

HOUSE BILL NO. 267

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES JAMES, Kelly

Introduced: 3/17/95

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to review and expiration of regulations; and providing for an
2 effective date."

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

4 * **Section 1.** AS 14.40.871(b) is amended to read:

5 (b) Except for AS 44.62.310 and 44.62.312 regarding public meetings **and**
6 **AS 44.62.320 regarding expiration and legislative review of regulations**, the
7 provisions of AS 44.62 (Administrative Procedure Act) regarding the adoption of
8 regulations do not apply to the corporation. The corporation shall make available to
9 members of the public copies of the regulations adopted under this section. Within **14**
10 [45] days after adoption of a regulation under this section, the chair of the corporation
11 shall submit the regulation adopted to the chair of the Administrative Regulation
12 Review Committee **together with information required** under **AS 24.20.462**
13 [AS 24.20.400 - 24.20.460].

14 * **Sec. 2.** AS 18.56.088(a) is amended to read:

1 (a) Except for AS 44.62.310 and 44.62.312, regarding public meetings, and
2 AS 44.62.320 [AS 44.62.320(a)] regarding **expiration and** legislative review of
3 regulations, AS 44.62 (Administrative Procedure Act) does not apply to this chapter.
4 The corporation shall make available to members of the public copies of the
5 regulations adopted under (b) - (e) of this section. Within **14** [45] days after adoption,
6 the **chair** [CHAIRMAN] of the board shall submit a regulation adopted under (b) - (e)
7 of this section to the **chair** [CHAIRMAN] of the Administrative Regulation Review
8 Committee **together with information required** under AS 24.20.462 [AS 24.20.400
9 - 24.20.460. THE PROVISIONS OF AS 44.62.320(a) APPLY TO REGULATIONS
10 ADOPTED UNDER (b) - (e) OF THIS SECTION].

11 * **Sec. 3.** AS 24.20.065(a) is amended to read:

12 (a) The legislative council shall annually examine [ADMINISTRATIVE
13 REGULATIONS,] published opinions of state and federal courts and of the
14 Department of Law [, AND FINAL DECISIONS ADOPTED UNDER AS 44.62
15 (ADMINISTRATIVE PROCEDURE ACT)] that rely on state statutes or the common
16 law of the state to determine if

17 (1) the courts and agencies are properly implementing legislative
18 purposes;

19 (2) there are court or agency expressions of dissatisfaction with state
20 statutes or the common law of the state;

21 (3) the opinions **or** [,] decisions [, OR REGULATIONS] indicate
22 unclear or ambiguous statutes;

23 (4) the courts have modified or revised the common law of the state.

24 * **Sec. 4.** AS 24.20.400 is amended to read:

25 Sec. 24.20.400. ADMINISTRATIVE REGULATION REVIEW COMMITTEE
26 ESTABLISHED. The Administrative Regulation Review Committee is established as
27 a permanent interim committee of the legislature. The establishment of the committee
28 recognizes the need for prompt legislative review of [ADMINISTRATIVE] regulations
29 [FILED BY THE LIEUTENANT GOVERNOR] to determine whether **adoption of the**
30 **regulations is authorized by statute and whether the regulations implement**
31 **legislative intent** [ANNULMENT UNDER AS 44.62.320 IS APPROPRIATE].

1 * **Sec. 5.** AS 24.20 is amended by adding a new section to read:

2 Sec. 24.20.402. EXPIRATION OF REGULATIONS. (a) Notwithstanding
3 other provisions of law, every regulation in effect during a calendar year expires on
4 June 30 of the calendar year immediately following. The legislature may by law
5 postpone the expiration of a specific regulation. The postponement of the expiration
6 date of a specific regulation does not constitute legislative approval of the regulation
7 or evidence of the validity of the regulation.

8 (b) A regulation that expires under (a) of this section may not be readopted by
9 an agency in substantially the same form unless readoption of the regulation is
10 specifically authorized by statute or by a court order.

11 * **Sec. 6.** AS 24.20.460 is amended to read:

12 Sec. 24.20.460. POWERS. The committee may [ADMINISTRATIVE
13 REGULATION REVIEW COMMITTEE HAS THE FOLLOWING POWERS:]

14 (1) [TO] organize and adopt rules for the conduct of its business;

15 (2) [TO] hold public hearings;

16 (3) [TO] require all state officials and agencies of state government to
17 give full cooperation to the committee or its staff in assembling and furnishing
18 requested information;

19 (4) [TO] examine all [ADMINISTRATIVE] regulations to determine
20 if they properly implement legislative intent;

21 (5) [TO MAKE RECOMMENDATIONS FOR LEGISLATIVE
22 ANNULMENT OF ADMINISTRATIVE REGULATIONS UNDER AS 44.62.320;

23 (6) TO] prepare and distribute reports, memoranda, or other materials;

24 (6) [(7) TO] promote needed revision or repeal of regulations that have
25 been adopted by an agency [STATE DEPARTMENTS AND AGENCIES] and, when
26 the committee determines a regulation should be repealed or amended, to introduce a
27 bill that would enact a statute that would supersede or nullify the regulation;

28 (7) [(8) TO] investigate findings that are transmitted to the committee
29 by a standing committee in accordance with AS 24.05.182 and, as appropriate, to
30 either introduce a bill to supersede [ANNULLING] the regulation or permit the
31 regulation to expire under AS 24.20.402;

1 (8) [TO] exercise the committee's power to suspend the effectiveness
2 of the regulation in accordance with AS 24.20.445;

3 (9) introduce a bill by February 1 of each year to postpone the
4 expiration of specific regulations under AS 24.20.402.

5 * **Sec. 7.** AS 24.20.460 is amended by adding a new subsection to read:

6 (b) If the committee determines that a regulation is beyond the authority of the
7 adopting agency or that it does not implement legislative intent, the committee may
8 deliver an objection to the regulation to the lieutenant governor for permanent filing.
9 The committee may withdraw or modify an objection at any time. After the filing of
10 an objection that is not later withdrawn, the burden is on the agency in any proceeding
11 for judicial review or for enforcement of the regulation to establish that the adoption
12 of the regulation is within the authority delegated to the agency and that the regulation
13 implements legislative intent. The failure of the committee to file an objection to a
14 regulation under this subsection does not constitute approval of the regulation.

15 * **Sec. 8.** AS 24.20 is amended by adding new sections to read:

16 Sec. 24.20.462. INFORMATION ON REGULATIONS. (a) To enable the
17 committee to conduct a review of a change in regulation, each agency shall, within 14
18 days after adopting, amending, or repealing a regulation submit to the committee

19 (1) a copy of the regulation change;

20 (2) a brief summary of the regulation change and a description of the
21 previous regulatory scheme before its modification as a result of the change;

22 (3) a citation to and brief description of any federal law or regulation
23 relevant to the regulation change;

24 (4) fiscal information prepared under AS 44.62.195;

25 (5) identification of individuals and private or public organizations most
26 directly affected by the regulation change and whether they supported or opposed the
27 change;

28 (6) identification of any attorney general opinions or judicial decisions
29 relevant to the regulation change;

30 (7) identification of an agency representative with substantial
31 knowledge regarding the regulation change who will answer questions regarding the

1 change from the committee or members of the public, including the name, address, and
2 telephone number of the agency representative.

3 (b) The agency shall supply in a timely fashion any additional information
4 regarding a regulation change that is requested by the committee.

5 Sec. 24.20.465. DEFINITIONS. In AS 24.20.400 - 24.20.465,

6 (1) "agency" means a department, commission, board, public
7 corporation, or other entity in the executive branch of state government, including the
8 University of Alaska;

9 (2) "committee" means the Administrative Regulation Review
10 Committee;

11 (3) "regulation"

12 (A) means a regulation, rule, order, or standard of general
13 application to implement, interpret, or make specific the law enforced or
14 administered by an agency;

15 (B) includes a manual, policy, instruction, guide to enforcement,
16 bulletin, and the like that has the effect of a standard of general application;

17 (C) does not include a regulation that relates only to the internal
18 management of the agency or a form prescribed by an agency or instruction
19 relating to the use of the form.

20 * **Sec. 9.** AS 44.62.320 is repealed and reenacted to read:

21 Sec. 44.62.320. EXPIRATION AND LEGISLATIVE REVIEW OF
22 REGULATIONS. Each regulation is subject to review under AS 24.20.400 -
23 24.20.465 and expires under AS 24.20.402 unless expiration is postponed by law.

24 * **Sec. 10.** AS 44.88.085(a) is amended to read:

25 (a) Except for AS 44.62.310 and 44.62.312 regarding public meetings, and
26 except for AS 44.62.320 [AS 44.62.320(a)] regarding **expiration and** legislative
27 review of regulations, the provisions of the Administrative Procedure Act regarding the
28 adoption of regulations (AS 44.62.040 - 44.62.320) do not apply to the authority. The
29 authority shall make available to members of the public copies of the regulations
30 adopted under this section. Within 14 [45] days after adoption of a regulation under
31 this section, the **chair** [CHAIRMAN] of the authority shall submit the regulation

1 adopted to the chair [CHAIRMAN] of the Administrative Regulation Review
2 Committee together with information required under AS 24.20.462 [AS 24.20.400 -
3 24.20.460].

4 * **Sec. 11.** This Act takes effect January 1, 1996.