

HOUSE BILL NO. 190

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

Introduced: 5/3/23

Referred: House Special Committee on Ways and Means, State Affairs, Finance

A BILL**FOR AN ACT ENTITLED**

1 "An Act establishing a violation for hindering the Alaska Sunset Commission; relating
 2 to the duties of the legislature; establishing the Alaska Sunset Commission to review and
 3 make recommendations on discontinuation of or changes to state entities; relating to the
 4 powers and duties of the Alaska Sunset Commission; and providing for an effective
 5 date."

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

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

8 **Sec. 11.56.845. Hindering the Legislative Budget and Audit Committee or**
 9 **the Alaska Sunset Commission.** (a) A person commits hindering the Legislative
 10 Budget and Audit Committee **or the Alaska Sunset Commission established in**
 11 **AS 44.99.700** if the person intentionally (1) fails to give, or (2) directs, orders,
 12 threatens, restrains, coerces, forces, or prevents another person from giving, full
 13 cooperation to the legislative auditor,² [OR] the legislative fiscal analyst, **or a member**

1 or employee of the Alaska Sunset Commission in assembling or furnishing
 2 requested information to the committee, [OR] its staff, or the Alaska Sunset
 3 Commission, and the person did not reasonably believe that the action or failure to act
 4 was legally justified.

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

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

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

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

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

- 17 (1) the names and position titles of all state employees;
- 18 (2) the position held by a state employee;
- 19 (3) prior positions held by a state employee;
- 20 (4) whether a state employee is in the classified, partially exempt, or
 21 exempt service;
- 22 (5) the dates of appointment and separation of a state employee;
- 23 (6) the compensation authorized for a state employee; and
- 24 (7) whether a state employee has been dismissed or disciplined for a
 25 violation of AS 39.25.160(l) (interference or failure to cooperate with the Legislative
 26 Budget and Audit Committee or the Alaska Sunset Commission established in
 27 AS 44.99.700).

28 * **Sec. 4.** AS 39.25.160(l) is amended to read:

29 (l) A state employee may not intentionally (1) fail to give, or (2) direct, order,
 30 threaten, restrain, coerce, force, or prevent another person from giving, full
 31 cooperation to the legislative auditor or the legislative fiscal analyst in assembling or

1 furnishing requested information to the Legislative Budget and Audit Committee or
 2 the Alaska Sunset Commission established in AS 44.99.700, or their [ITS] staff, if
 3 the person did not reasonably believe that the action or failure to act was legally
 4 justified. Violation of this subsection constitutes just cause for dismissal or other
 5 appropriate disciplinary action.

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

7 (3) "matter of public concern" means

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

10 (B) a danger to public health or safety;

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

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

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

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

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

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

25 **Article 7. Alaska Sunset Commission.**

26 **Sec. 44.99.700. Establishment of commission; composition.** (a) The Alaska
 27 Sunset Commission is established in the office of the lieutenant governor.

28 (b) The commission consists of three members appointed by the governor, two
 29 members appointed by the president of the senate, and two members appointed by the
 30 speaker of the house of representatives. Members shall be qualified in financial
 31 management, budgeting, economics, business operations, process improvement, or

1 government efficiency.

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

3 (1) serve staggered terms of five years until reappointed or replaced;
4 and

5 (2) may be reappointed.

6 (d) If a member appointed under (b) of this section no longer meets the
7 requirements under (b) of this section or if a vacancy exists among those members for
8 any reason other than the expiration of a member's term, the appointing authority
9 shall, within 30 days after the occurrence of the vacancy, make an appointment for the
10 unexpired portion of the term, effective immediately. An appointment made under this
11 subsection to fill an unexpired term must comply with the requirements under (b) of
12 this section.

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

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

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

23 **Sec. 44.99.710. Powers and duties of the commission.** (a) The commission
24 shall

25 (1) review the activities of each entity listed in AS 44.99.730;

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

30 (3) prepare a report and draft legislation required under AS 44.99.750.

31 (b) The commission may require all state officials and agencies of the state to

1 give full cooperation to the commission and its staff in assembling and furnishing the
 2 information necessary to prepare a report under (a) of this section, including allowing
 3 the commission to interview staff relating to work duties, processes, and products.

4 (c) In carrying out its functions under AS 44.99.700 - 44.99.759, the
 5 commission or designated staff may attend any meetings and proceedings of any entity
 6 of the state, including any meeting or proceeding of a governing body of a state entity
 7 that is closed to the public, and may inspect the records, documents, and files of any
 8 entity of 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. 44.99.720. 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 AS 44.99.700 - 44.99.759 is scheduled for review under AS 44.99.730, the state
 15 entity shall report to the commission

- 16 (1) the extent to which the entity has met the criteria in AS 44.99.740;
- 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 AS 44.99.700 - 44.99.759 does not waive the attorney-client privilege, or any other
 27 privilege or confidentiality with respect to the communication, record, document, or
 28 file provided to the commission. For purposes of this subsection, a communication
 29 includes a discussion that occurs at a meeting or proceeding of the state entity that is
 30 closed to the public.

31 **Sec. 44.99.730. 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 - 44.99.759 are as follows:

- 4 (1) Department of Health (2024);
- 5 (2) Department of Family and Community Services (2024);
- 6 (3) Department of Administration (2025);
- 7 (4) Department of Law (2026);
- 8 (5) Department of Revenue (2027);
- 9 (6) Department of Education and Early Development (2028);
- 10 (7) Department of Labor and Workforce Development (2029);
- 11 (8) Department of Commerce, Community, and Economic
 12 Development (2030);
- 13 (9) Department of Military and Veterans' Affairs (2031);
- 14 (10) Department of Natural Resources (2031);
- 15 (11) Department of Fish and Game (2032);
- 16 (12) Department of Public Safety (2032);
- 17 (13) Department of Transportation and Public Facilities (2032);
- 18 (14) Department of Environmental Conservation (2033);
- 19 (15) Department of Corrections (2033);
- 20 (16) University of Alaska (2035).

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

26 **Sec. 44.99.740. Criteria for review.** (a) In considering whether there is a
 27 public need for continuation or restructuring of an entity listed in AS 44.99.730 or for
 28 the performance of the functions of an entity listed in AS 44.99.730, the commission
 29 shall consider the following criteria:

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

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

3 (3) whether there is an alternative method of delivery of service to
4 better meet performance requirements;

5 (4) the extent to which the entity is organized in a manner that is
6 conducive to process improvement;

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

8 (6) the efficiency with which the entity operates;

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

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

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

16 (10) other standards established by the commission.

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

23 **Sec. 44.99.750. Report by commission.** (a) Following review of an entity
24 under AS 44.99.730, the commission shall prepare a report on the results of the review
25 of the entity, a summary of comments received at the public hearing on the entity, and
26 a recommendation to the legislature to continue, discontinue, restructure, or transfer
27 the duties and programs of an entity. The report must be based on the criteria listed in
28 AS 44.99.740 and other factors the commission considers appropriate. The report must
29 be delivered to the governor, the president of the senate, the speaker of the house of
30 representatives, the chief clerk, and the senate secretary within the first 10 days of a
31 legislative session following the calendar year of the review. A copy of the report must

1 be delivered to every member of the legislature. The commission shall include in the
2 report draft legislation to implement the recommendations of the commission. Draft
3 legislation must be submitted to the rules committee of each house with a request to
4 introduce the legislation to implement the recommendations of the commission.

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

10 (c) If the recommendations of the commission under (a) of this section are not
11 implemented by law, an entity listed in AS 44.99.730(a) will expire on June 30 of the
12 fiscal year following review of the entity by the commission.

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

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

15 (2) "entity" includes a department, division, board, authority,
16 corporation, or other unit of state government and the University of Alaska.

17 * **Sec. 8.** AS 08.03.020(b); AS 24.20.231(7), 24.20.271(2), 24.20.311(b); AS 44.66.020,
18 44.66.040, 44.66.050, and 44.66.070(2) are repealed.

19 * **Sec. 9.** Section 11, ch. 19, SLA 2013, is repealed.

20 * **Sec. 10.** Section 9 of this Act takes effect immediately under AS 01.10.070(c).