

SENATE BILL NO. 47

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY SENATOR DYSON

Introduced: 1/16/07

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the review of the functions of state departments, certain
2 instrumentalities of the state, and other persons and offices; and providing for an
3 effective date."

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

5 * **Section 1.** AS 24.20.271 is amended to read:

6 **Sec. 24.20.271. Powers and duties.** The legislative audit division shall

7 (1) conduct a performance post-audit of boards and commissions
8 designated in AS 44.66.010 and of those programs and activities of **departments**
9 [AGENCIES] subject to termination as determined in the manner set out in
10 **AS 44.66.052** [AS 44.66.020 AND 44.66.030], and make the audit, together with a
11 written report, available to the legislature not later than the first day of the regular
12 session of the legislature convening in each year set out with reference to boards,
13 commissions, **departments** or **department** [AGENCY] programs whose activities are
14 subject to termination as prescribed in AS 44.66; the division shall notify the

1 legislature that the audit and report are available;

2 (2) audit at least once every three years the books and accounts of all
3 custodians of public funds and all disbursing officers of the state;

4 (3) at the direction of the Legislative Budget and Audit Committee,
5 conduct performance post-audits on any department [AGENCY] of state
6 government;

7 (4) cooperate with state departments [AGENCIES] by offering advice
8 and assistance as requested in establishing or improving the accounting systems used
9 by state departments [AGENCIES];

10 (5) require the assistance and cooperation of all state officials and
11 other state employees in the inspection, examination, and audit of state department
12 [AGENCY] books and accounts;

13 (6) have access at all times to the books, accounts, reports, or other
14 records, whether confidential or not, of every state department [AGENCY];

15 (7) ascertain, as necessary for audit verification, the amount of
16 department [AGENCY] funds on deposit in any bank as shown on the books of the
17 bank; no bank may be held liable for making information required under this
18 paragraph available to the legislative audit division;

19 (8) complete studies and prepare reports, memoranda, or other
20 materials as directed by the Legislative Budget and Audit Committee;

21 (9) have direct access to any information related to the management of
22 the University of Alaska and have the same right of access as exists with respect to
23 every other state agency.

24 * **Sec. 2.** AS 44.66.050(a) is amended to read:

25 (a) Before the termination, dissolution, continuation, or reestablishment of a
26 board or commission under AS 08.03.010 or AS 44.66.010, [OR OF AN AGENCY
27 PROGRAM UNDER AS 44.66.020 AND 44.66.030,] a committee of reference of
28 each house, which shall be the standing committee of legislative jurisdiction as
29 provided in the Uniform Rules of the Legislature, shall hold one or more hearings to
30 receive testimony from the public, the commissioner of the department having
31 administrative responsibility for each named board, commission, or department

1 [AGENCY] program, and the members of the board or commission involved. The
 2 hearings may be joint hearings. The committee shall also consider the proposed budget
 3 of the board, commission, or **department** [AGENCY] program, prepared in
 4 accordance with AS 37.07.050(f), and the performance audit of the activities of the
 5 board, commission, or **department** [AGENCY] program, prepared by the legislative
 6 audit division as prescribed in AS 24.20.271(1). The committee may consider any
 7 other report of the activities of the board, commission or program, including but not
 8 limited to annual reports, summaries prepared by the Legislative Affairs Agency, and
 9 any evaluation or general report of the manner of conduct of activities of the board,
 10 commission, or **department** [AGENCY] program prepared by the office of the
 11 ombudsman.

12 * **Sec. 3.** AS 44.66 is amended by adding new sections to read:

13 **Sec. 44.66.052. Ten-year review cycle.** (a) In addition to reviews that may
 14 occur under AS 37.07.014 and AS 44.66.010 - 44.66.050, during the calendar year
 15 preceding the dates specified in (b) of this section, the Legislative Budget and Audit
 16 Committee shall review the activities of the departments listed in (b) of this section.

17 (b) The following are subject to review under AS 44.66.052 - 44.66.058:

- 18 (1) Department of Administration (July 1, 2009);
- 19 (2) Department of Commerce, Community, and Economic
 20 Development (July 1, 2009);
- 21 (3) Department of Corrections (July 1, 2010);
- 22 (4) Department of Education and Early Development (July 1, 2010);
- 23 (5) Department of Environmental Conservation (July 1, 2011);
- 24 (6) Department of Fish and Game (July 1, 2011);
- 25 (7) Department of Health and Social Services (July 1, 2012);
- 26 (8) Department of Labor and Workforce Development (July 1, 2012);
- 27 (9) Department of Law (July 1, 2013);
- 28 (10) Department of Military and Veterans' Affairs (July 1, 2013);
- 29 (11) Department of Natural Resources (July 1, 2014);
- 30 (12) Department of Public Safety (July 1, 2014);
- 31 (13) Department of Revenue (July 1, 2015);

1 (14) Department of Transportation and Public Facilities (July 1, 2015).

2 (c) The review of each department listed in (b) of this section includes review
3 of a public corporation or other instrumentality of the state that is established within
4 that department and review of committees, task forces, and other groups that were
5 established by law or by the department for the purpose of advising or otherwise
6 assisting the department.

7 (d) Notwithstanding the termination of a public corporation or other
8 instrumentality of the state under (e) of this section, including those evaluated under
9 (c) of this section, the department, public corporation, or instrumentality is not
10 terminated as long as it has bonds, notes, or other obligations outstanding. If the
11 department, public corporation, or instrumentality is to be terminated under (e) of this
12 section, but is required to continue because of this subsection, it may not issue bonds
13 or notes or incur other obligations on or after the date on which it would otherwise be
14 terminated. Unless legislation takes effect to continue the department, public
15 corporation, or instrumentality before the date it no longer has bonds, notes, or other
16 obligations outstanding, that date is the expiration date for the purposes of (f) of this
17 section. On termination of the department, public corporation, or instrumentality, its
18 rights and property pass to the state.

19 (e) An department listed in (b) of this section and the public corporations and
20 instrumentalities within the department are terminated on the date specified for review
21 in (b) of this section unless legislation takes effect before that date to extend the
22 existence of the department, public corporation, or instrumentality. Only the
23 department, public corporation, or instrumentality extended by the legislation remains
24 in existence.

25 (f) Notwithstanding (e) of this section, if the date specified in (b) of this
26 section is reached before legislation takes effect that would amend or repeal the
27 statutes and relevant uncodified law that would be made obsolete or inconsistent by
28 termination of the department, the department is continued until July 1 of the year
29 following the expiration date. If legislation extending a date in (b) of this section or
30 implementing termination by amending or repealing obsolete or inconsistent statutes
31 or uncodified laws fails to take effect during the additional year of the department's

1 continuation, the department is discontinued on July 1 of the year following the date
 2 specified in (b) of this section, and the revisor of statutes shall prepare a bill that
 3 amends or repeals the provisions of law that are made obsolete or inconsistent by
 4 discontinuation of the department. If there is a policy question about how to amend
 5 statutes or uncodified laws made obsolete or inconsistent by discontinuation of a
 6 department under this section, the revisor of statutes shall follow the directions of the
 7 Legislative Budget and Audit Committee in preparing the amendments to those
 8 statutes and uncodified laws. The Legislative Budget and Audit Committee shall,
 9 under AS 24.08.060(b), introduce the bill prepared by the revisor of statutes under this
 10 subsection in the first regular session of a legislature following termination of a
 11 department under this subsection.

12 **Sec. 44.66.054. Criteria for ten-year review.** (a) The Legislative Budget and
 13 Audit Committee shall determine whether a public need exists for continuation of a
 14 department listed in AS 44.66.052 or for the performance of the functions of the
 15 department. The committee shall consider whether certain functions may be more
 16 effectively or more efficiently performed

17 (1) by a transfer of functions;

18 (2) through statutory or management changes;

19 (3) by consolidation of part or all of the functions with other
 20 departments; or

21 (4) by contracting out all or part of the functions.

22 (b) In making the determinations in (a) of this section, the committee shall
 23 consider the following criteria, as applicable:

24 (1) the efficiency with which the department operates;

25 (2) the extent to which the department seeks out and implements
 26 procedures related to the public that are user-friendly for the public;

27 (3) the extent to which the mission and desired results of the
 28 department as established by law have been carried out;

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

1 (5) whether there is an alternative method of performing the duties and
2 achieving the mission and desired results of the department such that the public
3 interest be adequately protected;

4 (6) the extent to which advisory committees in the department are
5 needed and used by the department;

6 (7) the extent to which the jurisdiction of the department and the
7 programs administered by the department overlap or duplicate jurisdictions or
8 programs of other departments, and the extent to which the programs administered by
9 the department could be consolidated with the programs of other state departments;

10 (8) the extent to which the department has recommended statutory
11 changes to the legislature intended to benefit the public instead of benefiting the
12 occupation, business, or institution regulated by the department;

13 (9) the promptness and effectiveness with which the department
14 disposes of complaints concerning persons affected by the department and makes
15 corrections in the department's procedures, as needed, to increase the promptness and
16 effectiveness of the department to achieve its mission and desired result;

17 (10) the extent to which the department has encouraged participation
18 by the public in making regulations, rules, and decisions, as opposed to encouraging
19 participation solely by the persons regulated by the department and the extent to which
20 public participation has resulted in regulations, rules, and decisions compatible with
21 the statutory objectives of the department;

22 (11) the extent to which changes are necessary in the enabling statutes
23 of the department so that the department can adequately comply with, or meet the
24 goals of, the criteria listed in this section, and achieve its mission and desired results;

25 (12) the extent to which the department issues and enforces
26 regulations, rules, and decisions relating to potential conflicts of interest of its
27 employees;

28 (13) the extent to which the department follows records management
29 practices that enable the entity to respond efficiently to requests for public
30 information;

31 (14) the extent to which the department has complied with applicable

1 federal and state laws regarding equality of employment opportunity, and the rights
2 and privacy of individuals;

3 (15) the potential for, and effect of, federal intervention or loss of
4 federal funds if the department is terminated or its function are transferred.

5 **Sec. 44.66.056. Ten-year report by the committee.** By December 1 of the
6 calendar year preceding the date specified for each department in AS 44.66.052(b), the
7 Legislative Budget and Audit Committee shall issue a report to the rules committee of
8 each house of the legislature regarding the department. The report must be based on
9 the criteria in AS 44.66.054 and other factors considered to be appropriate by the
10 Legislative Budget and Audit Committee. The report must include recommendations
11 for statutory or management changes for the audited department. The report must also
12 include a draft bill in a form that, if enacted into law, would implement the
13 recommendations of the Legislative Budget and Audit Committee as to the
14 department, including repeals and amendments necessary to implement continuation,
15 termination, or transfer of a department, public corporation, or instrumentality within a
16 department if continuation, termination, if recommended in the report.

17 **Sec. 44.66.058. Consideration of ten-year report.** The presiding officer of
18 each house of the legislature shall refer a report by the Legislative Budget and Audit
19 Committee under AS 44.66.056, including any bill proposed in the report, to a
20 standing committee with appropriate legislative jurisdiction as provided in the uniform
21 rules of the legislature. The standing committee shall hold one or more public hearings
22 to receive testimony about the department covered in the report. The hearings may be
23 joint hearings. In addition to the report and testimony, the standing committee may
24 consider other information.

25 * **Sec. 4.** AS 44.66.020 and 44.66.030 are repealed.

26 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).