

SENATE BILL NO. 120

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY SENATORS REINBOLD, Kawasaki

Introduced: 4/7/21

Referred: State Affairs, Finance

A BILL**FOR AN ACT ENTITLED**1 **"An Act establishing the Administrative Regulation Review Committee."**2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**3 * **Section 1.** AS 16.43.120(b) is amended to read:4 (b) **AS 44.62.010 - 44.62.325** [AS 44.62.010 - 44.62.319] and 44.62.640 apply
5 to regulations adopted by the commission.6 * **Sec. 2.** AS 18.56.088(a) is amended to read:7 (a) Except for AS 44.62.310 - 44.62.319 (Open Meetings Act), AS 44.62
8 (Administrative Procedure Act) does not apply to this chapter. The corporation shall
9 make available to members of the public copies of the regulations adopted under (b) -
10 (e) of this section. **Within 45 days after adoption, the chair of the board shall**
11 **submit a regulation adopted under (b) - (e) of this section to the chair of the**
12 **Administrative Regulation Review Committee under AS 24.20.465 - 24.20.495.**13 * **Sec. 3.** AS 24.05.182(a) is amended to read:14 (a) A standing committee of the legislature **furnished notice of a proposed**
15 **action under AS 44.62.190 shall** [MAY, CONSISTENT WITH THE

COMMITTEE'S JURISDICTION AS PROVIDED IN THE UNIFORM RULES OF THE LEGISLATURE,] review the [A] proposed [OR ADOPTED] regulation, amendment of a regulation, or repeal of a regulation **before the date the regulation is scheduled by the department or agency to be adopted, amended, or repealed.**

* **Sec. 4.** AS 24.05.182 is amended by adding new subsections to read:

(e) A standing committee conducting a review of a regulation under (a) of this section shall determine whether the regulation properly implements legislative intent.

(f) A standing committee shall conduct preliminary reviews under this section while the legislature is in session and during the interim between legislative sessions.

(g) If a standing committee determines that a regulation, amendment to a regulation, or repeal of a regulation does not properly implement legislative intent, the standing committee's findings shall be transmitted to the Administrative Regulation Review Committee.

* **Sec. 5.** AS 24.08.035(f) is amended to read:

(f) In addition to the other requirements of this section, if a bill directs an agency in the executive branch of state government to adopt, amend, or repeal a regulation or will result in an agency's adopting, amending, or repealing a regulation, the department affected shall include in the fiscal note for the bill a specific time by which the agency shall adopt, amend, or repeal the regulation. If the agency is not able to meet the deadline set in the fiscal note, the agency shall

(1) set a new deadline; and

(2) report to the Administrative Regulation Review Committee the new deadline and the reasons for being unable to meet the deadline set in the fiscal note.

* **Sec. 6.** AS 24.08.060(b) is amended to read:

(b) Bills introduced by the legislative council shall be delivered with a letter of explanation to the rules committee of either house and bear the inscription "Rules Committee by Request of the Legislative Council"; **bills introduced by the Administrative Regulation Review Committee shall be delivered with a letter of explanation to the rules committee of either house and bear the inscription "Rules Committee by Request of the Administrative Regulation Review**

Committee"; bills introduced by the Legislative Budget and Audit Committee shall be delivered with a letter of explanation to the rules committee of either house and bear the inscription "Rules Committee by Request of the Legislative Budget and Audit Committee"; bills presented by the governor shall be delivered with a letter to the rules committee of either house and bear the inscription "Rules Committee by Request of the Governor"; bills so presented and inscribed shall be received as bills carrying the approval of the governor as to policy and budget impact. The governor may submit a statement of purpose and effect with each bill and appear personally or through a representative before any committee considering legislation.

* **Sec. 7.** AS 24.20 is amended by adding a new section to read:

Sec. 24.20.106. Review of proposed regulations. (a) The Legislative Affairs Agency may review each proposed regulation that is subject to AS 44.62.010 - 44.62.300 (Administrative Procedure Act). A review of proposed regulations under this section must be conducted by an attorney employed by that agency.

(b) Reviews shall be conducted under (a) of this section in the following order of priority:

(1) proposed regulations that would implement newly enacted legislation;

(2) proposed regulations requested in writing to be reviewed by a standing committee, the Administrative Regulation Review Committee, or the legislative council as implicating major policy development.

(c) Under AS 44.62.190(a)(7), the notice of proposed action, along with a copy of the proposed regulation, shall be furnished electronically by the state agency to the

(1) Legislative Affairs Agency;

(2) chairs of the standing committees with jurisdiction over the subject of the proposed regulation;

(3) Administrative Regulation Review Committee;

(4) legislative council.

(d) Within available staff resources and priorities set by the legislative council, the Legislative Affairs Agency shall assign one or more attorneys to conduct a review

1 of proposed regulations. The review shall evaluate

2 (1) the legality and constitutionality of the proposed regulation;

3 (2) whether the state agency has statutory authority to adopt the
4 proposed regulation to implement, interpret, make specific, or otherwise carry out a
5 statute; and

6 (3) whether the proposed regulation is consistent with the applicable
7 statutes.

8 (e) In conducting its review under this section, the assigned attorney may
9 consult with the Department of Law, the committee or council that requests the review
10 under (b)(2) of this section, and the state agency proposing the regulation change.
11 With respect to proposed regulations that implement newly enacted legislation as
12 described in (b)(1) of this section, the assigned attorney may also consult with the
13 prime sponsor of the legislation if the prime sponsor is a member of the legislature at
14 the time of the review. If the assigned attorney determines that the proposed
15 regulations fail to meet the standards set out in (d) of this section, the assigned
16 attorney shall notify, in writing, the Department of Law, the state agency, the
17 Administrative Regulation Review Committee, the president of the senate, the speaker
18 of the house of representatives, and the committee or council, if any, that requested the
19 review under (b)(2) of this section. If the review involves proposed regulations that
20 implement newly enacted legislation as described in (b)(1) of this section and the
21 prime sponsor of that legislation is a member of the legislature at the time of the
22 review, the assigned attorney shall also notify the prime sponsor, in writing, if the
23 proposed regulations fail to meet the standards set out in (d) of this section. If, after
24 performing a review requested under (b)(2) of this section, the assigned attorney
25 determines that the proposed regulations meet the standards set out in (d) of this
26 section, the assigned attorney shall communicate that determination to the requester.

27 (f) In addition to the review specified in (d) of this section, the assigned
28 attorney shall notify the Administrative Regulation Review Committee, the president
29 of the senate, and the speaker of the house of representatives of any provision of the
30 proposed regulation that may be inconsistent with legislative intent and appropriate for
31 additional legislative oversight as a result.

(g) Except as provided in this section, the Legislative Affairs Agency may not release any information regarding its review of a proposed regulation under this section.

(h) The process of review of a proposed regulation under this section does not affect a state agency's authority to complete its proposed action regarding the regulation. Suggestions for changes to a proposed regulation made by the Legislative Affairs Agency are not binding on a state agency.

(i) No action may be brought for the failure of the Legislative Affairs Agency to conduct a legal review under this section.

(j) The provisions of (b) - (i) of this section do not apply to proposed regulations of the Board of Game or the Board of Fisheries.

(k) In this section, "proposed regulation" means a proposed adoption, amendment, or repeal of a regulation.

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

Article 2A. Administrative Regulation Review Committee.

Sec. 24.20.465. Administrative Regulation Review Committee established.

The Administrative Regulation Review Committee is established as a permanent interim committee of the legislature. The establishment of the committee recognizes the need for prompt legislative review of administrative regulations filed by the lieutenant governor.

Sec. 24.20.470. Membership. The Administrative Regulation Review Committee is composed of three members of the house of representatives appointed by the speaker of the house and three members of the senate appointed by the president of the senate. The membership from each house shall include at least one member from each of the two major political parties. The committee elects a chair from among its members.

Sec. 24.20.475. Term of membership. The committee shall be organized within 15 days after the organization of each legislature. Members serve for the duration of the legislature during which they are appointed. If a member is reelected or a member's term of office extends into the next succeeding legislature, the member continues to serve until reappointed or until the appointment of a successor.

1 **Sec. 24.20.480. Vacancies.** When a vacancy occurs in the membership of the
 2 committee, the presiding officer of the house incurring the vacancy shall choose a
 3 successor. If the office of the president of the senate or speaker of the house of
 4 representatives becomes vacant and a vacancy from the affected house occurs among
 5 the membership of the committee, the remaining committee members from the house
 6 incurring the vacancy shall appoint a new member.

7 **Sec. 24.20.485. Meetings.** The Administrative Regulation Review Committee
 8 may meet during sessions of the legislature and during the interim between sessions at
 9 the times and places in the state as the chair may determine. Members may receive, for
 10 the minimum time required to get to and from meetings and for the period while
 11 attending meetings, the same travel and per diem allowances provided by law for
 12 members of the legislature when attending sessions, except that members of the
 13 committee receive no per diem during legislative sessions other than the per diem
 14 allowance paid to other members of the legislature.

15 **Sec. 24.20.490. Staff.** The Legislative Affairs Agency shall provide the
 16 committee with professional and clerical assistance under the auspices of the
 17 legislative council.

18 **Sec. 24.20.495. Powers.** The Administrative Regulation Review Committee
 19 has the following powers:

- 20 (1) to organize and adopt rules for the conduct of its business;
- 21 (2) to hold public hearings;
- 22 (3) to require all state officials and agencies of state government to
 23 give full cooperation to the committee or its staff in assembling and furnishing
 24 requested information;
- 25 (4) to examine all administrative regulations, including proposed
 26 adoption of or amendment to regulations and orders of repeal, to determine whether
 27 the adoption, amendment, or repeal would properly implement legislative intent and to
 28 provide comments on them to the governor and state agencies;
- 29 (5) to prepare and distribute reports, memoranda, or other materials;
- 30 (6) to promote needed revision or repeal of regulations that have been
 31 adopted by state departments and agencies and, when the committee determines a

1 regulation should be repealed or amended, to introduce a bill that would enact a statute
2 that would supersede or nullify the regulation;

3 (7) to investigate findings that are transmitted to the committee by a
4 standing committee in accordance with AS 24.05.182 and, as appropriate, to introduce
5 a bill annulling the regulation.

6 * **Sec. 9.** AS 26.27.110(b) is amended to read:

7 (b) Except for AS 44.62.310 - 44.62.319 (Open Meetings Act), the provisions
8 of AS 44.62 (Administrative Procedure Act) regarding the adoption of regulations do
9 not apply to the corporation. The corporation shall make available to members of the
10 public copies of the regulations adopted under this section. **Within 45 days after**
11 **adoption of a regulation under this section, the chair of the corporation shall**
12 **submit the regulation adopted to the chair of the Administrative Regulation**
13 **Review Committee under AS 24.20.465 - 24.20.495.**

14 * **Sec. 10.** AS 30.17.120 is amended to read:

15 **Sec. 30.17.120. Administrative procedure.** The provisions of the
16 Administrative Procedure Act regarding the adoption of regulations under
17 **AS 44.62.040 - 44.62.325** [AS 44.62.040 - 44.62.319] apply to the authority.

18 * **Sec. 11.** AS 31.25.130(a) is amended to read:

19 (a) Except for AS 44.62.310 - 44.62.319 (Open Meetings Act), AS 44.62
20 (Administrative Procedure Act) does not apply to this chapter. The corporation shall
21 make available to members of the public copies of the regulations adopted under (b) -
22 (e) of this section. **Within 45 days after adoption, the chair of the board shall**
23 **submit a regulation adopted under (b) - (e) of this section to the chair of the**
24 **Administrative Regulation Review Committee under AS 24.20.465 - 24.20.495.**

25 * **Sec. 12.** AS 37.13.206(g) is amended to read:

26 (g) A regulation adopted under this section takes effect immediately upon its
27 adoption by the board or at another time specified in the order of adoption. The
28 regulation shall be submitted to the lieutenant governor for publication in the Alaska
29 Administrative Code and Register. **Within 45 days after adoption of a regulation**
30 **under this section, the corporation shall provide a copy of the adopted regulation**
31 **to the chair of the Administrative Regulation Review Committee under**

1 **AS 24.20.465 - 24.20.495.**

2 * **Sec. 13.** AS 38.35.190(a) is amended to read:

3 (a) **AS 44.62.010 - 44.62.325** [AS 44.62.010 - 44.62.319], 44.62.640, and
4 44.62.950 apply to regulations adopted by the commissioner under the authority of
5 this chapter.

6 * **Sec. 14.** AS 40.25.120(a) is amended to read:

7 (a) Every person has a right to inspect a public record in the state, including
8 public records in recorders' offices, except

9 (1) records of vital statistics and adoption proceedings, which shall be
10 treated in the manner required by AS 18.50;

11 (2) records pertaining to juveniles unless disclosure is authorized by
12 law;

13 (3) medical and related public health records;

14 (4) records required to be kept confidential by a federal law or
15 regulation or by state law;

16 (5) to the extent the records are required to be kept confidential under
17 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure
18 or retain federal assistance;

19 (6) records or information compiled for law enforcement purposes, but
20 only to the extent that the production of the law enforcement records or information

21 (A) could reasonably be expected to interfere with enforcement
22 proceedings;

23 (B) would deprive a person of a right to a fair trial or an
24 impartial adjudication;

25 (C) could reasonably be expected to constitute an unwarranted
26 invasion of the personal privacy of a suspect, defendant, victim, or witness;

27 (D) could reasonably be expected to disclose the identity of a
28 confidential source;

29 (E) would disclose confidential techniques and procedures for
30 law enforcement investigations or prosecutions;

31 (F) would disclose guidelines for law enforcement

1 investigations or prosecutions if the disclosure could reasonably be expected to
 2 risk circumvention of the law; or

3 (G) could reasonably be expected to endanger the life or
 4 physical safety of an individual;

5 (7) names, addresses, and other information identifying a person as a
 6 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the
 7 advance college tuition savings program under AS 14.40.803 - 14.40.817;

8 (8) public records containing information that would disclose or might
 9 lead to the disclosure of a component in the process used to execute or adopt an
 10 electronic signature if the disclosure would or might cause the electronic signature to
 11 cease being under the sole control of the person using it;

12 (9) reports submitted under AS 05.25.030 concerning certain
 13 collisions, accidents, or other casualties involving boats;

14 (10) records or information pertaining to a plan, program, or
 15 procedures for establishing, maintaining, or restoring security in the state, or to a
 16 detailed description or evaluation of systems, facilities, or infrastructure in the state,
 17 but only to the extent that the production of the records or information

18 (A) could reasonably be expected to interfere with the
 19 implementation or enforcement of the security plan, program, or procedures;

20 (B) would disclose confidential guidelines for investigations or
 21 enforcement and the disclosure could reasonably be expected to risk
 22 circumvention of the law; or

23 (C) could reasonably be expected to endanger the life or
 24 physical safety of an individual or to present a real and substantial risk to the
 25 public health and welfare;

26 (11) [REPEALED]

27 (12) records that are

28 (A) proprietary, privileged, or a trade secret in accordance with
 29 AS 43.90.150 or 43.90.220(e);

30 (B) applications that are received under AS 43.90 until notice is
 31 published under AS 43.90.160;

(13) information of the Alaska Gasline Development Corporation created under AS 31.25.010 or a subsidiary of the Alaska Gasline Development Corporation that is confidential by law or under a valid confidentiality agreement;

(14) information under AS 38.05.020(b)(11) that is subject to a confidentiality agreement under AS 38.05.020(b)(12);

(15) records relating to proceedings under AS 09.58 (Alaska Medical Assistance False Claim and Reporting Act);

(16) names, addresses, and other information identifying a person as a participant in the Alaska savings program for eligible individuals under AS 06.65;

(17) artists' submissions made in response to an inquiry or solicitation initiated by the Alaska State Council on the Arts under AS 44.27.060;

(18) records that are

(A) investigative files under AS 45.55.910; or

(B) confidential under AS 45.56.620;

(19) the written notification regarding a proposed regulation provided under AS 24.20.106 to the Department of Law and the affected state agency and communications between the Legislative Affairs Agency, the Department of Law, and the affected state agency under AS 24.20.106.

* **Sec. 15.** AS 42.40.920(b) is amended to read:

(b) Unless specifically provided otherwise in this chapter, the following laws do not apply to the operations of the corporation:

(1) AS 19;

(2) AS 30.15;

(3) AS 35;

(4) AS 36.30, except as specifically provided in that chapter;

(5) AS 37.05, except as specifically provided in AS 37.05.210;

(6) AS 37.07;

(7) AS 37.10.010 - 37.10.060;

(8) AS 37.10.085;

(9) AS 37.20;

(10) AS 37.25;

(11) AS 38;

(12) AS 44.62.010 - 44.62.325 [AS 44.62.010 - 44.62.319].

* **Sec. 16.** AS 44.62.020 is amended to read:

Sec. 44.62.020. Authority to adopt, administer, or enforce regulations.

Except for the authority conferred on the lieutenant governor in AS 44.62.130 - 44.62.170, AS 44.62.010 - 44.62.325 [AS 44.62.010 - 44.62.319] do not confer authority on or augment the authority of a state agency to adopt, administer, or enforce a regulation. To be effective, each regulation adopted must be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law.

* **Sec. 17.** AS 44.62.040(c) is amended to read:

(c) Before submitting the regulations and orders of repeal to the lieutenant governor under (a) of this section, every state agency that by statute possesses regulation making authority, except the Regulatory Commission of Alaska, the Board of Fisheries, the Board of Game, the Alaska Oil and Gas Conservation Commission, the office of victims' rights, and the office of the ombudsman, shall submit to the governor for review a copy of every regulation or order of repeal adopted by the agency, except regulations and orders of repeal identified in (a)(1) and (2) of this section. The governor may review the regulations and orders of repeal received under this subsection. [THE GOVERNOR MAY RETURN THE REGULATIONS AND ORDERS OF REPEAL TO THE ADOPTING AGENCY BEFORE THEY ARE SUBMITTED TO THE LIEUTENANT GOVERNOR FOR FILING UNDER (a) OF THIS SECTION WITHIN 30 DAYS IF THEY ARE INCONSISTENT WITH THE FAITHFUL EXECUTION OF THE LAWS.] The governor may not delegate the governor's review authority under this subsection to a person other than the lieutenant governor. The governor may return the regulations and orders of repeal to the adopting agency before they are submitted to the lieutenant governor for filing under (a) of this section within 30 days

(1) if they are inconsistent with the faithful execution of the laws;

or

(2) to enable the adopting agency to respond to specific issues

raised by the Administrative Regulation Review Committee.

* **Sec. 18.** AS 44.62.190(a) is amended to read:

(a) At least 30 days before the adoption, amendment, or repeal of a regulation, notice of the proposed action shall be

(1) published in the newspaper of general circulation or trade or industry publication that the state agency prescribes and posted on the Alaska Online Public Notice System; in the discretion of the state agency giving the notice, the requirement of publication in a newspaper or trade or industry publication may be satisfied by using a combination of publication and broadcasting; when broadcasting the notice, an agency may use an abbreviated form of the notice if the broadcast provides the name and date of the newspaper or trade or industry journal and the Internet address of the Alaska Online Public Notice System where the full text of the notice can be found;

(2) furnished to every person who has filed a request for notice of proposed action with the state agency;

(3) if the agency is within a department, furnished to the commissioner of the department;

(4) when appropriate in the judgment of the agency,

(A) furnished to a person or group of persons whom the agency believes is interested in the proposed action; and

(B) published in the additional form and manner the state agency prescribes;

(5) furnished to the Department of Law together with a copy of the proposed regulation, amendment, or order of repeal for the department's use in preparing the opinion required after adoption and before filing by AS 44.62.060;

(6) furnished by electronic format to all incumbent State of Alaska legislators, **and furnished to the Legislative Affairs Agency;**

(7) furnished by electronic format, along with a copy of the proposed regulation, amendment, or order of repeal, as required by AS 24.20.106(c).

* **Sec. 19.** AS 44.62.245(c) is amended to read:

(c) The state agency shall also send the notice described in (b)(2) of this section to

(1) a person who has placed the person's name on a distribution list kept by the agency that lists persons who want to receive the notice; the agency may allow a person to request that distribution of the notice be by electronic means and shall honor that request if appropriate means are available; [AND]

(2) the regulations attorney in the Department of Law; and

(3) the members of the Administrative Regulation Review Committee.

* **Sec. 20.** AS 44.62.290(a) is amended to read:

(a) AS 44.62.180 - 44.62.290 do not apply to a regulation not required to be submitted to the lieutenant governor under AS 44.62.010 - 44.62.325 [AS 44.62.010 - 44.62.319].

* **Sec. 21.** AS 44.62.300(a) is amended to read:

(a) An interested person may get a judicial declaration on the validity of a regulation by bringing an action for declaratory relief in the superior court. In addition to any other ground the court may declare the regulation invalid

(1) for a substantial failure to comply with AS 44.62.010 - 44.62.325 [AS 44.62.010 - 44.62.319]; or

(2) in the case of an emergency regulation or order of repeal, on [UPON] the ground that the facts recited in the statement do not constitute an emergency under AS 44.62.250.

* **Sec. 22.** AS 44.62 is amended by adding a new section to read:

Article 6A. Legislative Review of Rules.

Sec. 44.62.325. Submittal for legislative review. (a) When a regulation is filed by the lieutenant governor, the lieutenant governor shall submit the regulation to the chair and all members of the Administrative Regulation Review Committee for review under AS 24.20.465 - 24.20.495 together with the fiscal information required to be prepared under AS 44.62.195.

(b) When a regulation is submitted to the governor under AS 44.62.040(c), the state agency shall submit the regulation to the chair and all members of the

1 Administrative Regulation Review Committee for review under AS 24.20.465 -
 2 24.20.495 together with the fiscal information required to be prepared under
 3 AS 44.62.195.

4 (c) Within 10 days after receiving a regulation under (b) of this section, the
 5 chair of the Administrative Regulation Review Committee may submit to the
 6 governor, by legislative memorandum or letter, comments on the regulation.

7 * **Sec. 23.** AS 44.62.640(a) is amended to read:

8 (a) In **AS 44.62.010 - 44.62.325** [AS 44.62.010 - 44.62.319], unless the
 9 context otherwise requires,

10 (1) "lieutenant governor" means the office of the lieutenant governor in
 11 the executive branch of the state government, or another agency designated by
 12 executive order under the constitution;

13 (2) "order of repeal" means a resolution, order, or other official act of a
 14 state agency that expressly repeals a regulation in whole or in part;

15 (3) "regulation" means every rule, regulation, order, or standard of
 16 general application or the amendment, supplement, or revision of a rule, regulation,
 17 order, or standard adopted by a state agency to implement, interpret, or make specific
 18 the law enforced or administered by it, or to govern its procedure, except one that
 19 relates only to the internal management of a state agency; "regulation" does not
 20 include a form prescribed by a state agency or instructions relating to the use of the
 21 form, but this provision is not a limitation on a requirement that a regulation be
 22 adopted under this chapter when one is needed to implement the law under which the
 23 form is issued; "regulation" includes "manuals," "policies," "instructions," "guides to
 24 enforcement," "interpretative bulletins," "interpretations," and the like, that have the
 25 effect of rules, orders, regulations, or standards of general application, and this and
 26 similar phraseology may not be used to avoid or circumvent this chapter; whether a
 27 regulation, regardless of name, is covered by this chapter depends in part on whether it
 28 affects the public or is used by the agency in dealing with the public;

29 (4) "state agency" means a department, office, agency, or other
 30 organizational unit of the executive branch, except one expressly excluded by law, but
 31 does not include an agency in the judicial or legislative branches of the state

1 government.

2 * **Sec. 24.** AS 44.62.710(a) is amended to read:

3 (a) The purpose of AS 44.62.710 - 44.62.800 is to establish a framework for
 4 the conduct of negotiated regulation making consistent with AS 44.62.010 - 44.62.325
 5 [AS 44.62.010 - 44.62.319]. Negotiated regulation making is not a substitute for the
 6 requirements of AS 44.62.010 - 44.62.325 [AS 44.62.010 - 44.62.319] but may be
 7 used as a supplemental procedure to permit the direct participation of affected interests
 8 in the development of new regulations or the amendment or repeal of existing
 9 regulations. A consensus agreement reached by a negotiated regulation making
 10 committee may be modified by an agency head as a result of the subsequent regulation
 11 making process. AS 44.62.710 - 44.62.800 may not be construed as an attempt to limit
 12 innovation and experimentation with the negotiated regulation making process or to
 13 limit other means to obtain public participation in the regulation making process.

14 * **Sec. 25.** AS 44.62.720(a) is amended to read:

15 (a) In addition to the regulation adoption requirements under AS 44.62.010 -
 16 44.62.325 [AS 44.62.010 - 44.62.319], an agency head may determine that the use of a
 17 negotiated regulation making committee to negotiate and develop a proposed
 18 regulation is in the public interest. In making that determination, the agency head is
 19 advised to consider whether

20 (1) there is a need for a regulation, including whether any legal action
 21 is pending that might resolve the need;

22 (2) there are a limited number of identifiable interests that are held by
 23 more than one person and that will be significantly affected by the regulation;

24 (3) there is a reasonable likelihood that a committee can be convened
 25 with a balanced representation of persons who

26 (A) can adequately represent the interests identified under (2)
 27 of this section; and

28 (B) are willing to negotiate in good faith to reach a consensus
 29 on the proposed regulation;

30 (4) there is a reasonable likelihood that a committee will reach a
 31 consensus on the proposed regulation within a fixed period of time;

(5) the negotiated regulation making procedure will not unreasonably delay the adoption of the final regulation;

(6) the agency has adequate resources and is willing to commit those resources, including technical assistance, to the committee; and

(7) the agency head, to the maximum extent possible consistent with the legal or other obligations of the agency, will use the consensus of the committee as the basis for the regulation proposed by the agency under AS 44.62.010 - 44.62.325 [AS 44.62.010 - 44.62.319].

* **Sec. 26.** AS 44.62.740(e) is amended to read:

(e) A negotiated regulation making committee terminates upon adoption under AS 44.62.010 - 44.62.325 [AS 44.62.010 - 44.62.319] of the final regulation under consideration unless the agency head specifies an earlier termination date.

* **Sec. 27.** AS 44.62.790 is amended to read:

Sec. 44.62.790. Relationship to other requirements. The negotiated regulation making authorized by AS 44.62.710 - 44.62.800 is in addition to the procedures required under AS 44.62.010 - 44.62.325 [AS 44.62.010 - 44.62.319] for adopting, amending, or repealing regulations, and, if an agency head decides to use negotiated regulation making, the negotiated regulation making shall, where possible, occur before the procedures under AS 44.62.010 - 44.62.325 [AS 44.62.010 - 44.62.319] begin.

* **Sec. 28.** AS 44.88.085(a) is amended to read:

(a) Except for AS 44.62.310 - 44.62.319 (Open Meetings Act), the provisions of the Administrative Procedure Act regarding the adoption of regulations (AS 44.62.040 - 44.62.325) [(AS 44.62.040 - 44.62.319)] do not apply to the authority. The authority shall make available to members of the public copies of the regulations adopted under this section. Within 45 days after the adoption of a regulation under this section, the chair of the authority shall submit the regulation adopted to the chair of the Administrative Regulation Review Committee under AS 24.20.465 - 24.20.495.

* **Sec. 29.** The uncodified law of the State of Alaska is amended by adding a new section to read:

1 APPLICABILITY. This Act applies to the adoption, amendment, or repeal of a
2 regulation that is first proposed on or after the effective date of this Act.