

SENATE BILL NO. 107

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - FIRST SESSION

BY SENATOR HUGHES

Introduced: 2/19/25

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

"An Act establishing a violation for hindering the Alaska Sunset Commission; establishing the Alaska Sunset Commission to review, audit, and make recommendations on discontinuation of or changes to state entities; and relating to the powers and duties of the Alaska Sunset Commission."

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

* **Section 1.** AS 11.56.845 is amended to read:

Sec. 11.56.845. Hindering the Legislative Budget and Audit Committee or the Alaska Sunset Commission. (a) A person commits hindering the Legislative Budget and Audit Committee or the Alaska Sunset Commission established in AS 44.99.700 if the person intentionally (1) fails to give, or (2) directs, orders, threatens, restrains, coerces, forces, or prevents another person from giving, full cooperation to the legislative auditor, [OR] the legislative fiscal analyst, or a member or employee of the Alaska Sunset Commission in assembling or furnishing requested information to the committee, [OR] its staff, or the Alaska Sunset

1 **Commission**, and the person did not reasonably believe that the action or failure to act
2 was legally justified.

3 (b) Hindering the Legislative Budget and Audit Committee **or the Alaska**
4 **Sunset Commission** is a violation, punishable by a fine of not more than \$5,000.

5 * **Sec. 2.** AS 39.25.020(b) is amended to read:

6 (b) Unless a waiver is granted by the commissioner of administration, an
7 appointing authority may not appoint a person to state service if the person has been
8 convicted under AS 11.56.845. Before granting a waiver under this subsection, the
9 commissioner shall give notice in writing to the Legislative Budget and Audit
10 Committee **or the Alaska Sunset Commission established in AS 44.99.700, as**
11 **applicable**, of the intent to grant a waiver.

12 * **Sec. 3.** AS 39.25.080(b) is amended to read:

13 (b) The following information is available for public inspection, subject to
14 reasonable regulations on the time and manner of inspection:

- 15 (1) the names and position titles of all state employees;
- 16 (2) the position held by a state employee;
- 17 (3) prior positions held by a state employee;
- 18 (4) whether a state employee is in the classified, partially exempt, or
- 19 exempt service;
- 20 (5) the dates of appointment and separation of a state employee;
- 21 (6) the compensation authorized for a state employee; and
- 22 (7) whether a state employee has been dismissed or disciplined for a
- 23 violation of AS 39.25.160(l) **or (m)** [(INTERFERENCE OR FAILURE TO
- 24 COOPERATE WITH THE LEGISLATIVE BUDGET AND AUDIT
- 25 COMMITTEE)].

26 * **Sec. 4.** AS 39.25.160 is amended by adding a new subsection to read:

27 (m) A state employee may not intentionally fail to give or direct, order,
28 threaten, restrain, coerce, force, or prevent another person from giving, full
29 cooperation to the Alaska Sunset Commission established in AS 44.99.700 or its staff
30 if the person does not reasonably believe that the action or failure to act is legally
31 justified. Violation of this subsection constitutes just cause for dismissal or other

appropriate disciplinary action.

* **Sec. 5.** AS 39.90.140(3) is amended to read:

(3) "matter of public concern" means

(A) a violation of a state, federal, or municipal law, regulation, or ordinance;

(B) a danger to public health or safety;

(C) gross mismanagement, a substantial waste of funds, or a clear abuse of authority;

(D) a matter accepted for investigation by the office of the ombudsman under AS 24.55.100 or 24.55.320; or

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

* **Sec. 6.** AS 40.25.220(2) is amended to read:

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

* **Sec. 7.** AS 44.99 is amended by adding new sections to read:

Article 7. Alaska Sunset Commission.

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

(b) The commission consists of seven members appointed by the governor and confirmed by the legislature in joint session. Members shall be qualified in financial management, budgeting, economics, business operations, process improvement, or government efficiency.

(c) Members may be reappointed. Members serve staggered terms of five years until reappointed or replaced.

(d) If a member no longer meets the requirements under (b) of this section or if a vacancy exists among those members for any reason other than the expiration of a

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

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

8 (f) While an entity employs or is negotiating for employment with a member
 9 of the commission or the member's immediate family, the member may not participate
 10 in deciding whether to review and audit the entity under AS 44.99.730, in reviewing
 11 and auditing the activities and budget of the entity under AS 44.99.730, or in preparing
 12 a report on the entity under AS 44.99.750. In this subsection, "immediate family" has
 13 the meaning given in AS 24.60.990.

14 (g) The commission may employ staff, and retain consultants as the
 15 commission determines necessary, to perform its duties. Staff shall possess
 16 administrative expertise and expertise in financial management, business operations,
 17 process improvement, and government efficiency.

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

21 **Sec. 44.99.710. Powers and duties of the commission.** (a) The commission
 22 shall

23 (1) review and audit the activities and budgets of entities under
 24 AS 44.99.730;

25 (2) consider whether there is a public need for continuation of an entity
 26 or for the performance of the functions of an entity reviewed and audited under
 27 AS 44.99.730 and make a recommendation to the legislature to continue, discontinue,
 28 restructure, or transfer the duties and programs of the entity; and

29 (3) prepare a report under AS 44.99.750 for each entity reviewed and
 30 audited by the commission and, not later than the 10th day of the legislative session
 31 following the calendar year of the review and audit, submit the report to the governor,

1 the senate secretary, and the chief clerk of the house of representatives, and notify the
2 legislature that the report is available.

3 (b) The commission may require all state officials and agencies of the state to
4 give full cooperation to the commission and its staff in assembling and furnishing the
5 information necessary to prepare a report under (a) of this section, including allowing
6 the commission to interview staff relating to work duties, processes, and products.

7 (c) In carrying out its functions under AS 44.99.700 - 44.99.759, the
8 commission or designated staff may attend any meetings and proceedings of any
9 entity, including any meeting or proceeding of a governing body of an entity that is
10 closed to the public, and may inspect the books, accounts, reports, or other records,
11 whether confidential or not, of any entity.

12 (d) The commission has the power to hold public hearings, administer oaths,
13 issue subpoenas, compel the attendance of witnesses and production of papers, books,
14 accounts, documents, and testimony, and have the deposition of witnesses taken in a
15 manner prescribed by court rule or law for taking depositions in civil actions.

16 **Sec. 44.99.720. State entity's report to the commission.** (a) Not later than
17 September 1 of the calendar year before the year in which an entity subject to
18 AS 44.99.700 - 44.99.759 is scheduled for review and audit under AS 44.99.730, the
19 entity shall report to the commission

20 (1) the extent to which the entity has met the criteria in AS 44.99.740;

21 (2) a list of each report that the entity is required by law to prepare and
22 an evaluation of the need for each report based on whether factors or conditions have
23 changed since the date the requirement to prepare the report was enacted; and

24 (3) any other information that the entity considers appropriate or that is
25 requested by the commission.

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

28 (c) An entity that provides the commission with access to a privileged or
29 confidential communication, record, document, or file for purposes of a review or
30 audit under AS 44.99.700 - 44.99.759 does not waive the attorney-client privilege, or
31 any other privilege or confidentiality with respect to the communication, record,

document, or file provided to the commission. For purposes of this subsection, a communication includes a discussion that occurs at a meeting or proceeding of the entity that is closed to the public.

Sec. 44.99.730. Review and audit of state entities. (a) The commission shall review and audit at least one entity each year. The commission shall provide notice of its decision to perform a review and audit under this subsection in the calendar year before the review and audit is scheduled to be completed and with sufficient time for the entity to prepare the report required under AS 44.99.720(a).

(b) The review and audit under (a) of this section must include a review and audit of any

(1) instrumentality of the state that is established within the entity; and

(2) committee, task force, or other group that is established to advise or assist the entity by law or by the department in which the entity is established.

Sec. 44.99.740. Criteria for review and audit. (a) In considering whether there is a public need for the continuation or restructuring of an entity or for the performance of the functions of an entity reviewed and audited under AS 44.99.730, the commission shall consider the following criteria:

(1) the extent to which the missions established under AS 37.07.014 of the entity have been carried out;

(2) whether the performance measurements set out in AS 37.07 are appropriately set and are being met by supporting data;

(3) whether there is a method to better provide the entity's services and provide the entity's services at a lower cost;

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

(5) the extent to which process improvement could benefit the entity and the public;

(6) the cost-effectiveness and efficiency with which the entity operates, including

(A) the appropriateness of the entity's budget and the need for

1 items allocated for in the entity's budget, including costs for staff and office
2 space; and

3 (B) when considering the needs of the entity, the
4 appropriateness of

5 (i) the number of staff in the entity;

6 (ii) the positions and salaries held by staff in the entity;

7 (iii) staff travel costs incurred by the entity; and

8 (iv) the entity's operating hours, organizational
9 structure, and office size, location, and functionality;

10 (7) if there is overlap of services with other entities, the extent to
11 which there is potential for reorganization;

12 (8) the extent to which the entity is making it difficult for persons to do
13 business with the state;

14 (9) the extent to which changes are necessary in the enabling statutes
15 of the entity so that the entity can comply with or meet the desired results established
16 by the legislature under AS 37.07.014;

17 (10) other standards established by the commission.

18 (b) By September 1 of the year an entity is reviewed and audited, the
19 commission shall provide notice of and hold one or more public hearings on the
20 interconnected state road system concerning the application of the criteria listed in (a)
21 of this section to each entity being reviewed and audited by the commission. At a
22 public hearing, the commission shall accept testimony from the public and from a
23 person involved in the administration of the entity subject to the review and audit.

24 **Sec. 44.99.750. Report by commission.** (a) Following the review and audit of
25 an entity under AS 44.99.730, the commission shall prepare a report on the results of
26 the review and audit of the entity, a summary of comments received at the public
27 hearing on the entity, and a recommendation to the legislature to continue,
28 discontinue, restructure, or transfer the duties and programs of the entity. The report
29 must be based on the criteria listed in AS 44.99.740 and other factors the commission
30 considers appropriate. Unless confidentiality is expressly waived by the entity, the
31 report may not contain any confidential information obtained by the commission under

AS 44.99.710(c). The report must be delivered to the governor, the president of the senate, the speaker of the house of representatives, the chief clerk, and the senate secretary within the first 10 days of a legislative session following the calendar year of the review and audit. A copy of the report must be delivered to every member of the legislature. The commission shall include in the report draft legislation to implement the recommendations of the commission. Draft legislation must be submitted to the rules committee of each house with a request to introduce the legislation to implement the recommendations of the commission.

(b) If the commission recommends the discontinuation of an entity, the report must include a recommendation on the length of a winding-down period for the entity to conclude its business and proposed procedures for transferring the entity's records. If the commission recommends the restructuring of an entity, the report must include a recommended restructuring plan.

(c) A committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Alaska State Legislature, shall hold at least one hearing on the recommendations of the commission under (a) of this section. Notwithstanding AS 08.03.010(c) and AS 44.66.010(a), if a bill to implement the recommendations of the commission is not introduced, an entity reviewed and audited under AS 44.99.730(a) will expire on June 30 of the fiscal year following the review and audit of the entity by the commission. The duties of an entity expiring under this subsection are transferred to the department in which the entity is established.

Sec. 44.99.759. Definitions. In AS 44.99.700 - 44.99.759,

(1) "commission" means the Alaska Sunset Commission;

(2) "entity" includes a division, board, authority, corporation, or other unit in the executive branch of state government, but does not include an agency in the judicial or legislative branch of state government or the University of Alaska.

* **Sec. 8.** AS 08.03.020(b) and AS 44.66.050 are repealed.