

SENATE BILL NO. 221

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY SENATOR HUGHES

Introduced: 2/24/20

Referred: State Affairs, Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Legislative Budget and Audit Committee; relating to the duties**
2 **of the legislature; relating to the legislative audit division and the legislative finance**
3 **division; establishing the Alaska Sunset Commission to review and make**
4 **recommendations on discontinuation of or changes to state entities; and relating to the**
5 **powers and duties of the Alaska Sunset Commission."**

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

7 *** Section 1.** AS 24.08.060(b) is amended to read:

8 (b) Bills introduced by the legislative council shall be delivered with a letter of
9 explanation to the rules committee of either house and bear the inscription "Rules
10 Committee by Request of the Legislative Council"; bills introduced by the Legislative
11 Budget and Audit Committee shall be delivered with a letter of explanation to the
12 rules committee of either house and bear the inscription "Rules Committee by Request
13 of the Legislative Budget and Audit Committee"; bills presented by the governor shall

1 be delivered with a letter to the rules committee of either house and bear the
 2 inscription "Rules Committee by Request of the Governor"; **bills introduced by the**
 3 **Alaska Sunset Commission shall be delivered with a letter of explanation to the**
 4 **rules committee of either house and bear the inscription "Rules Committee by**
 5 **Request of the Alaska Sunset Commission"**; bills so presented and inscribed shall
 6 be received as bills carrying the approval of the governor as to policy and budget
 7 impact. The governor may submit a statement of purpose and effect with each bill and
 8 appear personally or through a representative before any committee considering
 9 legislation.

10 * **Sec. 2.** AS 24.20.206 is amended by adding a new paragraph to read:

11 (8) review and prepare a report on recommendations made by the
 12 Alaska Sunset Commission established in AS 44.99.700, submit the report to the
 13 senate secretary and chief clerk of the house of representatives, and notify the
 14 legislature that the report is available.

15 * **Sec. 3.** AS 39.25.160(*l*) is amended to read:

16 (*l*) A state employee may not intentionally (1) fail to give, or (2) direct, order,
 17 threaten, restrain, coerce, force, or prevent another person from giving, full
 18 cooperation to the legislative auditor or the legislative fiscal analyst in assembling or
 19 furnishing requested information to the Legislative Budget and Audit Committee or
 20 **the Alaska Sunset Commission established in AS 44.99.700, or their** [ITS] staff if
 21 the person did not reasonably believe that the action or failure to act was legally
 22 justified. Violation of this subsection constitutes just cause for dismissal or other
 23 appropriate disciplinary action.

24 * **Sec. 4.** AS 39.90.140(3) is amended to read:

- 25 (3) "matter of public concern" means
- 26 (A) a violation of a state, federal, or municipal law, regulation,
 27 or ordinance;
- 28 (B) a danger to public health or safety;
- 29 (C) gross mismanagement, a substantial waste of funds, or a
 30 clear abuse of authority;
- 31 (D) a matter accepted for investigation by the office of the

1 ombudsman under AS 24.55.100 or 24.55.320; or

2 (E) interference or any failure to cooperate with an audit or
 3 other matter within the authority of Legislative Budget and Audit Committee,
 4 **or the Alaska Sunset Commission established in AS 44.99.700;**

5 * **Sec. 5.** AS 40.25.220(2) is amended to read:

6 (2) "public agency" means a political subdivision, department,
 7 institution, board, commission, division, authority, public corporation, council,
 8 committee, or other instrumentality of the state or a municipality; "public agency"
 9 includes the University of Alaska, [AND] the Alaska Railroad Corporation, **and the**
 10 **Alaska Sunset Commission established in AS 44.99.700;**

11 * **Sec. 6.** AS 44.99 is amended by adding new sections to read:

12 **Article 7. Alaska Sunset Commission.**

13 **Sec. 44.99.700. Establishment of commission; composition.** (a) The Alaska
 14 Sunset Commission is established in the executive branch of state government.

15 (b) The commission consists of nine public members appointed by the
 16 governor and confirmed by the legislature in joint session. Members shall have the
 17 following qualifications:

18 (1) two members shall be certified public accountants;

19 (2) one member shall be a budget analyst;

20 (3) one member shall be a controller or comptroller;

21 (4) one member shall have experience in financial management;

22 (5) two members shall have experience as owner, chief executive
 23 officer, or chief operating officer of a business based in the state; and

24 (6) two members shall have experience in finance, investment, or
 25 business management.

26 (c) Members appointed under (b) of this section

27 (1) serve staggered terms of five years until reappointed or replaced;

28 and

29 (2) may be reappointed.

30 (d) If a member appointed under (b) of this section no longer meets the
 31 requirements under (b) of this section or if a vacancy exists among those members for

1 any reason other than the expiration of a member's term, the governor shall, within 30
2 days after the occurrence of the vacancy, make an appointment for the unexpired
3 portion of the term, effective immediately. An appointment made by the governor
4 under this subsection to fill an unexpired term must comply with the requirements
5 under (b) of this section.

6 (e) The commission shall select a chair from among its members. Five
7 members of the commission constitute a quorum. The commission may take action
8 upon the affirmative vote of five members of the commission.

9 (f) The commission may employ staff as the commission determines necessary
10 to perform its duties.

11 (g) Members of the commission serve without compensation but are entitled
12 to per diem and travel expenses authorized for boards and commissions under
13 AS 39.20.180. The members of the commission shall comply with AS 39.50.

14 **Sec. 44.99.710. Powers and duties of the commission.** (a) The commission
15 shall

16 (1) review the activities of each entity listed in AS 44.99.720;

17 (2) consider whether there is a public need for continuation of an entity
18 or for the performance of the functions of an entity listed in AS 44.99.720 and make a
19 recommendation to the legislature to continue, discontinue, restructure, or transfer the
20 duties and programs of the entity;

21 (3) prepare a report under AS 44.99.740 for each entity reviewed by
22 the commission and, not later than the 10th day of the legislative session following the
23 calendar year of review, submit the report to the senate secretary and chief clerk of the
24 house of representatives, and notify the legislature that the report is available;

25 (4) make a reasonable effort, in conjunction with the Department of
26 Labor and Workforce Development, to relocate a state employee who is displaced
27 because of the discontinuation or reorganization of a state entity based on a
28 recommendation of the commission; and

29 (5) review recommendations made by the Legislative Budget and
30 Audit Committee, prepare a report on those recommendations, and submit the report
31 to the governor.

1 (b) The commission may require all state officials and agencies of the state to
 2 give full cooperation to the commission and its staff in assembling and furnishing the
 3 information necessary to prepare a report under (a) of this section.

4 (c) In carrying out its functions under this chapter, the commission or its
 5 designated staff member may attend any meetings and proceedings of any entity of the
 6 state, including any meeting or proceeding of a governing body of a state entity that is
 7 closed to the public, and may inspect the records, documents, and files of any entity of
 8 the state, including any record, document, or file that is

- 9 (1) attorney work product;
- 10 (2) an attorney-client communication; or
- 11 (3) made privileged or confidential by law.

12 **Sec. 44.99.715. State entity's report to the commission.** (a) Not later than
 13 September 1 of the calendar year before the year in which an entity of the state subject
 14 to this chapter is scheduled for review under AS 44.99.720, the state entity shall report
 15 to the commission

- 16 (1) the extent to which the entity has met the criteria in AS 44.99.730;
- 17 (2) a list of each report that the entity is required by law to prepare and
 18 an evaluation of the need for each report based on whether factors or conditions have
 19 changed since the date the requirement to prepare the report was enacted; and
- 20 (3) any other information that the entity considers appropriate or that is
 21 requested by the commission.

22 (b) The entity shall submit the report in electronic format, as required by the
 23 commission.

24 (c) A state entity that provides the commission with access to a privileged or
 25 confidential communication, record, document, or file for purposes of a review under
 26 this chapter does not waive the attorney-client privilege, or any other privilege or
 27 confidentiality with respect to the communication, record, document, or file provided
 28 to the commission. For purposes of this subsection, a communication includes a
 29 discussion that occurs at a meeting or proceeding of the state entity that is closed to
 30 the public.

31 **Sec. 44.99.720. Review of state entities.** (a) The first review of an entity listed

1 below shall occur in the calendar year set out after the name of the entity, and
 2 subsequent reviews of each entity shall occur not less than every 12 years. The entities
 3 subject to review under AS 44.99.700 - 44.99.749 are as follows:

- 4 (1) Office of the Governor (2022);
- 5 (2) Department of Administration (2022);
- 6 (3) Department of Law (2023);
- 7 (4) Department of Revenue (2024);
- 8 (5) Department of Education and Early Development (2025);
- 9 (6) Department of Health and Social Services (2026);
- 10 (7) Department of Labor and Workforce Development (2027);
- 11 (8) Department of Commerce, Community, and Economic
 12 Development (2028);
- 13 (9) Department of Military and Veterans' Affairs (2029);
- 14 (10) Department of Natural Resources (2029);
- 15 (11) Department of Fish and Game (2030);
- 16 (12) Department of Public Safety (2030);
- 17 (13) Department of Transportation and Public Facilities (2030);
- 18 (14) Department of Environmental Conservation (2031);
- 19 (15) Department of Corrections (2031);
- 20 (16) Alaska State Legislature and agencies in the legislative branch of
 21 government (2032);
- 22 (17) University of Alaska (2033);
- 23 (18) Alaska Court System and agencies in the judicial branch of
 24 government (2034).

25 (b) The review of each entity listed in (a) of this section must include a review
 26 of any public corporation, board or commission, or other instrumentality of the state
 27 that is established within the entity and a review of any committee, task force, or other
 28 group that is established by law or by the entity for the purpose of advising or
 29 otherwise assisting the entity.

30 **Sec. 44.99.730. Criteria for review.** (a) In considering whether there is a
 31 public need for continuation of an entity or for the performance of the functions of an

1 entity listed in AS 44.99.720, the commission shall consider the following criteria:

2 (1) the efficiency with which the entity operates;

3 (2) the extent to which the entity seeks out and implements procedures
4 related to the public that are user-friendly for the public;

5 (3) the extent to which the missions of the entity that have been
6 established by law have been carried out;

7 (4) the extent to which the entity has entered into activities not
8 mandated by statute, the extent to which there is a public need served by those
9 activities, and the extent to which those activities have been successfully performed;

10 (5) whether there is an alternative method of performing the duties and
11 missions of the entity that could adequately protect the public interest;

12 (6) the extent to which advisory committees in the entity are needed
13 and used by the entity;

14 (7) the extent to which the jurisdiction of the entity and the programs
15 administered by the entity overlap or duplicate jurisdictions or programs of other
16 entities and the extent to which the programs administered by the entity could be
17 consolidated with the programs of other state entities;

18 (8) the extent to which the entity has recommended statutory changes
19 to the legislature intended to benefit the public instead of benefiting the occupation,
20 business, or institution regulated by the entity;

21 (9) the promptness and effectiveness with which the entity disposes of
22 complaints concerning persons affected by the entity and makes corrections in the
23 entity's procedures, as needed, to increase the promptness and effectiveness of the
24 entity;

25 (10) the extent to which the entity has encouraged participation by the
26 public in making regulations, rules, and decisions, as opposed to encouraging
27 participation solely by the persons regulated by the entity and the extent to which
28 public participation has resulted in regulations, rules, and decisions compatible with
29 the statutory objectives of the entity;

30 (11) the extent to which changes are necessary in the enabling statutes
31 of the entity so that the entity can adequately comply with, or meet the goals of, the

1 criteria listed in this subsection;

2 (12) the extent to which the entity issues and enforces regulations,
3 rules, and decisions relating to potential conflicts of interest of its employees;

4 (13) the extent to which the entity follows records management
5 practices that enable the entity to respond efficiently to requests for public
6 information;

7 (14) the extent to which the entity has complied with applicable federal
8 and state laws regarding equality of employment opportunity and the rights and
9 privacy of individuals;

10 (15) the potential for, and effect of, federal intervention or loss of
11 federal funds if the entity is abolished in whole or in part;

12 (16) the annual budget and staff of the entity compared to the statutory
13 and constitutional duties of the entity.

14 (b) By September 1 of the year of review for an entity, the commission shall
15 provide notice of and hold one or more public hearings concerning the application of
16 the criteria listed in (a) of this section to each entity being reviewed by the
17 commission. At a public hearing, the commission shall accept testimony from the
18 public and from a person involved in the administration of the entity subject to the
19 review.

20 **Sec. 44.99.740. Report by commission.** (a) Following review of an entity
21 under AS 44.99.720, the commission shall prepare a report on the results of the review
22 of an entity, a summary of comments received at the public hearing on the entity, and
23 a recommendation to the legislature to continue, discontinue, restructure, or transfer
24 the duties and programs of an entity. The report must be based on the criteria listed in
25 AS 44.99.730 and other factors the commission considers appropriate. The
26 commission shall include in the report a bill in a form that, if enacted into law, would
27 implement the recommendations of the commission, including repeals and
28 amendments necessary to implement a recommendation of continuation,
29 discontinuation, restructuring, or transfer of a program or entity.

30 (b) If the commission recommends the discontinuation of an entity, the report
31 must include a recommendation on the length of a winding-up period for the entity to

1 conclude its business and proposed procedures for transferring the entity's records.

2 **Sec. 44.99.749. Definition.** In AS 44.99.700 - 44.99.749, "commission" means
3 the Alaska Sunset Commission.

4 * **Sec. 7.** AS 08.03.020(b); AS 24.20.231(7), 24.20.271(2), 24.20.311(b); AS 44.66.020,
5 44.66.040, 44.66.050, and 44.66.070(2) are repealed.

6 * **Sec. 8.** Section 11, ch. 19, SLA 2013, is repealed.