Funding:		100.00%	53,608

**Component Summary:**

Total New Positions: 3

Fund Description	Fund Percent	Fund Amount
1004 General Fund Receipts	100.00%	148,872
Total Funding:	100.00%	148,872

Note: If a position is split, an asterisk (\*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (\*\*) will appear in this column.

Page 4 of 4

# FISCAL NOTE

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

**BILL NO. HCSSB 24 (JUD)**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Environmental Conservation  
 Title The Alaska Regulation Reform Act BRU Administration  
 Component Commissioner's Office  
 Sponsor Senator Donley  
 Requester House Judiciary Component No. 633

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

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual	60.4	60.4	60.4	60.4	60.4	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>60.4</b>	<b>60.4</b>	<b>60.4</b>	<b>60.4</b>	<b>60.4</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</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>
<b>CHANGE IN REVENUES ( )</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>

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	60.4	60.4	60.4	60.4	60.4	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>60.4</b>	<b>60.4</b>	<b>60.4</b>	<b>60.4</b>	<b>60.4</b>	<b>0.0</b>

Estimate of any current year (FY2000) cost: 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)

See attached

Prepared by: Janice Adair, Director Phone 269-7644  
 Division Environmental Health Date/Time 4/12/00 11:43 AM  
 Approved by Commissioner [Signature] Date 4-17-00  
 Agency Department of Environmental Conservation

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## Fiscal Analysis HCSSB 24 (JUD)

Section 4 of the Judiciary version of this bill will generate costs for the department during the five-year pilot project it would enact, specifically:

- the requirement for successive public notices whenever regulations are revised that “substantially change the substance of the regulation” (the Department of Law has advised that only those changes that are strictly editorial in nature will be exempt from the renoticing provisions); and
- the requirement that the Department public notice its intent to either adopt or not adopt regulations whenever a statute is amended or adopted that affects the Department.

Successive public notices: The department averages 15 regulation projects a year. Based on the advice from the Department of Law, we estimate that all of those will need to be noticed a second time; 75% or 11 will need to be renoticed a third time, and approximately 5%, or 1 will need to be renoticed a fourth time. In order to comply with the spirit of this legislation, notice would need to be published in newspapers across the state, not just in a single publication with a statewide circulation.

The publication costs associated with these renoticing requirements are estimated to be \$43.2

The bill requires we also furnish the notice to those who had previously commented. Because we would hope to use electronic means to share documents with the bulk of those commenters, postage associated with the renoticing requirement is estimated to be .2 and copying charges are estimated to be 1.0.

Notice of intent to adopt or not adopt: Each legislative session, there are a number of bills introduced that would require a change in DEC regulations, any or all of which may pass. Again, in order to comply with the spirit of this legislation, this notice would need to be published in newspapers across the state, not just in a single paper with statewide circulation. Therefore, the publication costs associated with this requirement are estimated to be \$16.0 annually.

# FISCAL NOTE

No: 51

Bill Version: HCS CSSB 24 (JUD)

(H) Publish Date: 4/12/00

## STATE OF ALASKA 2000 LEGISLATIVE SESSION

Revision Date: 24-Jan-00 Dept Affected: Natural Resources  
 Title: An Act relating to the adoption, amendment, BRU: Management & Administration  
repeal, legislative review, and judicial review of regulations... Component: Commissioner's Office  
 Sponsor: Senator DONLEY  
 Requestor: (H)JUD Component Serial No. #423

Expenditures/Revenues (Inflation not included unless otherwise noted below) (Thousands of Dollars)

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	164.2	54.9	81.6	88.3	81.6	88.3
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>164.2</b>	<b>54.9</b>	<b>81.6</b>	<b>88.3</b>	<b>81.6</b>	<b>88.3</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
1002 Federal Receipts						
1003 GF Match						
1004 GF	164.2	54.9	81.6	88.3	81.6	88.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>164.2</b>	<b>54.9</b>	<b>81.6</b>	<b>88.3</b>	<b>81.6</b>	<b>88.3</b>

Estimate of any current year (FY2000) cost: \$ none

### POSITIONS

POSITIONS	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
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)

The Department of Natural Resources initiates regulations projects each year (in this fiscal year we have 13 projects in various stages). The projects can be highly complex or merely housekeeping. Some can be highly controversial and require multiple public notice and hearings. Many will require a cost/benefit analysis or a detailed, considered approach to waiving a cost/benefit analysis. DNR will contract for a professional cost/benefit analysis as the need arises. The department believes that it would not be able to hire an economist proficient in all of the issues involved in oil and gas, land, mining, parks, forestry, etc. We estimate that "prohibitive" cost for a cost/benefit analysis is anything over \$40,000. It is very difficult to estimate how much the required written reports, time limits, decisions on whether or not to perform a cost/benefit analysis, will add to the cost of a regulation project. We have added nothing in the fiscal note but believe the cost may be high.

Prepared by: Carol Carroll, Director Phone: 465-4730  
 Division: Support Services Date: 24-Jan-00  
 Approved by Commissioner: John Shively Date: 1-24-2000  
 Agency: Natural Resources

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# FISCAL NOTE

Bill Version: HCS CSSB 24 (JUD)  
 (H) Publish Date: 4/12/00

**STATE OF ALASKA  
 1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Law  
 Title "An Act relating to regulations; amending Rule BRU Civil Division  
65, Alaska Rules of Civil Procedure; and ... effective date." Component Legislation/Regulations  
 Sponsor Senator Donley  
 Requester House Judiciary Committee Component Serial No. 2209

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

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	114.0	114.0	114.0	114.0	114.0	114.0
Travel	3.0	3.0	3.0	3.0	3.0	3.0
Contractual	45.9	45.9	45.9	45.9	45.9	45.9
Supplies	1.9	1.9	1.9	1.9	1.9	1.9
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>171.3</b>	<b>164.8</b>	<b>164.8</b>	<b>164.8</b>	<b>164.8</b>	<b>164.8</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	171.3	164.8	164.8	164.8	164.8	164.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>171.3</b>	<b>164.8</b>	<b>164.8</b>	<b>164.8</b>	<b>164.8</b>	<b>164.8</b>

Estimate of any current year (FY00) cost: \_\_\_\_\_

**POSITIONS**

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

**ANALYSIS:** (Attach a separate page if necessary)

CSSB 24 (FIN) AM makes a number of significant changes to the way regulations are adopted by the Departments of Natural Resources and Environmental Conservation, and parts of the Department of Fish and Game (Habitat and Restoration). These changes would take effect July 1, 2000.

Of significance to the Department of Law from a cost perspective are four of the proposed changes (unless an exemption applies) for the designated state agencies in the regulations provisions of the bill: (1) a requirement for the preparation of cost-benefit analyses on regulation adoption, repeal, and amendment showing that benefits to the public outweigh costs; (2) a requirement for supplemental notices and public comment if rewriting substantially changes the substance in proposed regulations after initial notice and public comment has occurred; (3) a new standard for regulation challenges in court

Prepared by Joan M. Kasson *Joan M. Kasson* Phone 465-5370  
 Division Attorney General's Office Date/Time 1/24/00, 12:42 PM  
 Approved by Commissioner *Red* Bruce M. Botelho, Attorney General Date 1/24/00  
 Agency Department of Law

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ANALYSIS CONTINUATION

based on if the proposed regulation uses an approach that causes more than the least necessary intrusion on the rights and property of the persons affected by the regulation, and if the regulation is not required by substantial state interest; and (4) a requirement that regulations be within the intent of the statute to be valid. While there are exceptions for some situations, many state regulations by the designated agencies would be covered by these provisions.

Each of these proposed changes will cause a significant increase in the workload of the department in terms of preventative advice to the designated state agencies and additional time for regulations review to ensure the proposed requirements are met, and to defend the regulations of those designated agencies when they are challenged in court.

The Department of Law anticipates that a significant increase in the level of litigation attempting to overturn regulations would result. Quantifying costs and benefits of regulations for these designated state agencies will be, in many cases, a subjective process open to considerable interpretation. In addition, a determination that a regulation uses the least necessary intrusion possible on rights and property of affected persons would also be open to various interpretations in many cases. For example, it is difficult to determine even who might be affected in the case of many natural resources regulations, and proving a substantial state interest in using a particular scheme, would almost certainly involve extensive litigation because of the economic interests at stake in natural resource decisions of the designated state agencies. While the version that passed out of the Senate contains several exemptions, the Department of Law will still have to advise designated state agencies on whether the exemption applies in a particular case and the record necessary to support a decision made regarding an exemption, and to defend any court challenges regarding those exemptions.

The department estimates that its attorneys presently spend 7500 hours per year on regulations review projects and litigation challenging regulations. We estimate a 20 percent increase in time for regulations-related projects for these designated agencies would result from this bill. At 20 percent, an additional 1500 hours would be required, a total of 1 full-time equivalent attorney. In addition, many of the cases in litigation would require the use of "outside" expert economists.

Based on the department's FY01 standard full-time equivalent attorney cost schedule, which includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses, the cost of 1 FTE attorney is \$134,712. An additional \$5,000 is included for direct case costs, \$6,500 for one-time equipment purchases, and \$25,000 for outside experts, costs that cannot be included in the rate as overhead.

# FISCAL NOTE

No: 51  
 Bill Version: HCS CSSB 24 (JUD)  
 (H) Publish Date: 4/12/00

**STATE OF ALASKA  
 2000 LEGISLATIVE SESSION**

Revision Date: 24-Jan-00 Dept Affected: Natural Resources  
 Title: An Act relating to the adoption, amendment, BRU: Management & Administration  
repeal, legislative review, and judicial review of regulations... Component: Commissioner's Office  
 Sponsor: Senator DONLEY  
 Requestor: (H)JUD Component Serial No. #423

Expenditures/Revenues (Inflation not included unless otherwise noted below) (Thousands of Dollars)

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	164.2	54.9	81.6	88.3	81.6	88.3
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>164.2</b>	<b>54.9</b>	<b>81.6</b>	<b>88.3</b>	<b>81.6</b>	<b>88.3</b>
<b>CAPITAL EXPENDITURES</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>
<b>CHANGE IN REVENUES (fund code)</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>

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	164.2	54.9	81.6	88.3	81.6	88.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>164.2</b>	<b>54.9</b>	<b>81.6</b>	<b>88.3</b>	<b>81.6</b>	<b>88.3</b>

Estimate of any current year (FY2000) cost: \$ none

**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)

The Department of Natural Resources initiates regulations projects each year (in this fiscal year we have 13 projects in various stages). The projects can be highly complex or merely housekeeping. Some can be highly controversial and require multiple public notice and hearings. Many will require a cost/benefit analysis or a detailed, considered approach to waiving a cost/benefit analysis. DNR will contract for a professional cost/benefit analysis as the need arises. The department believes that it would not be able to hire an economist proficient in all of the issues involved in oil and gas, land, mining, parks, forestry, etc. We estimate that "prohibitive" cost for a cost/benefit analysis is anything over \$40,000. It is very difficult to estimate how much the required written reports, time limits, decisions on whether or not to perform a cost/benefit analysis, will add to the cost of a regulation project. We have added nothing in the fiscal note but believe the cost may be high.

Prepared by: Carol Carroll, Director Phone: 465-4730  
 Division: Support Services Date: 24-Jan-00  
 Approved by Commissioner: John Shively Date: 1-24-2000  
 Agency: Natural Resources

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# FISCAL NOTE

Bill Version: HCS CSSB 24 (JUD)  
(H) Publish Date: 4/12/00

## STATE OF ALASKA 1999 LEGISLATIVE SESSION

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title	BRU	Civil Division
65, Alaska Rules of Civil Procedure; and ... effective date."	Component	Legislation/Regulations
Sponsor	Senator Donley	
Requester	House Judiciary Committee	Component Serial No. 2209

### Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	114.0	114.0	114.0	114.0	114.0	114.0
Travel	3.0	3.0	3.0	3.0	3.0	3.0
Contractual	45.9	45.9	45.9	45.9	45.9	45.9
Supplies	1.9	1.9	1.9	1.9	1.9	1.9
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>171.3</b>	<b>164.8</b>	<b>164.8</b>	<b>164.8</b>	<b>164.8</b>	<b>164.8</b>

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

### FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	171.3	164.8	164.8	164.8	164.8	164.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>171.3</b>	<b>164.8</b>	<b>164.8</b>	<b>164.8</b>	<b>164.8</b>	<b>164.8</b>

Estimate of any current year (FY00) cost: \_\_\_\_\_

### POSITIONS

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

**ANALYSIS:** (Attach a separate page if necessary)  
 CSSB 24 (FIN) AM makes a number of significant changes to the way regulations are adopted by the Departments of Natural Resources and Environmental Conservation, and parts of the Department of Fish and Game (Habitat and Restoration). These changes would take effect July 1, 2000.

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Prepared by Joan M. Kasson *Joan M. Kasson* Phone 465-5370  
 Division Attorney General's Office Date/Time 1/24/00, 12:42 PM  
 Approved by Commissioner *Red* Bruce M. Botelho, Attorney General Date 1/24/00  
 Agency Department of Law

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ANALYSIS CONTINUATION

based on if the proposed regulation uses an approach that causes more than the least necessary intrusion on the rights and property of the persons affected by the regulation, and if the regulation is not required by substantial state interest; and (4) a requirement that regulations be within the intent of the statute to be valid. While there are exceptions for some situations, many state regulations by the designated agencies would be covered by these provisions.

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Based on the department's FY01 standard full-time equivalent attorney cost schedule, which includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses, the cost of 1 FTE attorney is \$134,712. An additional \$5,000 is included for direct case costs, \$6,500 for one-time equipment purchases, and \$25,000 for outside experts, costs that cannot be included in the rate as overhead.

# FISCAL NOTE

No: 49

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

Bill Version: HCS CSSB 24 (JUD)  
(H) Publish Date: 4/12/00

Revision Date/Time (Note if correction) 01/25/00 11:00 AM Dept. Affected Environmental Conservation  
 Title The Alaska Regulations Reform Act BRU Administration  
 Component Commissioner's Office  
 Sponsor Senators Donley, Taylor  
 Requester House Judiciary Component No. 633

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

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	148.9	148.9	148.9	148.9	148.9	148.9
Travel	20.0	20.0	20.0	20.0	20.0	20.0
Contractual	50.6	49.6	49.6	49.6	49.6	49.6
Supplies	5.0	5.0	5.0	5.0	5.0	5.0
Equipment	18.0	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
<b>TOTAL OPERATING</b>	<b>242.5</b>	<b>223.5</b>	<b>223.5</b>	<b>223.5</b>	<b>223.5</b>	<b>223.5</b>
<b>CAPITAL EXPENDITURES</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>
<b>CHANGE IN REVENUES ( )</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>

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	242.5	223.5	223.5	223.5	223.5	223.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>242.5</b>	<b>223.5</b>	<b>223.5</b>	<b>223.5</b>	<b>223.5</b>	<b>223.5</b>

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

Full-time	3	3	3	3	3	3
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

See attached.

Prepared by: Janice Adair, Director Phone 269-7644  
 Division Environmental Health Date/Time 1/25/00 11:34 AM  
 Approved by Commissioner *K. J. ...* Date 1-26-00  
 Agency Department of Environmental Conservation

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**COMMITTEE COPY**

As passed by the Senate Finance Committee, CSSB 24(FIN) contains several sections that are of concern to DEC, which, taken together will result in significant costs to the department that are not reflected in the fiscal note adopted by the Committee.

Section 3 requires that a regulation take a "reasonable approach within the intent of the statute." This is a difficult if not impossible thing to measure: what is reasonable to one person may be completely unreasonable to another. This is particularly true in natural resource management where regulatory requirements are often compromises. This section will also require the department to research legislative intent for old statutes. Many of DEC's public health statutes have been on the books since 1948. This section, coupled with Sections 10 and 14, will require a paralegal and an administrative clerk, and associated costs such as supplies, travel, and equipment.

Section 4 requires we do a cost-benefit analysis. The analysis is to calculate all the costs and all the benefits to the public of a regulatory proposal. Without any parameters as to what costs and what benefits must be considered, the department will be tasked with trying to come up with a comprehensive list. To the extent the department fails to consider some cost or some benefit, parties will seek judicial relief and regulatory projects will be stopped until the department recalculates the cost-benefit analysis. Some projects that may need DEC regulatory action, like site-specific criteria for a water quality standard, could have national significance and thus the "public" cost-benefit analysis would include national costs and national benefits. Thus, groups from outside Alaska could easily weigh in on our regulatory programs.

Many costs and benefits that are aesthetic are quantifiable but at a great cost. As part of the Exxon Valdez Natural Resource Damage Assessment, \$3 million was spent to do a "loss of passive use" benefit study, and that was only one of the benefits that was calculated for the damage assessment.

This section also requires that we "weigh" the costs and the benefits before adopting a regulation. Because the costs and benefits do not have to have dollar amounts attached to them, it is unclear how we would weigh and compare those non-quantified costs and benefits.

Many of the exemptions provided in this section would not cover several DEC regulations, particularly those that deal with public health, e.g. food, seafood processing, public sanitation. In addition, we do not believe any of the oil spill response and prevention regulations will be exempted from the cost-benefit analysis requirement.

This section will require the department employ an economist to prepare the cost-benefit analyses. Additional costs include travel, supplies, and equipment associated with the position.

Section 10 was changed by the Senate Finance Committee to make it clear that regulations would need to be public noticed again only if the changes "substantially" changed the substance of the regulations. We believe this clarification was an important

amendment to make, and should reduce, though not eliminate, the need for successive public comment periods and associated advertising costs. We remain concerned however that the interplay between this section and Section 14, which establishes a two-year deadline on regulatory adoption will result in significant conflicts.

Section 14 will also preclude DEC from using the negotiated rule making process that was adopted into statute last session. Regulations cannot be quickly written by committee.

Section 15 is the other very problematic and very expensive section of this bill. Regulations cannot be held valid unless they cause the least necessary intrusion on the rights and property of persons affected by the regulation. This is a very broad statement – many, many people may be affected by a regulation. Given that natural resource regulations are compromise regulations, there will always be some side that feels the regulation is not the “least necessary intrusion”. For example, most of DEC's regulations allow for activities that disrupt a person's enjoyment of the water, air, or land of the state and they could likely successfully argue that the regulations are therefore not the “least intrusion necessary.” Likewise, the public health regulations adopted by the department “intrude” on some groups in order to protect the health of others.

The state has the burden to prove that its regulations are the least intrusive. The fact is that the department's regulations will be intrusive to one group and not intrusive to another. That is the nature of environmental regulation. This will cause the department to be involved in a great deal of litigation on the intrusiveness of our regulations. Ultimately, the courts will determine our regulatory programs. This section will result in increased costs for the Department of Law.

**Personal Services New Position Detail**  
 Department of Environmental Conservation

DRAFT

Page 4 of 4

Scenario: FY2001 Legislative Fiscal Note Info  
 Component: Office of the Commissioner (633)  
 BRU Name: Administration

PCN	Job Class Title	Time Status	Retire Code	Barg Unit	Location	Salary Sched	Range & Steps	Budgeted Months	Split / Annual Count	Annual Salary	COLA	Premium Pay	Annual Benefits	Total Costs		
18-#001	Economist I	FT	A	GG	Juneau	2A	18 B / C	12.0		45,798	0	0	14,999	60,797		
Justification: No justification provided.																
Funding Detail:																
													1004	General Fund Receipts	100.00%	60,797
													Total Funding:		100.00%	60,797
18-#002	Administrative Clerk II	FT	A	GG	Juneau	2A	8 B / C	12.0		23,802	0	0	10,665	34,467		
Justification: No justification provided.																
Funding Detail:																
													1004	General Fund Receipts	100.00%	34,467
													Total Funding:		100.00%	34,467
18-#003	Paralegal Asst II	FT	A	GG	Juneau	2A	16 B / C	12.0		39,792	0	0	13,816	53,608		
Justification: No justification provided.																
Funding Detail:																
													1004	General Fund Receipts	100.00%	53,608
													Total Funding:		100.00%	53,608

**Component Summary:**

Total New Positions: 3

Fund Description	Fund Percent	Fund Amount
1004 General Fund Receipts	100.00%	148,872
<b>Total Funding:</b>	<b>100.00%</b>	<b>148,872</b>

Note: If a position is split, an asterisk (\*) will appear in the Split/Count column. If the split position is also counted in the component, two asterisks (\*\*) will appear in this column.

# FISCAL NOTE No. 48

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

Bill Version: CSSB 24 (FIN)

(S) Publish Date: 4-8-99

Revision Date/Time (Note if correction) _____	Dept. Affected	Office of the Governor
Title <u>Relating to regulations; relating to administrative</u>	BRU	<u>Governmental Coordination</u>
<u>adjudications; amending Rule 65, Alaska Rules of Civil</u>	Component	<u>Governmental Coordination</u>
Sponsor <u>Senator Donley</u>	_____	
Requester <u>Senate Finance</u>	Component Serial No.	<u>18</u>

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

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
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
<b>TOTAL OPERATING</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>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
<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 (FY99) cost: 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)

Prepared by Gabrielle LaRoche, Acting Director Phone 465-3562

Division Governmental Coordination Date/Time 4/5/99 11:22 AM

Approved by Jim Ayers, Chief of Staff Date 4/5/99

Agency Office of the Governor

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# FISCAL NOTE

No. 47

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

Bill Version: CSSB 24 (FIN)

(S) Publish Date: 4-8-99

Revision Date/Time (Note if correction) 4/2/99  
 Title Alaska Regulations Reform Act

Dept. Affected Office of the Governor  
 BRU Commissions and Special Offices  
 Component Human Rights Commission

Sponsor Senator Donley  
 Requester Senate Finance

Component Serial No. 1

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

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</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>

<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)						
<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 (FY99) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 This bill will have no fiscal impact on this agency.

Prepared by Paula M. Haley, Executive Director *Paula M. Haley* Phone 276-7474 x241  
 Division Human Rights Commission Date/Time 4/2/99 4:27 PM  
 Approved by David R. Anderson Date \_\_\_\_\_  
 Agency Office of the Governor

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# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

No. 46  
Bill Version: CSSR 24(FIN)  
(S) Publish Date: 4-6-99

Revision Date _____	Dept. Affected <u>Alaska Court System</u>
Title <u>Regulatory Reform Act</u>	BRU <u>Alaska Court System</u>
Sponsor <u>Senator Donley</u>	Component <u>Trial Courts</u>
Requester <u>Senate Finance</u>	Component Serial No. <u>769</u>

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	.	.	.	.	.	.

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	.	.	.	.	.	.
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	.	.	.	.	.	.

Estimate of any current year (FY99) cost: None

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*

See attached analysis

Prepared by:	<u>Doug Wooliver, Administrative Attorney</u>	Phone:	<u>264-8265</u>
Agency:	<u>Alaska Court System</u>	Date/Time:	<u>3/29/99 10 13 AM</u>
Approved by:	<u>Stephanie J. Cole, Administrative Director</u>	Date:	<u>3/29/99</u>
Agency:	<u>Alaska Court System</u>		

#46

Alaska Court System  
Fiscal Analysis  
CSSB 24(FIN) Work Draft 1-LS0274/X, Bannister, 3/25/99  
The Alaska Regulations Reform Act

Under current law, state agency regulations will withstand court challenges as long as they have been properly adopted and are consistent with their authorizing statutes. Because this standard is deferential to the agency, it is difficult to successfully challenge regulations in court. Section 15 of the current work draft to SB 24 changes this standard into a two-part test. (This new standard will only apply to regulations amended or adopted by the Department of Environmental Conservation, the Department of Natural Resources, and habitat and restoration programs within the Department of Fish and Game.) The first part requires that each affected regulation cause "the least necessary intrusion on the rights and property of the persons affected by the regulation." The second part requires that the regulation be "required by a substantial state interest." The substantial state interest standard is new and it is not clear how difficult the state's burden will be. What is clear, however, is that this two-part test is substantially less deferential to the state than the current standard. Because of this, it is anticipated that agency regulations will be easier to successfully challenge and that caseloads in this area will go up. However, the extent of that increase is currently too speculative to support a fiscal note. Should that increase prove significant, the court system may return to the legislature for additional funding.

FISCAL NOTE

STATE OF ALASKA  
1999 Legislative Session

No. 45  
Bill Version: CSSB 24 (FIN)  
(S) Publish Date: 4-6-99

Revision Date: 03/01/99  
Title: "An Act relating to regulations; amending Rule 65,  
Alaska Rules of Civil Procedure; and ... effective date."  
Sponsor: Senator Donley  
Requester: \_\_\_\_\_

Dept. Affected Law  
BRU Civil Division  
Component \_\_\_\_\_  
Legislation/Regulations  
Component Serial No. 2209

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY01	FY02	FY03	FY04	FY05
Personal Services	0.0	40.0	40.0	40.0	40.0	40.0
Travel	0.0	1.5	1.5	1.5	1.5	1.5
Contractual	0.0	23.5	23.5	23.5	23.5	23.5
Supplies	0.0	0.8	0.9	0.9	0.9	0.9
Equipment	0.0	6.5	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grant's & 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
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>72.3</b>	<b>65.8</b>	<b>65.8</b>	<b>65.8</b>	<b>65.8</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES [ ]						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0					
1003 GF Match	0.0					
1004 GF	0.0	28.9	26.3	26.3	26.3	26.3
1005 GF/Program Receipts	0.0					
1037 GF/Mental Health	0.0					
1007 Interagency Rcpts	0.0	43.4	39.5	39.5	39.5	39.5
<b>TOTAL</b>	<b>0.0</b>	<b>72.3</b>	<b>65.8</b>	<b>65.8</b>	<b>65.8</b>	<b>65.8</b>

Estimate of any current year (FY99) costs: 0.0

POSITIONS

Full-time					
Part-time		1	1	1	1
Temporary					

ANALYSIS: (Attach a separate page if necessary)

Prepared By: SENATE FINANCE COMMITTEE



SENATOR SEAN PARNELL, CO-CHAIR

Date: 4/1/99  
Phone: 465-2995



SENATOR JOHN TORCELSON, CO-CHAIR

Date: 4/1/99  
Phone: 465-2828

FISCAL NOTE

STATE OF ALASKA  
1999 Legislative Session

Revision Date: 04/01/99  
Title: Alaska Regulations Reform Act  
Sponsor: Senator Donley  
Requester: \_\_\_\_\_

No. 44  
Bill Version: CSSB 24 (FIN)  
(S) Publish Date: 4-6-99

Dept. Affected: Fish and Game  
BRU: Habitat and Restoration  
Component: Permitting/Title 16

Component Serial No. 2050

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY01	FY02	FY03	FY04	FY05
Personal Services	0.0					
Travel	0.0					
Contractual	0.0					
Supplies	0.0	2.0	2.0	2.0	2.0	2.0
Equipment	0.0					
Land & Structures	0.0					
Grants & Claims	0.0					
Miscellaneous	0.0					
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 00	FY01	FY02	FY03	FY04	FY05
1002 Federal Receipts	0.0					
1003 GF Match	0.0	2.0	2.0	2.0	2.0	2.0
1004 GF	0.0					
1005 GF/Program Receipts	0.0					
1037 GF/Mental Health	0.0					
1091 Designated Program Receipts	0.0					
<b>TOTAL</b>	<b>0.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>

Estimate of any current year (FY99) costs: 0.0

POSITIONS

POSITIONS	FY 00	FY01	FY02	FY03	FY04	FY05
Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

Prepared By: SENATE FINANCE COMMITTEE

  
SENATOR SEAN PARNELL, CO-CHAIR

Date: 4/1/99  
Phone: 465-2995

  
SENATOR JOHN TORGERSON, CO-CHAIR

Date: 4/1/99  
Phone: 465-2828

FISCAL NOTE

STATE OF ALASKA  
1999 Legislative Session

Revision Date: 04/01/99  
Title: Alaska Regulations Reform Act

Sponsor: Senator Donley  
Requester: \_\_\_\_\_

No. 43  
Bill Version: CSSB 24 (FIN)  
(S) Publish Date: 4-6-99

Dept. Affected Environmental Conservation  
BRU Administration  
Component Commissioner's Office

Component Serial No. 633

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY01	FY02	FY03	FY04	FY05
Personal Services	0.0					
Travel	0.0					
Contractual	0.0	35.8	34.8	34.8	34.8	34.8
Supplies	0.0	5.0	5.0	5.0	5.0	5.0
Equipment	0.0					
Land & Structures	0.0					
Grants & Claims	0.0					
Miscellaneous	0.0					
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>40.8</b>	<b>39.8</b>	<b>39.8</b>	<b>39.8</b>	<b>39.8</b>

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

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 00	FY01	FY02	FY03	FY04	FY05
1002 Federal Receipts	0.0					
1003 GF Match	0.0					
1004 GF	0.0	40.8	39.8	39.8	39.8	39.8
1005 GF/Program Receipts	0.0					
1037 GF/Mental Health	0.0					
1091 Designated Program Receipts	0.0					
<b>TOTAL</b>	<b>0.0</b>	<b>40.8</b>	<b>39.8</b>	<b>39.8</b>	<b>39.8</b>	<b>39.8</b>

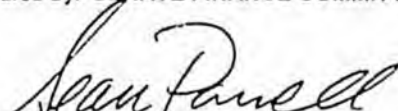
Estimate of any current year (FY99) costs: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared By: SENATE FINANCE COMMITTEE

  
SENATOR SEAN PARNELL, CO-CHAIR

Date: 4/1/99  
Phone: 465-2995

  
SENATOR JOHN TORGERSON, CO-CHAIR

Date: 4/1/99  
Phone: 465-2828

FISCAL NOTE

STATE OF ALASKA  
1999 Legislative Session

Revision Date: 04/01/99  
Title: Alaska Regulations Reform Act  
Sponsor: Senator Donley  
Requester: \_\_\_\_\_

No. 42  
Bill Version: CSSB 24(FIN)  
(S) Publish Date: 4-6-99

Dept. Affected Natural Resources  
BRU Management & Administration  
Component Commissioner's Office

Component Serial No. 423

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY01	FY02	FY03	FY04	FY05
Personal Services	0.0					
Travel	0.0					
Contractual	0.0	82.1	27.5	27.5	27.5	27.5
Supplies	0.0					
Equipment	0.0					
Land & Structures	0.0					
Grants & Claims	0.0					
Miscellaneous	0.0					
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>82.1</b>	<b>27.5</b>	<b>27.5</b>	<b>27.5</b>	<b>27.5</b>

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

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 00	FY01	FY02	FY03	FY04	FY05
1002 Federal Receipts	0.0					
1003 GF Match	0.0					
1004 GF	0.0	82.1	27.5	27.5	27.5	27.5
1005 GF/Program Receipts	0.0					
1037 GF/Mental Health	0.0					
1091 Designated Program Receipts	0.0					
<b>TOTAL</b>	<b>0.0</b>	<b>82.1</b>	<b>27.5</b>	<b>27.5</b>	<b>27.5</b>	<b>27.5</b>


Estimate of any current year (FY99) costs: 0.0

POSITIONS

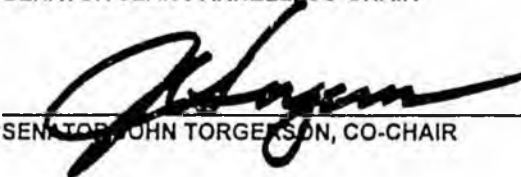
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared By: SENATE FINANCE COMMITTEE

  
SENATOR SEAN PARNELL, CO-CHAIR

Date: 4/1/99  
Phone: 465-2995

  
SENATOR JOHN TORGERSON, CO-CHAIR

Date: 4/1/99  
Phone: 465-2828

## HCS CSSB 24 (JJD) - An Act relating to regulations

### POSSIBLE OUTCOMES AND IMPACTS

- I. **NEW STATE LEGISLATION OR STATE BUDGET CHANGES** - As a result of new state legislation or to respond to changes in program receipt authority in the operating budget, DEC may need to revise fee regulations. Imagine a situation in which DEC notices the fee regulation, but later finds a calculation error. Even if correcting the error would decrease the fees the public would have to pay, the regulations would have to be renoticed because the fee reduction would be a substantial change. Because DEC cannot collect fees that have not been established in regulation, the requirement for additional notice would mean that the new fees would not be in effect by the start of the new fiscal year.
- II. **LEGAL ADVICE** - When the Department of Law conducts a legal review of DEC's proposed regulations, it may find a legal problem and recommend a modification to conform the regulations to state statute. Under the provisions of SB 24, DEC would have to conduct a whole new round of public comments in order to modify a regulation to conform to state statute.
- III. **LEGAL UNCERTAINTY FOR DEVELOPMENT PROJECTS** - SB 24 could easily lead to situations in which legal uncertainty would be created for development projects.

For instance, suppose that DEC wishes to adopt a site-specific criterion as part of the state water quality regulations and the new regulation is necessary for a mining company to begin operations. In public comments, scientific information is offered that requires an adjustment in the amount of the allowable contaminant. DEC makes the adjustment in the adopted regulations, but does not renotice the regulation. An environmental group (or a neighboring landholder) could sue on the basis that the slight adjustment was a substantial change in the regulation. Regardless of its outcome, the resulting litigation would delay the opening of the mine, or perhaps prevent the mine from operating at all if market conditions changed adversely during litigation.

- IV. **FEDERAL FUNDING COULD BE PLACED IN JEOPARDY** - Although SB 24 provides exemptions for regulations necessary to meet federal "requirements" we are uncertain how this would apply to the standards DEC must meet to remain eligible for continued receipt of federal money, since DEC is not required by law to maintain this eligibility. For example, in order to retain state primacy over the drinking water

program, DEC's drinking water program needs to be at least as stringent as the requirements of the Safe Drinking Water Act and related federal regulations.

In the public notice version of recent changes in regulations for the drinking water program, DEC inadvertently omitted special monitoring requirements for sodium (40 CFR 141.41). After the public comment period had ended and during the agency review, DEC inserted the special monitoring requirements for sodium required by the federal law. Although the public notice had informed the public that the regulations were being redrafted to remain as stringent as the federal EPA Safe Drinking Water regulations, this change was substantive and would have required under provisions of SB 24.

The drinking water regulations project was a large one (about 400 pages) and had a tight review timeline. If renoticing of this regulations project had been required, state primacy would have been jeopardized and the state would have lost at least 20 percent of \$7.1 million in federal funding (Alaska Drinking Water Fund) in the first year, as well as other contingent funds.

V. **CYCLICAL NATURE OF SB 24's PUBLIC NOTICE REQUIREMENT** - The cyclical nature of SB 24's public notice requirements and the requirement for continuing renoticing when changes are made could lead to delays in the implementation of new and revised regulations.

For example, in 1998, DEC went out to public comment on its revision of the domestic wastewater regulations. The public comment version of the draft regulations required engineers to submit the as-built plans of constructed wastewater disposal systems to DEC within 30 days after completion the project. Based on public comments received from engineers, DEC changed this 30-day requirement to a 90-day requirement. Under the provisions of SB 24, this single change (loosening the requirement in response to the regulated public) would have required DEC to go out to public notice for comment once again before the regulations were adopted by the commissioner.

This same regulations revision project also included changes to DEC's certified installer program, a program that allows non-engineers to install certain conventional onsite systems. DEC wanted to expand the types of sites where certified installers could install those systems to include not only single-family homes and duplexes, but also small commercial facilities. DEC also wanted to have the regulations in effect so that installers could begin installation of the onsite systems for small commercial facilities during the 1999 construction season.

In response to the Department of Law's review of the regulations, the commissioner readopted them with a number of changes that served to clarify the meaning of the regulations but that could be labeled as substantive. For example, the requirement that a homeowner could install a conventional onsite system to serve "that person's single-family residence" was changed to allow installation in "that individual's owner-occupied single-family home." SB 24 would have required DEC to go out to public notice once again before the regulations could have been readopted by the commissioner. As a result, certified installers would not have been allowed to install conventional onsite systems for small commercial facilities during the summer of 1999.

- VI. **PRACTICAL PROBLEMS** - One example of regulations that would have required renounce under the proposed language of SB 24 is the recent Underground Storage Tank (UST) regulations (18 AAC 78.017). The original notice of regulations amended the inspection schedule for USTs and provided for phased inspection dates based on the last digit in a facility's identification number. Under this proposed regulation, as well as under the regulations existing at the time, inspections could have been due as early as June 30 or as late as August 31 of the year the inspection was required.

Before it adopted the regulations, DEC became aware that the proposed schedule was going to create hardships for a number of regulated facilities, particularly those located further north, since inspections often could not take place before June 30, or even July 31, because of the frozen ground. As a result, DEC revised the language of 18 AAC 78.017 and established a new deadline of August 31. The regulations were filed on March 17, 2000, and will be effective April 16, 2000, barely in time for the regulated public to make appropriate arrangements for UST inspections during the 2000 construction season. If DEC had been required to renounce this simple regulation change prior to adoption, at least another 45 days, and more likely in excess of 60 days, would have been added to the process. The regulations would then not be effective until sometime in June, which could cause potential confusion and possibly unnecessary expense for members of the regulated public trying to comply with the regulations.



# SENATOR DAVE DONLEY

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## ALASKA STATE LEGISLATURE

### SPONSOR STATEMENT HOUSE CS FOR CS FOR SENATE BILL 24 (JUD)

Senate Bill 24 reforms how administrative regulations are adopted by the Department of Environmental Conservation (DEC) by creating a pilot program that places reasonable new limits on the power of the DEC to impose new regulations on Alaskans.

Senate Bill 24 pertains only to the Department of Environmental Conservation. Its original scope has been reduced dramatically in an effort to single out a department where the measures required in SB 24 could serve as a pilot program. However, SB 24 is written in such a way so as to make it easy to broaden its applicability to other departments in the future.

SB 24 increases opportunities for public notice and comment regarding adoption of DEC regulations when there is a substantial change to previously proposed regulations. Also, SB 24 requires that the DEC, within 90 days after the effective date of the statute or amendment, must publish notice on its intent to promulgate regulations for said statute or amendment. It also sets a 2-year time limit for the adoption of regulations.

Regulations adopted by state agencies have the effect of law similar to statutes adopted by the legislature. The regulation adoption process however has very few of the safeguards and opportunities for public input that the legislative process has. Unlike statutes which require a series of public hearings in the state House and Senate, regulations can be adopted with a single notice and hearing which may or may not even reflect the actual content of the final version of the regulation.

Once adopted, state regulations can only be amended by the agency that adopted them or by the adoption of a statute that somehow directly conflicts with the regulation. This makes state regulations in Alaska very hard to amend or appeal once in place. Entrenched state bureaucrats, with little incentive to be responsive to the public, often have more real control over public policy through regulations than elected state officials.

Senate Bill 24 begins to make state regulators more accountable to the public and to elected officials by placing reasonable and needed restraints on the ever increasing number of state regulations Alaskans live with.

DD/hrn  
4/13/00

Vice-Chair, Senate Finance Committee • Chair, Capital Budget Subcommittee • Co-Chair, Anchorage Caucus  
Member: Senate Judiciary Committee • Senate Labor & Commerce Committee • Legislative Council

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June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, ALASKA • 99501 • (907) 269-0234 • FAX: (907) 269-0238  
[www.akrepublicans.org/Donley.htm](http://www.akrepublicans.org/Donley.htm) • [www.legis.state.ak.us/senate/donley.htm](http://www.legis.state.ak.us/senate/donley.htm)



**SENATOR DAVE DONLEY**  
ALASKA STATE LEGISLATURE

**SECTIONAL ANALYSIS**  
**HOUSE CS FOR CS FOR SENATE BILL 24 (JUD)**  
1-LSO274\L (4/13/00)

**Section 1** – Provides that this act shall be called the *Alaska Regulations Reform Act*.

**Section 2** – Amends 44.62.190(a) by recognizing the advances in technology away from broadcast medium and print to online services. It deletes reference to a broadcast notice providing the name and the date of the publication where the full text of a public notice can be found. If left in the law, this section would defeat the purpose of abbreviating public notices and allowing for the increasing use of internet capabilities. This section broadens the opportunities for the public to receive notice beyond mail or publication.

**Section 3** – Substitutes the word “furnish” for “mail” in order to conform Article 4 of the Administrative Procedure Act – dealing with the procedure for adopting regulations.

**Section 4** – AS 44.62 is amended by adding a new section—AS 44.62.213 *Additional procedural requirements for certain state agencies*. This section is the corpus of the pilot program created in this legislation. This section sets out additional procedural requirements for the DEC, but not for regulations produced by any DEC board, commission or any other organization within the DEC whose members are confirmed by the legislature (as set out in subsection (a)).

**Subsection (b)**--In addition to the notice requirements currently in statute under AS 44.62.190 (*Notice of proposed action*), SB 24 adds several more requirements:

- Furnish notice to persons who have provided comment to the state agency on the proposed adoption, amendment or repeal of a regulation;
- Publish the notice on the internet;

**Subsection (c)**— This subsection’s language mirrors the language currently in statute under AS 44.62.200(b) with the exception of the word “*original*” which is deleted from between the words “*the*” & “*notice*” on page 4, line 30. By deleting

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[www.akrepublicans.org/Donley.htm](http://www.akrepublicans.org/Donley.htm) • [www.legis.state.ak.us/senate/donley.htm](http://www.legis.state.ak.us/senate/donley.htm)

the word "*original*" this section's requirements apply to all subsequent notices, as well as the original.

**Subsection (d)**— If an agency to which this section applies rewrites a proposed regulation, an amendment of a regulation, or an order of repeal after complying with AS 44.62.190, 44.62.200 & 44.62.210, and if the rewriting substantially changes the content of the original regulation before adoption, the state agency shall provide notice and opportunity for public comment under AS 44.62.190(a)(2)–(8), 44.62.200, 44.62.210 and (b) of this section.

**Subsection (e)** – If an agency to which this section applies fails to meet the requirements of (d) of this section because they feel that the change is not substantial, the agency must:

- Prepare a written explanation of the reasons why the requirement of (d) of this section does not apply; and
- The lieutenant governor shall publish the state agency's explanation in the Alaska Administrative Journal with the text or a summary of the text of the regulation, amendment, or order of repeal.

**Subsection (f)**— This subsection exempts emergency regulations, regulations necessary to meet federal requirements, or regulations that reduce the regulatory burden of the public from the provisions of (d) & (e) of this section.

**Subsection (g)**— This subsection requires a state agency to which this section applies to publish a notice, as dictated in AS 44.62.190(a)(1), within 90 days after the date of enactment that the agency will or will not propose and adopt regulations to implement the statute, if it is not expressly required to prepare regulations within said statute.

**Subsection (h)**— If a state agency decides that it does not find it necessary to promulgate regulations presently, but subsequently finds that regulations are necessary, the agency shall, within 90 days of the revised finding, publish notice of the revised finding.

**Subsection (i)** -- Creates a two year time limit for the adoption of regulations for state agencies to which this section applies (the DEC).

**Subsection (j)** -- If, after 21 months, the agency (DEC) determines that the adoption of the regulations will not be completed within the two year time limit of (i), the state agency shall prepare a written report containing the reasons for the failure and will submit the report before the expiration

of the two-year time limit to the governor, president of the senate, speaker of the house, and the Administrative Regulation Review Committee.

**Subsection (K)** – a court may not hold a regulation invalid for failure to comply with (g) – (j)

**Section 5-** Repeals AS 44.62.190(d). **Should have been deleted with the changes made in House Judiciary—this is a technical oversight that needs to be corrected.**

**Section 6 – 11** — These sections of the bill set the sunset clause for sections 1 & 4 at five years (July 1, 2005) — section 4 creates the pilot program for the promulgation of regulations. These sections also set the applicability date of this legislation at July 1, of 2,000.

**SB**

**24**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 2/23/99

FURTHER: 3/31/99

DATE TURNED IN TO OFFICE: 1 April 99

Finance Committee considered SENATE BILL NO. 24

"An Act relating to the adoption, amendment, repeal, legislative review, and judicial review of regulations; and amending Rule 202, Alaska Rules of Appellate Procedure."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 24 ( FIN )
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( \_\_\_\_\_ )
- attached amendment(s) Forth coming
- adopt Letter of Intent by \_\_\_\_\_ CS
- further referral to the \_\_\_\_\_

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING DO PASS	✓	TIONS	NR	DNP	AM
<u>John L. ...</u>	✓	<u>John L. ...</u>	✓		
		<u>Mike Kelly</u>	✓		
		<u>John ...</u>	✓		
		<u>Gary ...</u>	✓		
Co-Chair: <u>John L...</u>	✓	Co-Chair:			
Co-Chair: <u>John ...</u>	✓	Co-Chair:			

**NEW FISCAL NOTE(S):**

Department      Date      Zero      Fiscal

<u>Forth coming</u>			
<u>FINS</u>			
<u>DEC</u>			
<u>DFG</u>			
<u>LAW</u>			

**PREVIOUS FISCAL NOTE(S):\***

Department      Date      Zero      Fiscal


APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# SENATE FINANCE COMMITTEE REPORT

DATE: 2/23/99

FURTHER: 3/31/99

DATE TURNED IN TO OFFICE: 1 April 99

Finance Committee considered **SENATE BILL NO. 24**

"An Act relating to the adoption, amendment, repeal, legislative review, and judicial review of regulations; and amending Rule 202, Alaska Rules of Appellate Procedure."

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- be replaced with \_\_\_\_\_ CS SB 24 (FIN)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attached amendment(s) forth coming CS
- adopt Letter of Intent by \_\_\_\_\_
- further referral to the \_\_\_\_\_

**Senate Bill:**

- same title
- new title
- House Bill:**
- same title
- technical title
- new: SCR# \_\_\_\_\_

SIGNING DO PASS		IONS	NR	DNP	AM
<u>done only</u>	<input checked="" type="checkbox"/>	<u>John L. ...</u>	<input checked="" type="checkbox"/>		
		<u>Mike ...</u>	<input checked="" type="checkbox"/>		
		<u>John ...</u>	<input checked="" type="checkbox"/>		
		<u>George ...</u>	<input checked="" type="checkbox"/>		
Co-Chair: <u>John L. ...</u>	<input checked="" type="checkbox"/>	Co-Chair:			
Co-Chair: <u>John ...</u>	<input checked="" type="checkbox"/>	Co-Chair:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
<u>forth coming</u>			
<u>FINS</u>			
<u>DEC</u>			
<u>DFG</u>			
<u>LAW</u>			

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

FISCAL NOTE

S.0 3/31/99

STATE OF ALASKA  
1999 Legislative Session

BILL NO. CSSB 24(FIN)

Revision Date: 04/01/99  
Title: Alaska Regulations Reform Act

Dept. Affected Natural Resources  
BRU Management & Administration  
Component Commissioner's Office

Sponsor: Senator Donley  
Requester: \_\_\_\_\_

Component Serial No. 423

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY01	FY02	FY03	FY04	FY05
Personal Services	0.0					
Travel	0.0					
Contractual	0.0	82.1	27.5	27.5	27.5	27.5
Supplies	0.0					
Equipment	0.0					
Land & Structures	0.0					
Grants & Claims	0.0					
Miscellaneous	0.0					
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>82.1</b>	<b>27.5</b>	<b>27.5</b>	<b>27.5</b>	<b>27.5</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES [ ]						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 00	FY01	FY02	FY03	FY04	FY05
1002 Federal Receipts	0.0					
1003 GF Match	0.0					
1004 GF	0.0	82.1	27.5	27.5	27.5	27.5
1005 GF/Program Receipts	0.0					
1037 GF/Mental Health	0.0					
1091 Designated Program Receipts	0.0					
<b>TOTAL</b>	<b>0.0</b>	<b>82.1</b>	<b>27.5</b>	<b>27.5</b>	<b>27.5</b>	<b>27.5</b>


Estimate of any current year (FY99) costs: 0.0

POSITIONS


Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

Prepared By: SENATE FINANCE COMMITTEE

  
SENATOR SEAN PARNELL, CO-CHAIR

Date: 4/1/99  
Phone: 465-2995

  
SENATOR JOHN TORGERSON, CO-CHAIR

Date: 4/1/99  
Phone: 465-2828

FISCAL NOTE

3/31/99

STATE OF ALASKA  
1999 Legislative Session

BILL NO. CSSB 24(FIN)

Revision Date: 04/01/99  
Title: Alaska Regulations Reform Act

Dept. Affected Environmental Conservation  
BRU Adminstration  
Component Commissioner's Office

Sponsor: Senator Donley  
Requester: \_\_\_\_\_

Component Serial No. 633

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY01	FY02	FY03	FY04	FY05
Personal Services	0.0					
Travel	0.0					
Contractual	0.0	35.8	34.8	34.8	34.8	34.8
Supplies	0.0	5.0	5.0	5.0	5.0	5.0
Equipment	0.0					
Land & Structures	0.0					
Grants & Claims	0.0					
Miscellaneous	0.0					
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>40.8</b>	<b>39.8</b>	<b>39.8</b>	<b>39.8</b>	<b>39.8</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES [ ]						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 00	FY01	FY02	FY03	FY04	FY05
1002 Federal Receipts	0.0					
1003 GF Match	0.0					
1004 GF	0.0	40.8	39.8	39.8	39.8	39.8
1005 GF/Program Receipts	0.0					
1037 GF/Mental Health	0.0					
1091 Designated Program Receipts	0.0					
<b>TOTAL</b>	<b>0.0</b>	<b>40.8</b>	<b>39.8</b>	<b>39.8</b>	<b>39.8</b>	<b>39.8</b>

Estimate of any current year (FY99) costs: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

Prepared By: SENATE FINANCE COMMITTEE

  
SENATOR SEAN PARNELL, CO-CHAIR

Date: 4/1/99  
Phone: 465-2995

  
SENATOR JOHN TORGERSON, CO-CHAIR

Date: 4/1/99  
Phone: 465-2828

FISCAL NOTE

3/31/99

STATE OF ALASKA  
1999 Legislative Session

BILL NO. CSSB 24(FIN)

Revision Date: 04/01/99  
Title: Alaska Regulations Reform Act

Dept. Affected Fish and Game  
BRU Habitat and Restoration  
Component Permitting/Title 16

Sponsor: Senator Donley  
Requester: \_\_\_\_\_

Component Serial No. 2050

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY01	FY02	FY03	FY04	FY05
Personal Services	0.0					
Travel	0.0					
Contractual	0.0					
Supplies	0.0	2.0	2.0	2.0	2.0	2.0
Equipment	0.0					
Land & Structures	0.0					
Grants & Claims	0.0					
Miscellaneous	0.0					
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0					
1003 GF Match	0.0	2.0	2.0	2.0	2.0	2.0
1004 GF	0.0					
1005 GF/Program Receipts	0.0					
1037 GF/Mental Health	0.0					
1091 Designated Program Receipts	0.0					
<b>TOTAL</b>	<b>0.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>	<b>2.0</b>

Estimate of any current year (FY99) costs: 0.0

POSITIONS

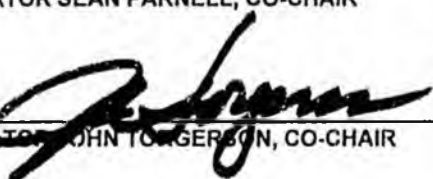
Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

Prepared By: SENATE FINANCE COMMITTEE

  
SENATOR SEAN PARNELL, CO-CHAIR

Date: 4/1/99  
Phone: 465-2995

  
SENATOR JOHN TORGERSON, CO-CHAIR

Date: 4/1/99  
Phone: 465-2828

FISCAL NOTE

3/31/99

STATE OF ALASKA  
1999 Legislative Session

BILL NO. CSSB 24(FIN)

Revision Date: 04/01/99  
Title: "An Act relating to regulations; amending Rule 65, Alaska Rules of Civil Procedure; and ... effective date."  
Sponsor: Senator Donley  
Requester: \_\_\_\_\_

Dept. Affected Law  
BRU Civil Division  
Component Legislation/Regulations  
Component Serial No. 2209

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY01	FY02	FY03	FY04	FY05
Personal Services	0.0	40.0	40.0	40.0	40.0	40.0
Travel	0.0	1.5	1.5	1.5	1.5	1.5
Contractual	0.0	23.5	23.5	23.5	23.5	23.5
Supplies	0.0	0.8	0.9	0.9	0.9	0.9
Equipment	0.0	6.5	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
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>72.3</b>	<b>65.8</b>	<b>65.8</b>	<b>65.8</b>	<b>65.8</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 00	FY01	FY02	FY03	FY04	FY05
1002 Federal Receipts	0.0					
1003 GF Match	0.0					
1004 GF	0.0	28.9	26.3	26.3	26.3	26.3
1005 GF/Program Receipts	0.0					
1037 GF/Mental Health	0.0					
1007 Interagency Rcpts	0.0	43.4	39.5	39.5	39.5	39.5
<b>TOTAL</b>	<b>0.0</b>	<b>72.3</b>	<b>65.8</b>	<b>65.8</b>	<b>65.8</b>	<b>65.8</b>

Estimate of any current year (FY99) costs: 0.0

POSITIONS

POSITIONS	FY 00	FY01	FY02	FY03	FY04	FY05
Full-time						
Part-time		1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared By: SENATE FINANCE COMMITTEE

*Sean Parnell*

SENATOR SEAN PARNELL, CO-CHAIR

Date: 4/1/99  
Phone: 465-2995

*John Torger*

SENATOR JOHN TORGERSON, CO-CHAIR

Date: 4/1/99  
Phone: 465-2828



SENATE FINANCE  
COMMITTEE

Amendment Number: 1  
Bill Number: CSSB 24(1-LS0274)N  
Sponsor: Donley Date: 3/9/99  
Logged In By: goltane

**SENATOR DAVE DONLEY**

ALASKA STATE LEGISLATURE

**AMENDMENTS TO CS SB 24 (1-LS0274N)**

**TO BE INCLUDED IF THE COMMITTEE ADOPTS CSSB 24 (1-LS0274N)**

1. **Page 7, line 30**—insert the word “necessary” before “intrusion”
2. **Page 8, line 19**—after the word “board” insert “in which case the state board or state commission will have 30 days after their next meeting to arrive at a final administrative order.”
3. **Page 9, line 30**—insert after the word “conduct” language that states: “until the criminal case has been resolved.”

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Vice-Chair, Senate Finance Committee • Chair, Capital Budget Subcommittee •  
MEMBER: Senate Judiciary Committee • Senate Labor & Commerce Committee • Legislative Council

SENATE FINANCE  
COMMITTEE

Amendment Number: #2  
Bill Number: CSSB 24(FIN)  
Sponsor: Torgerson Date: 3/22/99  
Logged In By: Baltane

AMENDMENT

OFFERED IN Senate Finance

BY Torgerson

TO: CSSB 24(FIN) (1-LS0274/V)

TECHNICAL AMENDMENTS

1. **ISSUE:** No division of habitat and restoration established by statute.

AMENDMENT:

Page 11, lines 19 - 20:

Delete "**the division of habitat and restoration of**"

Page 11, line 20, following "**Department of Fish and Game**":

Insert "**for habitat and restoration programs**"

2. **ISSUE:** Uses a new term "designated state entity" - defined term is "designated state agency".

AMENDMENT:

Page 9, line 2:

Delete "designated state entity"

Insert "designated state agency"

Amendments  
2, 3 & 4  
replaced by  
5, 6 & 7

SENATE FINANCE  
COMMITTEE

Amendment Number: 3  
Bill Number: CSSB24(FIN)  
Sponsor: Adams Date: 3/22/99  
Logged In By: Joltani

AMENDMENT

OFFERED IN SFIN

BY Adams

TO: CSSB 24(FIN) (1-LS0274/V)

1 Page <sup>9</sup>~~11~~, line <sup>19</sup>~~18~~, following "the Department of Environmental Conservation":

2 Delete "s"

3 Insert "for domestic wastewater disposal under AS 46.03.100 or 46.03.720, food  
4 service programs under AS 17.20.180, and solid waste management program under  
5 AS 46.03.100:"

6 Page 11, line 19, following "Natural Resources":

7 Delete "s"

8 Insert "s"

9 Page 11, lines 19 - 20:

10 Delete "the division of habitat and restoration of"

11 Page 11, line 20, following "Game":

12 Insert "for habitat and restoration programs"

SENATE FINANCE  
COMMITTEE

Amendment Number: 4  
Bill Number: CSSB 24 (FIN)  
Sponsor: Adams Date: 3/22/99  
Logged In By: Goltani

AMENDMENT

OFFERED IN SPIN

BY Adams

TO: CSSB 24(FIN) (1-LS0274/W)

1 Page 5, lines 17 - 30:

2 Delete all material

3 Renumber the following bill sections accordingly.

4 Page 6, line 12 through page 7, line 7:

5 Delete all material

6 Renumber the following bill sections accordingly.

7 Page ~~11~~<sup>9</sup>, following line ~~29~~<sup>28</sup>:

8 Insert a new bill section to read:

9 **\*\* Sec. 15. PILOT PROJECT ON CERTAIN SUPPLEMENTAL REGULATORY**

10 INFORMATION. (a) Notwithstanding AS 44.62.010 - 44.62.300, a designated state agency  
11 shall provide an additional opportunity in accordance with this section for the public to provide  
12 additional information on certain regulations to be adopted under AS 44.62 (Administrative  
13 Procedure Act).

14 (b) If, after notice of a proposed regulatory action has been given under AS 44.62.190  
15 by a designated state agency, the agency makes a substantive change in the proposed regulations

1 for which re-notice would not be required under AS 44.62.190(b), the designated state agency  
2 shall do the following:

3 (1) place the changed regulations on the Internet at the time that the regulations  
4 are delivered to the Department of Law for approval or disapproval under AS 44.62.060(b);

5 (2) furnish a copy of the changed regulations to

6 (A) each person who provided comment under AS 44.62.210 on the  
7 proposed regulations;

8 (B) each person who requests a copy;

9 (C) the staff of the Administrative Regulation Review Committee  
10 established under AS 24.20.400;

11 (3) with the changed regulations placed on the Internet under (1) of this  
12 subsection and furnished under (2) of this subsection, provide notice of one opportunity for the  
13 public to provide additional information on the changed regulations to the designated state  
14 agency; the commissioner of the designated state agency shall establish the length of time for the  
15 opportunity to provide information under this paragraph, but the time period may not be less than  
16 14 days;

17 (4) consider any information provided under (3) of this subsection and make any  
18 appropriate additional changes to the regulations before the regulations are approved for filing  
19 under AS 44.62.060.

20 (c) No later than January 1, 2004, the designated state agencies shall report to the  
21 lieutenant governor and the Administrative Regulation Review Committee on the  
22 implementation of the pilot project conducted under this section.

23 (d) This section

1 (1) applies only to the adoption, amendment, or repeal of a regulation by a  
2 designated state agency if the original notice under AS 44.62.190 of that proposed regulatory  
3 action was given on or after the effective date of this section;

4 (2) does not apply to

5 (A) an emergency regulation being made permanent under AS 44.62.260;

6 or

7 (B) regulations that the commissioner of the designated state agency  
8 certifies are necessary to meet an immediate need of the state.

9 (e) In this section,

10 (1) "designated state agency" has the meaning given in AS 44.62.640(c), as  
11 amended by sec. 14 of this Act;

12 (2) "regulations" has the meaning given in AS 44.62.640(a)."

13 Renumber the following bill sections accordingly.

14 Page 12, following line 11:

15 Insert a new bill section to read:

16 **"\* Sec. 18.** Section 15 of this Act is repealed July 1, 2003."

17 Renumber the following bill section accordingly.

18 Make conforming section amendments in "Applicability" and "Court Rule Change" sections.

SENATE FINANCE <sup>Adopted</sup>  
COMMITTEE

Amendment Number: 5  
Bill Number: CS SB 24(FIN) W  
Sponsor: Torgerson Date: 3/23/99  
Logged In By: Mindy

AMENDMENT

OFFERED IN Senate Finance Committee

BY Senator Torgerson

TO: CSSB 24(FIN) (1-LS0274/W)

TECHNICAL AMENDMENTS

1. ISSUE: No division of habitat and restoration established by statute.

AMENDMENT:

Page 9, lines 20 - 21:

Delete "the division of habitat and restoration of"

Page 9, line 21, following "Department of Fish and Game":

Insert "for habitat and restoration programs"

2. ISSUE: Uses a new term "designated state entity" - defined term is "designated state agency".

AMENDMENT:

Page 9, line 1:

Delete "designated state entity"

Insert "designated state agency"

SENATE FINANCE COMMITTEE  
1999 COMMITTEE ACTION

Bill Number	SB 24
Amendment	#5
Motion	adopt
<u>Motion by</u>	Parnell
<u>Objection</u>	
<u>Objection by</u>	
<u>Removed</u>	
<u>Second Objection by</u>	
<u>Committee Member</u>	<u>Vote</u>
Senator Pete Kelly	
Senator Lyda Green	
Senator Randy Phillips	
Senator Dave Donley	
Senator Loren Leman	
Senator Al Adams	
Senator Gary Wilken	
Co-Chair Sean Parnell	
Co-Chair John Torgerson	
<u>Tally</u>	
Yea	0
Nay	0
Absent	0
<u>MOTION</u>	W/out objection

Amendment Number: 6  
Bill Number: CSSB 24(FIN)W  
Sponsor: Adams Date: 3/23/99  
Logged In By: Mindy

AMENDMENT

OFFERED IN Senate Finance

BY Senator Adams

TO: CSSB 24(FIN) (1-LS0274/W)

- 1 Page 9, line 19, following "the Department of Environmental Conservation":
- 2 Delete ", "
- 3 Insert "for domestic wastewater disposal under AS 46.03.100 or 46.03.720, food service
- 4 programs under AS 17.20.180, and solid waste management program under AS 46.03.100;"

SENATE FINANCE COMMITTEE  
**1999 COMMITTEE ACTION**

Bill Number	SB 24
Amendment	#6
Motion	adopt
<u>Motion by</u>	Adams
<u>Objection</u>	
<u>Objection by</u>	Donley
<u>Removed</u>	C
<u>Second Objection by</u>	
<u>Committee Member</u>	<u>Vote</u>
Senator Lyda Green	N
Senator Randy Phillips	N
Senator Dave Donley	N
Senator Loren Leman	N
Senator Al Adams	N
Senator Gary Wilken	N
Senator Pete Kelly	N
Co-Chair Sean Parnell	N
Co-Chair John Torgerson	N
<u>Tally</u>	
Yea	0 1
Nay	0 8
Absent	0
<u>MOTION</u>	Fail

Amendment Number: 7  
Bill Number: CS SB 74(FW) W  
Sponsor: Adams Date: 3/23/99  
Logged In By: Mindu

AMENDMENT

OFFERED IN Senate Finance

BY Senator Adams

TO: CSSB 24(FIN) (1-LS0274/W)

1 Page 5, lines 17 - 30:

2 Delete all material

3 Renumber the following bill sections accordingly.

4 Page 6, line 12 through page 7, line 6:

5 Delete all material

6 Renumber the following bill sections accordingly.

7 Page 9, following line 28:

8 Insert a new bill section to read:

9 **\*\* Sec. 14. PILOT PROJECT ON CERTAIN SUPPLEMENTAL REGULATORY**

10 **INFORMATION. (a) Notwithstanding AS 44.62.010 - 44.62.300, a designated state agency**

11 **shall provide an additional opportunity in accordance with this section for the public to provide**

12 **additional information on certain regulations to be adopted under AS 44.62 (Administrative**

13 **Procedure Act).**

1 (b) If, after notice of a proposed regulatory action has been given under AS 44.62.190  
2 by a designated state agency, the agency makes a substantive change in the proposed regulations  
3 for which re-notice would not be required under AS 44.62.190(b), the designated state agency  
4 shall do the following:

5 (1) place the changed regulations on the Internet at the time that the regulations  
6 are delivered to the Department of Law for approval or disapproval under AS 44.62.060(b);

7 (2) furnish a copy of the changed regulations to

8 (A) each person who provided comment under AS 44.62.210 on the  
9 proposed regulations;

10 (B) each person who requests a copy;

11 (C) the staff of the Administrative Regulation Review Committee  
12 established under AS 24.20.400;

13 (3) with the changed regulations placed on the Internet under (1) of this  
14 subsection and furnished under (2) of this subsection, provide notice of one opportunity for the  
15 public to provide additional information on the changed regulations to the designated state  
16 agency; the commissioner of the designated state agency shall establish the length of time for the  
17 opportunity to provide information under this paragraph, but the time period may not be less than  
18 14 days;

19 (4) consider any information provided under (3) of this subsection and make any  
20 appropriate additional changes to the regulations before the regulations are approved for filing  
21 under AS 44.62.060.

1 (c) No later than January 1, 2004, the designated state agencies shall report to the  
2 lieutenant governor and the Administrative Regulation Review Committee on the  
3 implementation of the pilot project conducted under this section.

4 (d) This section

5 (1) applies only to the adoption, amendment, or repeal of a regulation by a  
6 designated state agency if the original notice under AS 44.62.190 of that proposed regulatory  
7 action was given on or after the effective date of this section;

8 (2) does not apply to

9 (A) an emergency regulation being made permanent under AS 44.62.260;

10 or

11 (B) regulations that the commissioner of the designated state agency  
12 certifies are necessary to meet an immediate need of the state.

13 (e) In this section,

14 (1) "designated state agency" has the meaning given in AS 44.62.640(c), as  
15 amended by sec. 13 of this Act;

16 (2) "regulations" has the meaning given in AS 44.62.640(a)."

17 Renumber the following bill sections accordingly.

18 Page 10, following line 7:

19 Insert a new bill section to read:

20 **"\* Sec. 17. Section 14 of this Act is repealed July 1, 2003."**

- 1 Renumber the following bill section accordingly.
- 2 Make conforming section number amendments in "Applicability" and "Court Rule Changes"
- 3 sections.

**SENATE FINANCE COMMITTEE**  
**1999 COMMITTEE ACTION**

<b>Bill Number</b>	SB <del>23</del> 24
<b>Amendment</b>	7
<b>Motion</b>	adopt
<b><u>Motion by</u></b>	Adams
<b><u>Objection</u></b>	
<b><u>Objection by</u></b>	Donley
<b><u>Removed</u></b>	U
<b><u>Second Objection by</u></b>	
<b><u>Committee Member</u></b>	<b><u>Vote</u></b>
Senator Loren Leman	-
Senator Al Adams	Y
Senator Gary Wilken	N
Senator Pete Kelly	N
Senator Lyda Green	N
Senator Randy Phillips	N
Senator Dave Donley	N
Co-Chair Sean Parnell	N
Co-Chair John Torgerson	N
<b><u>Tally</u></b>	
Yea	0 1
Nay	0 8
Absent	0
<b><u>MOTION</u></b>	fail

Amendment Number: 8  
Bill Number: CS 5374(FIN)W  
Sponsor: Adams Date: 3/2/99  
Logged In By: Mindy

AMENDMENT

OFFERED IN Senate Finance

BY Senator Adams

TO: CSSB 24(FIN) (1-LS0274/W)

- 1 Page 2, line 13 through page 3, line 22:
- 2 Delete all material.
- 3 Renumber the following bill sections accordingly.
- 4 Page 4, line 29 through page 5, line 16:
- 5 Delete all material.
- 6 Renumber the following bill sections accordingly.
- 7 Page 7, line 7 through page 8, line 13:
- 8 Delete all material.
- 9 Renumber the following bill sections accordingly.
- 10 Make conforming section number amendments in "Applicability" and "Court Rule Changes"
- 11 sections.

SENATE FINANCE COMMITTEE  
**1999 COMMITTEE ACTION**

Bill Number	SB 24
Amendment	8
Motion	adopt
<u>Motion by</u>	Adams
<u>Objection</u>	
<u>Objection by</u>	Torgerson
<u>Removed</u>	
<u>Second Objection by</u>	
<u>Committee Member</u>	<u>Vote</u>
Senator Randy Phillips	N
Senator Dave Donley	N
Senator Loren Leman	N
Senator Al Adams	N
Senator Gary Wilken	N
Senator Pete Kelly	N
Senator Lyda Green	N
Co-Chair Sean Parnell	N
Co-Chair John Torgerson	N
<u>Tally</u>	
Yea	0 1
Nay	0 8
Absent	0
<u>MOTION</u>	Fail

SENATE FINANCE  
COMMITTEE

Amendment Number: 9  
Bill Number: SB 24 "W"  
Sponsor: Donley Date: 3/24/99  
Logged In By: Minda

Withdrawn

**SENATE FINANCE COMMITTEE**

**Conceptual Amendment to CSSB 24 (Version 1-LS0274\W)**

Offered By Senator Donley  
3/24/99

Insert where appropriate:

**“Notwithstanding any other provision of AS 44.62.330-44.62.630 to the contrary, an agency may not order a record to be reopened after the hearing officer has closed the record unless a substantial factual question exists that is necessary to the resolution of the administrative adjudication and the lieutenant governor approves reopening the record.”**

SENATE FINANCE COMMITTEE  
1999 COMMITTEE ACTION

Bill Number	SB 24
Amendment	#9
Motion	adopt
<u>Motion by</u>	Donley
<u>Objection</u>	
<u>Objection by</u>	Fridman's
<u>Removed</u>	
<u>Second Objection by</u>	
<u>Committee Member</u>	<u>Vote</u>
Senator Pete Kelly	
Senator Lyda Green	
Senator Randy Phillips	
Senator Dave Donley	
Senator Loren Lemar	
Senator Al Adams	
Senator Gary Wilken	
Co-Chair Sean Parnell	
Co-Chair John Torgerson	
<u>Tally</u>	
Yea	0
Nay	0
Absent	0
<u>MOTION</u>	Withdrawn

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authority to adopt regulations to implement, interpret, make specific, or otherwise carry out the provisions of the statute, a regulation adopted is not valid or effective, notwithstanding any other provision of law, unless the regulation takes a reasonable approach within the intent of the statute.

(c) In addition to the requirements of (b) of this section, a designated state agency may not adopt a regulation that changes the intent of the statute being implemented, interpreted, made specific, or otherwise carried out. When challenging a regulation under this subsection, the burden of proof is on the person challenging the regulation to prove that the regulation changes the intent of the statute. (A person may not obtain a temporary restraining order, a preliminary injunction, or a permanent injunction from a court to enjoin the operation of a regulation based on a failure to comply with this subsection.)

copy & move to pgs after line 14 Amend #10

\* Sec. 4. AS 44.62 is amended by adding a new section to article 1 to read:

**Sec. 44.62.035. Cost-benefit requirement.** (a) When adopting a regulation, an order of repeal, or an amendment to a regulation, unless the adopting state agency head determines in writing that the cost to prepare a cost-benefit analysis is prohibitive or that the costs and benefits cannot be easily determined, a designated state agency shall prepare a cost-benefit analysis of the costs to the public to comply with the proposed regulatory action and the benefits to the public from the proposed regulatory action. The designated state agency shall consider a cost or benefit even if the cost or benefit relates to aesthetics or is otherwise nonquantifiable, and the designated state agency is not required to give the cost or benefit a dollar value in order to prepare a cost-benefit analysis.

(b) Notwithstanding (a) of this section, a designated state agency is not required to prepare a cost-benefit analysis if the estimated cost of implementing the proposed regulatory action is equal to or not substantially greater than the cost of implementing the proposed regulatory action as estimated in the fiscal note prepared for the bill that enacted the authorizing statute.

(c) Notwithstanding other laws to the contrary, if a cost-benefit analysis is required by this section, the designated state agency may not adopt a regulation, order of repeal, or amendment unless, under the analysis, the benefit to the public outweighs