

SENATE BILL NO. 9

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY SENATOR HUGHES

Introduced: 1/18/23

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing a violation for hindering the Alaska Sunset Commission; relating**
2 **to the Legislative Budget and Audit Committee; relating to the duties of the legislature;**
3 **relating to the legislative audit division and the legislative finance division; establishing**
4 **the Alaska Sunset Commission to review and make recommendations on discontinuation**
5 **of or changes to state entities; relating to the powers and duties of the Alaska Sunset**
6 **Commission; and providing for an effective date."**

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

8 * **Section 1.** AS 11.56.845 is amended to read:

9 **Sec. 11.56.845. Hindering the Legislative Budget and Audit Committee or**
10 **the Alaska Sunset Commission.** (a) A person commits hindering the Legislative
11 Budget and Audit Committee **or the Alaska Sunset Commission established in**
12 **AS 44.99.700** if the person intentionally (1) fails to give, or (2) directs, orders,
13 threatens, restrains, coerces, forces, or prevents another person from giving, full

1 cooperation to the legislative auditor, [OR] the legislative fiscal analyst, or a member
 2 or employee of the Alaska Sunset Commission in assembling or furnishing
 3 requested information to the committee, [OR] its staff, or the Alaska Sunset
 4 Commission, and the person did not reasonably believe that the action or failure to act
 5 was legally justified.

6 (b) Hindering the Legislative Budget and Audit Committee or the Alaska
 7 Sunset Commission is a violation, punishable by a fine of not more than \$5,000.

8 * **Sec. 2.** AS 24.08.060(b) is amended to read:

9 (b) Bills introduced by the legislative council shall be delivered with a letter of
 10 explanation to the rules committee of either house and bear the inscription "Rules
 11 Committee by Request of the Legislative Council"; bills introduced by the Legislative
 12 Budget and Audit Committee shall be delivered with a letter of explanation to the
 13 rules committee of either house and bear the inscription "Rules Committee by Request
 14 of the Legislative Budget and Audit Committee"; bills presented by the governor shall
 15 be delivered with a letter to the rules committee of either house and bear the
 16 inscription "Rules Committee by Request of the Governor"; bills introduced by the
 17 Alaska Sunset Commission shall be delivered with a letter of explanation to the
 18 rules committee of either house and bear the inscription "Rules Committee by
 19 Request of the Alaska Sunset Commission"; bills so presented and inscribed shall
 20 be received as bills carrying the approval of the governor as to policy and budget
 21 impact. The governor may submit a statement of purpose and effect with each bill and
 22 appear personally or through a representative before any committee considering
 23 legislation.

24 * **Sec. 3.** AS 24.20.206 is amended to read:

25 **Sec. 24.20.206. Duties.** The Legislative Budget and Audit Committee shall

26 (1) annually review the long-range operating plans of all agencies of
 27 the state that perform lending or investment functions;

28 (2) review periodic reports from all agencies of the state that perform
 29 lending or investment functions;

30 (3) prepare a complete report of investment programs, plans,
 31 performance, and policies of all agencies of the state that perform lending or

1 investment functions and notify the legislature on or before the first day of each
2 regular session that the report is available;

3 (4) in conjunction with the finance committee of each house,
4 recommend annually to the legislature the investment policy for the general fund
5 surplus and for the income from the permanent fund;

6 (5) provide for an annual post audit and annual operational and
7 performance evaluation of the Alaska Permanent Fund Corporation investments and
8 investment programs;

9 (6) provide for an annual operational and performance evaluation of
10 the Alaska Housing Finance Corporation and the Alaska Industrial Development and
11 Export Authority; the performance evaluation must include, but is not limited to, a
12 comparison of the effect on various sectors of the economy by public and private
13 lending, the effect on resident and nonresident employment, the effect on real wages,
14 and the effect on state and local operating and capital budgets of the programs of the
15 Alaska Housing Finance Corporation and the Alaska Industrial Development and
16 Export Authority;

17 (7) provide assistance to the trustees of the trust established in
18 AS 37.14.400 - 37.14.450 in carrying out their duties under AS 37.14.415;

19 **(8) review and prepare a report on recommendations made by the**
20 **Alaska Sunset Commission established in AS 44.99.700, submit the report to the**
21 **senate secretary and chief clerk of the house of representatives, and notify the**
22 **legislature that the report is available.**

23 * **Sec. 4.** AS 39.25.020(b) is amended to read:

24 (b) Unless a waiver is granted by the commissioner of administration, an
25 appointing authority may not appoint a person to state service if the person has been
26 convicted under AS 11.56.845. Before granting a waiver under this subsection, the
27 commissioner shall give notice in writing to the Legislative Budget and Audit
28 Committee **or the Alaska Sunset Commission established in AS 44.99.700, as**
29 **applicable,** of the intent to grant a waiver.

30 * **Sec. 5.** AS 39.25.080(b) is amended to read:

31 (b) The following information is available for public inspection, subject to

reasonable regulations on the time and manner of inspection:

- (1) the names and position titles of all state employees;
- (2) the position held by a state employee;
- (3) prior positions held by a state employee;
- (4) whether a state employee is in the classified, partially exempt, or exempt service;
- (5) the dates of appointment and separation of a state employee;
- (6) the compensation authorized for a state employee; and
- (7) whether a state employee has been dismissed or disciplined for a violation of AS 39.25.160(l) (interference or failure to cooperate with the Legislative Budget and Audit Committee or the Alaska Sunset Commission established in AS 44.99.700).

* **Sec. 6.** AS 39.25.160(l) is amended to read:

(l) A state employee may not intentionally (1) fail to give, or (2) direct, order, threaten, restrain, coerce, force, or prevent another person from giving, full cooperation to the legislative auditor or the legislative fiscal analyst in assembling or furnishing requested information to the Legislative Budget and Audit Committee or the Alaska Sunset Commission established in AS 44.99.700, or their [ITS] staff, if the person did not reasonably believe that the action or failure to act was legally justified. Violation of this subsection constitutes just cause for dismissal or other appropriate disciplinary action.

* **Sec. 7.** AS 39.90.140(3) is amended to read:

- (3) "matter of public concern" means
 - (A) a violation of a state, federal, or municipal law, regulation, or ordinance;
 - (B) a danger to public health or safety;
 - (C) gross mismanagement, a substantial waste of funds, or a clear abuse of authority;
 - (D) a matter accepted for investigation by the office of the ombudsman under AS 24.55.100 or 24.55.320; or
 - (E) interference or any failure to cooperate with an audit or

1 other matter within the authority of Legislative Budget and Audit Committee
 2 **or the Alaska Sunset Commission established in AS 44.99.700;**

3 * **Sec. 8.** AS 40.25.220(2) is amended to read:

4 (2) "public agency" means a political subdivision, department,
 5 institution, board, commission, division, authority, public corporation, council,
 6 committee, or other instrumentality of the state or a municipality; "public agency"
 7 includes the University of Alaska, [AND] the Alaska Railroad Corporation, **and the**
 8 **Alaska Sunset Commission established in AS 44.99.700;**

9 * **Sec. 9.** AS 44.99 is amended by adding new sections to read:

10 **Article 7. Alaska Sunset Commission.**

11 **Sec. 44.99.700. Establishment of commission; composition.** (a) The Alaska
 12 Sunset Commission is established in the executive branch of state government.

13 (b) The commission consists of nine public members appointed by the
 14 governor and confirmed by the legislature in joint session. Members shall have the
 15 following qualifications:

- 16 (1) two members shall be certified public accountants;
- 17 (2) one member shall be a budget analyst;
- 18 (3) one member shall be a controller or comptroller;
- 19 (4) one member shall have experience in financial management;
- 20 (5) two members shall have experience as owner, chief executive
 21 officer, or chief operating officer of a business based in the state; and
- 22 (6) two members shall have experience in finance, investment, or
 23 business management.

24 (c) Members appointed under (b) of this section

- 25 (1) serve staggered terms of five years until reappointed or replaced;
- 26 and
- 27 (2) may be reappointed.

28 (d) If a member appointed under (b) of this section no longer meets the
 29 requirements under (b) of this section or if a vacancy exists among those members for
 30 any reason other than the expiration of a member's term, the governor shall, within 30
 31 days after the occurrence of the vacancy, make an appointment for the unexpired

1 portion of the term, effective immediately. An appointment made by the governor
 2 under this subsection to fill an unexpired term must comply with the requirements
 3 under (b) of this section.

4 (e) The commission shall select a chair from among its members. Five
 5 members of the commission constitute a quorum. The commission may take action
 6 upon the affirmative vote of five members of the commission.

7 (f) The commission may employ staff as the commission determines necessary
 8 to perform its duties.

9 (g) Members of the commission serve without compensation but are entitled
 10 to per diem and travel expenses authorized for boards and commissions under
 11 AS 39.20.180. The members of the commission shall comply with AS 39.50.

12 **Sec. 44.99.710. Powers and duties of the commission.** (a) The commission
 13 shall

14 (1) review the activities of each entity listed in AS 44.99.730;

15 (2) consider whether there is a public need for continuation of an entity
 16 or for the performance of the functions of an entity listed in AS 44.99.730 and make a
 17 recommendation to the legislature to continue, discontinue, restructure, or transfer the
 18 duties and programs of the entity;

19 (3) prepare a report under AS 44.99.750 for each entity reviewed by
 20 the commission and, not later than the 10th day of the legislative session following the
 21 calendar year of review, submit the report to the senate secretary and chief clerk of the
 22 house of representatives, and notify the legislature that the report is available;

23 (4) make a reasonable effort, in conjunction with the Department of
 24 Labor and Workforce Development, to relocate a state employee who is displaced
 25 because of the discontinuation or reorganization of a state entity based on a
 26 recommendation of the commission; and

27 (5) review recommendations made by the Legislative Budget and
 28 Audit Committee, prepare a report on those recommendations, and submit the report
 29 to the governor.

30 (b) The commission may require all state officials and agencies of the state to
 31 give full cooperation to the commission and its staff in assembling and furnishing the

1 information necessary to prepare a report under (a) of this section.

2 (c) In carrying out its functions under AS 44.99.700 - 44.99.759, the
3 commission or its designated staff member may attend any meetings and proceedings
4 of any entity of the state, including any meeting or proceeding of a governing body of
5 a state entity that is closed to the public, and may inspect the records, documents, and
6 files of any entity of the state, including any record, document, or file that is

7 (1) attorney work product;

8 (2) an attorney-client communication; or

9 (3) made privileged or confidential by law.

10 **Sec. 44.99.720. State entity's report to the commission.** (a) Not later than
11 September 1 of the calendar year before the year in which an entity of the state subject
12 to AS 44.99.700 - 44.99.759 is scheduled for review under AS 44.99.730, the state
13 entity shall report to the commission

14 (1) the extent to which the entity has met the criteria in AS 44.99.740;

15 (2) a list of each report that the entity is required by law to prepare and
16 an evaluation of the need for each report based on whether factors or conditions have
17 changed since the date the requirement to prepare the report was enacted; and

18 (3) any other information that the entity considers appropriate or that is
19 requested by the commission.

20 (b) The entity shall submit the report in electronic format, as required by the
21 commission.

22 (c) A state entity that provides the commission with access to a privileged or
23 confidential communication, record, document, or file for purposes of a review under
24 AS 44.99.700 - 44.99.759 does not waive the attorney-client privilege, or any other
25 privilege or confidentiality with respect to the communication, record, document, or
26 file provided to the commission. For purposes of this subsection, a communication
27 includes a discussion that occurs at a meeting or proceeding of the state entity that is
28 closed to the public.

29 **Sec. 44.99.730. Review of state entities.** (a) The first review of an entity listed
30 below shall occur in the calendar year set out after the name of the entity, and
31 subsequent reviews of each entity shall occur not less than every 12 years. The entities

subject to review under AS 44.99.700 - 44.99.759 are as follows:

- (1) Department of Health (2024);
- (2) Department of Family and Community Services (2024);
- (3) Office of the Governor (2025);
- (4) Department of Administration (2025);
- (5) Department of Law (2026);
- (6) Department of Revenue (2027);
- (7) Department of Education and Early Development (2028);
- (8) Department of Labor and Workforce Development (2029);
- (9) Department of Commerce, Community, and Economic Development (2030);
- (10) Department of Military and Veterans' Affairs (2031);
- (11) Department of Natural Resources (2031);
- (12) Department of Fish and Game (2032);
- (13) Department of Public Safety (2032);
- (14) Department of Transportation and Public Facilities (2032);
- (15) Department of Environmental Conservation (2033);
- (16) Department of Corrections (2033);
- (17) Alaska State Legislature and agencies in the legislative branch of government (2034);
- (18) University of Alaska (2035);
- (19) Alaska Court System and agencies in the judicial branch of government (2036).

(b) The review of each entity listed in (a) of this section must include a review of any public corporation, board or commission, or other instrumentality of the state that is established within the entity and a review of any committee, task force, or other group that is established by law or by the entity for the purpose of advising or otherwise assisting the entity.

Sec. 44.99.740. Criteria for review. (a) In considering whether there is a public need for continuation of an entity or for the performance of the functions of an entity listed in AS 44.99.730, the commission shall consider the following criteria:

- 1 (1) the efficiency with which the entity operates;
- 2 (2) the extent to which the entity seeks out and implements procedures
3 related to the public that are user-friendly for the public;
- 4 (3) the extent to which the missions of the entity that have been
5 established by law have been carried out;
- 6 (4) the extent to which the entity has entered into activities not
7 mandated by statute, the extent to which there is a public need served by those
8 activities, and the extent to which those activities have been successfully performed;
- 9 (5) whether there is an alternative method of performing the duties and
10 missions of the entity that could adequately protect the public interest;
- 11 (6) the extent to which advisory committees in the entity are needed
12 and used by the entity;
- 13 (7) the extent to which the jurisdiction of the entity and the programs
14 administered by the entity overlap or duplicate jurisdictions or programs of other
15 entities and the extent to which the programs administered by the entity could be
16 consolidated with the programs of other state entities;
- 17 (8) the extent to which the entity has recommended statutory changes
18 to the legislature intended to benefit the public instead of benefiting the occupation,
19 business, or institution regulated by the entity;
- 20 (9) the promptness and effectiveness with which the entity disposes of
21 complaints concerning persons affected by the entity and makes corrections in the
22 entity's procedures, as needed, to increase the promptness and effectiveness of the
23 entity;
- 24 (10) the extent to which the entity has encouraged participation by the
25 public in making regulations, rules, and decisions, as opposed to encouraging
26 participation solely by the persons regulated by the entity and the extent to which
27 public participation has resulted in regulations, rules, and decisions compatible with
28 the statutory objectives of the entity;
- 29 (11) the extent to which changes are necessary in the enabling statutes
30 of the entity so that the entity can adequately comply with, or meet the goals of, the
31 criteria listed in this subsection;

1 (12) the extent to which the entity issues and enforces regulations,
2 rules, and decisions relating to potential conflicts of interest of its employees;

3 (13) the extent to which the entity follows records management
4 practices that enable the entity to respond efficiently to requests for public
5 information;

6 (14) the extent to which the entity has complied with applicable federal
7 and state laws regarding equality of employment opportunity and the rights and
8 privacy of individuals;

9 (15) the potential for, and effect of, federal intervention or loss of
10 federal funds if the entity is abolished in whole or in part;

11 (16) the annual budget and staff of the entity compared to the statutory
12 and constitutional duties of the entity.

13 (b) By September 1 of the year of review for an entity, the commission shall
14 provide notice of and hold one or more public hearings concerning the application of
15 the criteria listed in (a) of this section to each entity being reviewed by the
16 commission. At a public hearing, the commission shall accept testimony from the
17 public and from a person involved in the administration of the entity subject to the
18 review.

19 **Sec. 44.99.750. Report by commission.** (a) Following review of an entity
20 under AS 44.99.730, the commission shall prepare a report on the results of the review
21 of the entity, a summary of comments received at the public hearing on the entity, and
22 a recommendation to the legislature to continue, discontinue, restructure, or transfer
23 the duties and programs of an entity. The report must be based on the criteria listed in
24 AS 44.99.740 and other factors the commission considers appropriate. The
25 commission shall include in the report a bill in a form that, if enacted into law, would
26 implement the recommendations of the commission, including repeals and
27 amendments necessary to implement a recommendation of continuation,
28 discontinuation, restructuring, or transfer of a program or entity.

29 (b) If the commission recommends the discontinuation of an entity, the report
30 must include a recommendation on the length of a winding-down period for the entity
31 to conclude its business and proposed procedures for transferring the entity's records.

1 **Sec. 44.99.759. Definition.** In AS 44.99.700 - 44.99.759, "commission" means
2 the Alaska Sunset Commission.

3 * **Sec. 10.** AS 08.03.020(b); AS 24.20.231(7), 24.20.271(2), 24.20.311(b); AS 44.66.020,
4 44.66.040, 44.66.050, and 44.66.070(2) are repealed.

5 * **Sec. 11.** Section 11, ch. 19, SLA 2013, is repealed.

6 * **Sec. 12.** Section 11 of this Act takes effect immediately under AS 01.10.070(c).