

CS FOR HOUSE BILL NO. 6(JUD) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Amended: 4/11/11

Offered: 4/5/11

Sponsor(s): REPRESENTATIVES GRUENBERG, Peggy Wilson, Lynn, Gardner

A BILL

FOR AN ACT ENTITLED

1 **"An Act authorizing the governor to remove or suspend a member of the Board of**
2 **Regents of the University of Alaska for good cause; and establishing a procedure for the**
3 **removal or suspension of a regent."**

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

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 **LEGISLATIVE FINDINGS AND PURPOSES.** (a) The legislature finds that

8 (1) the framers of the Constitution of the State of Alaska intended to insulate
9 the University of Alaska and the Board of Regents from politics, but did not intend to
10 immunize the University of Alaska and the Board of Regents from appropriate nonpolitical
11 legislative and executive branch oversight;

12 (2) the legislature has the power to pass laws that pertain to the University of
13 Alaska; and

14 (3) under AS 14.40.170(b)(1), the legislature has delegated to the Board of

1 Regents the power to regulate itself, but the Board of Regents has not adopted self-
 2 governance rules that authorize the board to remove or suspend a regent in appropriate
 3 circumstances.

4 (b) The purposes of AS 14.40.155, added by sec. 2 of this Act, are to

5 (1) clarify that the governor may remove a regent only with good cause;

6 (2) prescribe a due process procedure under which the governor may remove a
 7 regent for good cause;

8 (3) prescribe a due process procedure under which, in certain circumstances,
 9 the governor may suspend a regent; and

10 (4) accomplish each of the above purposes in a manner that ensures the
 11 University of Alaska and the Board of Regents remain insulated from politics.

12 * **Sec. 2.** AS 14.40 is amended by adding a new section to read:

13 **Sec. 14.40.155. Suspension and removal of regents.** (a) The governor may,
 14 after providing notice and an opportunity for a hearing, suspend a member of the
 15 Board of Regents while final disposition is pending on

16 (1) a criminal complaint, presentment, information, or indictment
 17 involving a felony in any jurisdiction;

18 (2) an information or formal criminal charges of a misdemeanor
 19 described under (g)(3) of this section;

20 (3) a probable cause determination of a knowing ethics violation under
 21 AS 39.52 that results in an accusation under consideration by the personnel board;

22 (4) a verified complaint of malfeasance or nonfeasance in office
 23 described under (g)(4) of this section under consideration by the governor; or

24 (5) proceedings involving misconduct that is related to the regent's
 25 ability to serve as a regent under consideration by a professional or occupational
 26 licensing body.

27 (b) The governor may remove a member of the Board of Regents for good
 28 cause by providing to the member an accusation and an opportunity for a hearing and
 29 judicial review.

30 (c) Notwithstanding the procedure under AS 44.62.390, a regent who has been
 31 suspended under (a) of this section may, at any time, request a hearing to

1 (1) defend against the grounds for the suspension stated in the
2 accusation; or

3 (2) lift the suspension.

4 (d) The governor may delegate the conduct of a hearing under this section to
5 the office of administrative hearings under AS 44.64.030(b). If a hearing is requested,
6 the hearing officer may prepare a proposed decision under AS 44.62.500(b) to

7 (1) remove a regent based on clear and convincing evidence of good
8 cause for removal;

9 (2) not remove a regent; or

10 (3) continue a suspension or lift a suspension of a regent.

11 (e) AS 44.62.330 - 44.62.630 applies to all proceedings under this section.

12 (f) After a final decision by the governor that suspends a regent under (a) of
13 this section or removes a regent for good cause under (b) of this section, the governor
14 shall file with the lieutenant governor a copy of the allegations made against the
15 former regent, the governor's findings on each of the allegations, and a complete
16 record of the suspension or removal proceedings.

17 (g) In this section, "good cause" means

18 (1) a violation of AS 39.52 (Alaska Executive Branch Ethics Act) that
19 results in a recommendation of removal under AS 39.52.410(b)(3);

20 (2) conviction of a felony in any jurisdiction;

21 (3) conviction of a misdemeanor in any jurisdiction if the misdemeanor
22 involves

23 (A) dishonesty;

24 (B) breach of trust; or

25 (C) the University of Alaska;

26 (4) malfeasance or nonfeasance in office, including

27 (A) misconduct in office;

28 (B) an inability to serve for an extended period of time;

29 (C) neglect of duty;

30 (D) incompetence;

31 (E) unjustified failure to perform the duties of the Board of

1 Regents;

2 (5) misconduct related to the regent's ability to serve as a regent and
3 resulting in the revocation or suspension of a professional or occupational license
4 issued under state law;

5 (6) failure to possess the qualifications of a regent under AS 14.40.130.

6 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 APPLICABILITY. AS 14.40.155, added by sec. 2 of this Act, applies to all conduct
9 and acts occurring before, on, or after the effective date of this Act.