

Legislation

... Longevity

Bonus Under

APPA

# Alaska State Legislature



3111 C STREET, SUITE 550  
ANCHORAGE, ALASKA 99503  
(907) 561-7615

While in Juneau  
STATE CAPITOL  
JUNEAU, ALASKA 99801-1182  
(907) 465-3818


SENATOR  
ARLISS STURGULEWSKI

Senate

MEMORANDUM

March 20, 1992

TO: Senator Shirley Craft, Chair  
Administrative Regulation Review Committee

FROM: Senator Arliss Sturgulewski   
Senate District F

RE: Regulations to implement the Longevity Bonus program

Attachment: . . . copy of a piece of legislation that would bring the longevity bonus program regulations under the Administrative Procedures Act. I can think of absolutely no reason why the longevity bonus program should not be subject to the APA. We might well have prevented the nearly 10 million dollar overpayment had there been a more specific public process utilized when considering the regulations. It is my opinion that the Administrative Regulation Review Committee should have legislation prepared to be introduced by the Senate Rules committee so that this issue can be clarified this session.

Attachment

### Article 3. Administrative Regulation Review Committee.

Section	Section
400. Administrative Regulation Review Committee established	440. Meetings
410. Membership	445. Power of suspension
420. Term of membership	450. Staff
430. Vacancies	460. Powers

**Sec. 24.20.400. 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 to determine whether annulment under AS 44.62.320 is appropriate. (§ 1 ch 27 SLA 1975)

#### NOTES TO DECISIONS

**Constitutionality of legislative veto.** — The legislative veto contained in AS 44.62.320 (a), which provides that the "legislature, by a concurrent resolution adopted by a vote of both houses, may annul a regulation of an agency or depart-

ment." violates art. II of the state constitution. No implied general power to veto agency regulations by informal legislative action exists. *State v. A.L.I.V.E. Voluntary*. Sup. Ct. Op. No. 2022 (File No. 3670). 606 P.2d 769 (1980).

**Sec. 24.20.410. Membership.** The Administrative Regulation Review Committee is composed of three members of the house 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 chairman from among its members. (§ 1 ch 27 SLA 1975)

**Sec. 24.20.420. 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 they are reelected or their term of office extends into the next succeeding legislature, they continue to serve until reappointed or the appointment of their successor. (§ 1 ch 27 SLA 1975)

**Sec. 24.20.430. Vacancies.** When a vacancy occurs in the membership of the committee, the presiding officer of the house incurring the vacancy shall choose a successor. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy from the affected house occurs among the membership of the committee, the remaining committee members from the house incurring the vacancy shall appoint a new member. (§ 1 ch 27 SLA 1975)

**Sec. 24.20.440. Meetings.** The Administrative Regulation Review Committee may meet during sessions of the legislature and during the interim between sessions at such times and places in the state as the chairman may determine. Members may receive, for the minimum time required to get to and from meetings and for the period while attending meetings, the same travel and per diem allowances provided by law for members of the legislature when attending sessions, except that members of the committee receive no per diem during legislative sessions other than the per diem allowance paid to other members of the legislature. (§ 1 ch 27 SLA 1975)

**Sec. 24.20.445. Power of suspension.** (a) When the legislature is not in session, the Administrative Regulation Review Committee may by an affirmative vote of not less than two-thirds of the members of the committee suspend the effectiveness of the adoption of or amendment to a regulation adopted after adjournment of the previous regular session of the legislature, until 30 days after the legislature reconvenes.

(b) The effectiveness of an adoption or amendment of a regulation is suspended on the date a resolution of the Administrative Regulation Review Committee resolving that the regulation be suspended is filed with the lieutenant governor. If an adoption of or amendment to a regulation is not effective on the date a resolution is filed with the lieutenant governor, the effectiveness of the adoption or amendment which is the subject of the committee's resolution is suspended from the date the adoption or amendment would otherwise become effective under AS 44.62.180.

(c) Action under (a) of this section may not be undertaken unless all interested parties are afforded an opportunity to be heard at a hearing held upon 15 days' notice to those parties.

(d) The provisions of this section do not apply to emergency regulations. (§§ 1, 2 ch 3 SLA 1978; am § 2 ch 1 SLA 1982)

**Revisor's notes.** — Subsection (d) was enacted as sec. 2, ch. 3, SLA 1978, and rewritten and codified as a part of this section in 1978.

**Cross references.** — For intent of 1982 amendatory act, see sec. 1, ch. 1, SLA 1982.

**Effect of amendments.** — The 1982

amendment in subsection (b), substituted "resolution of the Administrative Regulation Review Committee resolving that the regulation be suspended" for "committee report passing in favor of suspension" in the first sentence and substituted "resolution" for "report" in two places in the second sentence.

#### NOTES TO DECISIONS

**Constitutionality of legislative veto.** — The legislative veto contained in AS 44.62.320 (a), which provides that the legislature, by a concurrent resolution adopted by a vote of both houses, may annul a regulation of an agency or depart-

ment," violates art. II of the state constitution. No implied general power to veto agency regulations by informal legislative action exists. *State v. A.L.I.V.E. Voluntary*, Sup. Ct. Op. No. 2022 (File No. 3670). 606 P.2d 739 (1980).

Sec. 24.20.450. Staff, The Legislative Affairs Agency shall provide the committee with professional and clerical assistance under the auspices of the Legislative Council. (§ 1 ch 27 SLA 1975)

Sec. 24.20.460. Powers. The Administrative Regulation Review Committee has the following powers:

- (1) to organize and adopt rules for the conduct of its business;
- (2) to hold public hearings;
- (3) to require all state officials and agencies of state government to give full cooperation to the committee or its staff in assembling and furnishing requested information;
- (4) to examine all administrative regulations to determine if they properly implement legislative intent;
- (5) to make recommendations for legislative annulment of administrative regulations under AS 44.62.320;
- (6) to prepare and distribute reports, memoranda, or other materials;
- (7) to promote needed revision or repeal of regulations that have been adopted by state departments and agencies and, when the committee determines a regulation should be repealed or amended, to introduce a bill that would enact a statute that would supersede or nullify the regulation;
- (8) to investigate findings that are transmitted to the committee by a standing committee in accordance with AS 24.05.182 and, as appropriate, to either introduce a bill annulling the regulation or exercise the committee's power to suspend the effectiveness of the regulation in accordance with AS 24.20.445. (§ 1 ch 27 SLA 1975; am § 3 ch 1 SLA 1982)

Effect of amendments. — The 1982 amendment added paragraphs (7) and (8).

#### NOTES TO DECISIONS

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Sec. 24.08.060. Introduction of bills. (a) A member of the legislature or a committee chairman, with the concurrence of a majority of the active members of the committee and on behalf of the committee, may introduce a bill or resolution. Bills and resolutions shall be prepared and introduced in the manner and form prescribed in the uniform rules and the legislative style manual.

(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. (§ 34 ch 157 SLA 1959; am § 10 ch 47 SLA 1961; am § 1 ch 2 SLA 1971; am § 38 ch 32 SLA 1971; am § 27 ch 71 SLA 1972; am § 1 ch 2 SLA 1977)

Revisor's notes. — Formerly AS  
24.30.060. Renumbered in 1985.

#### NOTES TO DECISIONS

Quoted in *Homer Elec. Ass'n v. City of Kenai*, Sup. Ct. Op. No. 390 (File No. 675), 423 P.2d 285 (1967).

## Article 7. Legislative Review of Rules.

### Section

320. Legislative annulment of regulations and review

**Sec. 44.62.320. Legislative annulment of regulations and review.** (a) The legislature, by a concurrent resolution adopted by a vote of both houses, may annul a regulation of an agency or department.

(b) At the same time a regulation is filed by the lieutenant governor, the lieutenant governor shall submit the regulation to the chairman and all members of the Administrative Regulation Review Committee for review under AS 24.20.400 — 24.20.460 together with the fiscal information required to be prepared under AS 44.62.195. (§ 1 art VII (ch 1) ch 143 SLA 1959; am § 3 ch 149 SLA 1962; am § 2 ch 72 SLA 1963; am § 2 ch 27 SLA 1975; am § 5 ch 64 SLA 1978; am § 3 ch 16 SLA 1980)

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Cited in *Wickersham v. State, Com. Fisheries Entry Comm'n.* 680 P.2d 1135 (Alaska 1984).



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SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY

Introduced:  
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to regulations to implement the longevity bonus program."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 \* Section 1. AS 47.45.100 is amended to read:

4           Sec. 47.45.100. POWERS AND DUTIES OF THE ADMINISTRATOR. The  
5 commissioner of administration shall

6                   (1) adopt regulations under AS 44.62.010 - 44.62.320 (Administrative  
7 Procedure Act) necessary to carry out the provisions of this chapter;

8                   (2) make expenditures from the fund necessary to administer this chapter;

9                   (3) establish and maintain an adequate system of accounts for the fund;

10                   (4) publish annually a report showing the financial condition of the fund.

11 \* Sec. 2. AS 47.45.160 is amended to read:

12           Sec. 47.45.160. APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT. The  
13 provisions of AS 44.62.320 - 44.62.630 do [THE ADMINISTRATIVE PROCEDURE ACT  
14 (AS 44.62) DOES] not apply to this chapter.