

**CS FOR HOUSE BILL NO. 267(STA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 4/7/95  
Referred: Finance

Sponsor(s): REPRESENTATIVES JAMES, Kelly, Kohring

**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 under **AS 24.20.462** [AS 24.20.400 - 24.20.460].

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

14 (a) Except for AS 44.62.310 and 44.62.312, regarding public meetings, and

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

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

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

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

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

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

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

23 \* **Sec. 4.** AS 24.20.400 is amended to read:

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

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

1           Sec. 24.20.402. EXPIRATION OF REGULATIONS. (a) Notwithstanding  
2 other provisions of law, every regulation in effect during a calendar year expires on  
3 December 1 of the calendar year immediately following. The legislature may by law  
4 postpone the expiration of a specific regulation. The postponement of the expiration  
5 date of a specific regulation does not constitute legislative approval of the regulation  
6 or evidence of the validity of the regulation.

7           (b) A regulation that expires under (a) of this section may not be readopted by  
8 an agency if it has the same substantive effect unless readoption of the regulation is  
9 specifically authorized by statute or by a court order.

10           (c) By February 1 of each year, the committee shall submit a bill to the Rules  
11 Committee of each house for introduction to postpone for one year the expiration of  
12 specific regulations. The bill must contain the statement "Expiration of all regulations  
13 of each agency under AS 24.20.402 is postponed for one year except the following  
14 ..... " and list each regulation scheduled to expire on December 1 of the year the bill  
15 is introduced.

16           (d) Before January 1 of each year, the committee shall submit a letter to the  
17 governor identifying each regulation the committee intends to list for expiration on the  
18 bill to be submitted under (c) of this section, together with reasons for failing to  
19 postpone the expiration date for each of those regulations.

20           (e) This section does not apply to regulations required by federal law or to  
21 regulations adopted by the

- 22                   (1) Board of Fisheries;
- 23                   (2) Board of Game; or
- 24                   (3) Alaska Commercial Fisheries Entry Commission.

25 \* **Sec. 6.** AS 24.20.460 is amended to read:

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

- 28                   (1) [TO] organize and adopt rules for the conduct of its business;
- 29                   (2) [TO] hold public hearings;
- 30                   (3) [TO] require all state officials and agencies of state government to  
31 give full cooperation to the committee or its staff in assembling and furnishing

1 requested information;

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

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

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

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

11 ~~(7)~~ [(8) TO] investigate findings that are transmitted to the committee  
12 by a standing committee in accordance with AS 24.05.182 and **take** [, AS] appropriate  
13 **action in response to those recommendations;**

14 ~~(8)~~ [, TO EITHER INTRODUCE A BILL ANNULLING THE  
15 REGULATION OR TO] exercise the committee's power to suspend the effectiveness  
16 of **a** [THE] regulation in accordance with AS 24.20.445.

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

18 (b) If the committee determines that a regulation is beyond the authority of the  
19 adopting agency or that it does not implement legislative intent, the committee may  
20 deliver an objection to the regulation to the lieutenant governor for permanent filing.  
21 The committee may withdraw or modify an objection at any time. After the filing of  
22 an objection that is not later withdrawn, the burden is on the agency in any proceeding  
23 for judicial review or for enforcement of the regulation to establish that the adoption  
24 of the regulation is within the authority delegated to the agency and that the regulation  
25 implements legislative intent. The failure of the committee to file an objection to a  
26 regulation under this subsection does not constitute approval of the regulation.

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

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

31 (1) a copy of the regulation change;

1 (2) any fiscal information prepared under AS 44.62.195.

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

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

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

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

10 (3) "regulation"

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

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

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

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

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

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

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

1           Committee under AS 24.20.462 [AS 24.20.400 - 24.20.460].

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