

HOUSE BILL NO. 278

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

Introduced: 1/18/24

Referred: Judiciary, State Affairs, Finance

A BILL**FOR AN ACT ENTITLED**1 **"An Act establishing the administrative regulation review division."**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 administrative**
12 **regulation review division under AS 24.20.465 - 24.20.475.**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

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 4 **scheduled by the department or agency to be adopted, amended, or repealed.**

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

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

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

10 (g) A standing committee shall transmit findings from a review conducted
 11 under this section to the administrative regulation review division.

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

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

19 **(1) set a new deadline; and**

20 **(2) report to the administrative regulation review division the new**
 21 **deadline and the reasons for being unable to meet the deadline set in the fiscal**
 22 **note.**

23 * **Sec. 6.** AS 24.20 is amended by adding a new section to read:

24 **Sec. 24.20.106. Review of proposed regulations.** (a) The Legislative Affairs
 25 Agency may review each proposed regulation that is subject to AS 44.62.010 -
 26 44.62.300 (Administrative Procedure Act). An attorney employed by the agency shall
 27 review proposed regulations under this section.

28 (b) An attorney shall review proposed regulations in the following order of
 29 priority:

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

1 (2) proposed regulations requested in writing to be reviewed by a
2 standing committee, the administrative regulation review division, or the legislative
3 council as implicating major policy development.

4 (c) Notice of proposed action, along with a copy of the proposed regulation,
5 shall be furnished electronically by the state agency to the

6 (1) Legislative Affairs Agency;

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

9 (3) administrative regulation review division;

10 (4) legislative council.

11 (d) Within available staff resources and priorities set by the legislative council,
12 the Legislative Affairs Agency shall assign one or more attorneys to review proposed
13 regulations. The assigned attorney shall evaluate whether the proposed regulation
14 meets the following standards:

15 (1) the proposed regulation is legal and constitutional;

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

18 (3) the proposed regulation is consistent with the applicable statutes.

19 (e) In conducting a review under this section, the assigned attorney may
20 consult with the Department of Law, the committee, division, or council that requests
21 the review under (b)(2) of this section, and the state agency proposing the regulation
22 change. With respect to proposed regulations that implement newly enacted legislation
23 as described in (b)(1) of this section, the assigned attorney may also consult with the
24 prime sponsor of the legislation if the prime sponsor is a member of the legislature at
25 the time of the review. If the assigned attorney determines that the proposed
26 regulations fail to meet the standards set out in (d) of this section, the assigned
27 attorney shall notify, in writing, the Department of Law, the state agency, the
28 administrative regulation review division, the president of the senate, the speaker of
29 the house of representatives, and the committee, division, or council, if any, that
30 requested the review under (b)(2) of this section. If the review involves proposed
31 regulations that implement newly enacted legislation as described in (b)(1) of this

1 section and the prime sponsor of that legislation is a member of the legislature at the
 2 time of the review, the assigned attorney shall also notify the prime sponsor, in
 3 writing, if the proposed regulations fail to meet the standards set out in (d) of this
 4 section. If, after performing a review requested under (b)(2) of this section, the
 5 assigned attorney determines that the proposed regulations meet the standards set out
 6 in (d) of this section, the assigned attorney shall communicate that determination to
 7 the requester.

8 (f) In addition to the review specified in (d) of this section, the assigned
 9 attorney shall notify the administrative regulation review division, the president of the
 10 senate, and the speaker of the house of representatives of any provision of the
 11 proposed regulation that may be inconsistent with legislative intent and appropriate for
 12 additional legislative oversight as a result.

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

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

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

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

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

26 * **Sec. 7.** AS 24.20 is amended by adding new sections to read:

27 **Sec. 24.20.465. Administrative regulation review division.** The
 28 administrative regulation review division is established as a permanent staff agency
 29 responsible to the Legislative Budget and Audit Committee for the purpose of
 30 providing prompt legislative review of administrative regulations filed by the
 31 lieutenant governor.

1 **Sec. 24.20.470. Staff.** The Legislative Budget and Audit Committee shall
 2 employ and determine the compensation of the clerical staff of the administrative
 3 regulation review division. The Legislative Affairs Agency shall provide the
 4 administrative regulation review division with professional assistance, within the
 5 limits of the budget approved by the Legislative Budget and Audit Committee.

6 **Sec. 24.20.475. Powers.** The administrative regulation review division has the
 7 following powers:

8 (1) to require all state officials and agencies of state government to
 9 give full cooperation to the division or its staff in assembling and furnishing requested
 10 information;

11 (2) to examine all administrative regulations, including proposed
 12 adoption of or amendment to regulations and orders of repeal, to determine whether
 13 the adoption, amendment, or repeal would properly implement legislative intent and to
 14 provide comments on them to the governor and state agencies;

15 (3) to prepare and distribute reports, memoranda, or other materials;

16 (4) to promote needed amendment or repeal of regulations that have
 17 been adopted by state departments and agencies and, when the division determines a
 18 regulation should be repealed or amended, to recommend to the Legislative Budget
 19 and Audit Committee that it introduce a bill that would enact a statute that would
 20 supersede or nullify the regulation;

21 (5) to investigate findings that are transmitted to the division by a
 22 standing committee in accordance with AS 24.05.182 and, as appropriate, to
 23 recommend to the Legislative Budget and Audit Committee that it introduce a bill
 24 annulling the regulation.

25 * **Sec. 8.** AS 26.27.110(b) is amended to read:

26 (b) Except for AS 44.62.310 - 44.62.319 (Open Meetings Act), the provisions
 27 of AS 44.62 (Administrative Procedure Act) regarding the adoption of regulations do
 28 not apply to the corporation. The corporation shall make available to members of the
 29 public copies of the regulations adopted under this section. **Within 45 days after**
 30 **adoption of a regulation under this section, the chair of the corporation shall**
 31 **submit the regulation adopted to the administrative regulation review division**

1 under AS 24.20.465 - 24.20.475.

2 * **Sec. 9.** AS 30.17.120 is amended to read:

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

6 * **Sec. 10.** AS 31.25.130(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 administrative
12 regulation review division under AS 24.20.465 - 24.20.475.

13 * **Sec. 11.** AS 37.13.206(g) is amended to read:

14 (g) A regulation adopted under this section takes effect immediately upon its
15 adoption by the board or at another time specified in the order of adoption. The
16 regulation shall be submitted to the lieutenant governor for publication in the Alaska
17 Administrative Code and Register. Within 45 days after adoption, the corporation
18 shall provide a copy of the regulation to the administrative regulation review
19 division under AS 24.20.465 - 24.20.475.

20 * **Sec. 12.** AS 38.35.190(a) is amended to read:

21 (a) AS 44.62.010 - 44.62.325 [AS 44.62.010 - 44.62.319], 44.62.640, and
22 44.62.950 apply to regulations adopted by the commissioner under the authority of
23 this chapter.

24 * **Sec. 13.** AS 40.25.120(a) is amended to read:

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

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

29 (2) records pertaining to juveniles unless disclosure is authorized by
30 law;

31 (3) medical and related public health records;

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

3 (5) to the extent the records are required to be kept confidential under
4 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure
5 or retain federal assistance;

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

8 (A) could reasonably be expected to interfere with enforcement
9 proceedings;

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

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

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

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

18 (F) would disclose guidelines for law enforcement
19 investigations or prosecutions if the disclosure could reasonably be expected to
20 risk circumvention of the law; or

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

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

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

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

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

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

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

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

13 (11) [REPEALED]

14 (12) records that are

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

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

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

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

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

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

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

30 (18) records that are

31 (A) investigative files under AS 45.55.910; or

1 (B) confidential under AS 45.56.620;

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

6 * **Sec. 14.** AS 42.40.920(b) is amended to read:

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

- 9 (1) AS 19;
 10 (2) AS 30.15;
 11 (3) AS 35;
 12 (4) AS 36.30, except as specifically provided in that chapter;
 13 (5) AS 37.05, except as specifically provided in AS 37.05.210;
 14 (6) AS 37.07;
 15 (7) AS 37.10.010 - 37.10.060;
 16 (8) AS 37.10.085;
 17 (9) AS 37.20;
 18 (10) AS 37.25;
 19 (11) AS 38;
 20 (12) **AS 44.62.010 - 44.62.325** [AS 44.62.010 - 44.62.319].

21 * **Sec. 15.** AS 44.62.020 is amended to read:

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

23 Except for the authority conferred on the lieutenant governor in AS 44.62.130 -
 24 44.62.170, **AS 44.62.010 - 44.62.325** [AS 44.62.010 - 44.62.319] do not confer
 25 authority on or augment the authority of a state agency to adopt, administer, or enforce
 26 a regulation. To be effective, each regulation adopted must be within the scope of
 27 authority conferred and in accordance with standards prescribed by other provisions of
 28 law.

29 * **Sec. 16.** AS 44.62.040(c) is amended to read:

30 (c) Before submitting the regulations and orders of repeal to the lieutenant
 31 governor under (a) of this section, every state agency that by statute possesses

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

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

17 **or**

18 **(2) to enable the adopting agency to respond to specific issues**
 19 **raised by the administrative regulation review division.**

20 * **Sec. 17.** AS 44.62.190(a) is amended to read:

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

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

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

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

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

6 (A) furnished to a person or group of persons [WHOM] the
7 agency believes is interested in the proposed action; and

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

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

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

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

18 * **Sec. 18.** AS 44.62.245(c) is amended to read:

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

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

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

26 **(3) the administrative regulation review division.**

27 * **Sec. 19.** AS 44.62.290(a) is amended to read:

28 (a) AS 44.62.180 - 44.62.290 do not apply to a regulation not required to be
29 submitted to the lieutenant governor under **AS 44.62.010 - 44.62.325** [AS 44.62.010 -
30 44.62.319].

31 * **Sec. 20.** AS 44.62.300(a) is amended to read:

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

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

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

9 * **Sec. 21.** AS 44.62 is amended by adding a new section to read:

10 **Article 6A. Legislative Review of Regulations.**

11 **Sec. 44.62.325. Submittal for legislative review.** (a) When a regulation is
 12 filed by the lieutenant governor, the lieutenant governor shall submit the regulation to
 13 the administrative regulation review division for review under AS 24.20.465 -
 14 24.20.475 together with the fiscal information required to be prepared under
 15 AS 44.62.195.

16 (b) When a regulation is submitted to the governor under AS 44.62.040(c), the
 17 state agency shall submit the regulation to the administrative regulation review
 18 division for review under AS 24.20.465 - 24.20.475 together with the fiscal
 19 information required to be prepared under AS 44.62.195.

20 (c) Within 10 days after receiving a regulation under (b) of this section, the
 21 administrative regulation review division may submit to the governor, by legislative
 22 memorandum or letter, comments on the regulation.

23 * **Sec. 22.** AS 44.62.640(a) is amended to read:

24 (a) In AS 44.62.010 - 44.62.325 [AS 44.62.010 - 44.62.319], unless the
 25 context otherwise requires,

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

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

31 (3) "regulation" means every rule, regulation, order, or standard of

1 general application or the amendment, supplement, or revision of a rule, regulation,
 2 order, or standard adopted by a state agency to implement, interpret, or make specific
 3 the law enforced or administered by it, or to govern its procedure, except one that
 4 relates only to the internal management of a state agency; "regulation" does not
 5 include a form prescribed by a state agency or instructions relating to the use of the
 6 form, but this provision is not a limitation on a requirement that a regulation be
 7 adopted under this chapter when one is needed to implement the law under which the
 8 form is issued; "regulation" includes "manuals," "policies," "instructions," "guides to
 9 enforcement," "interpretative bulletins," "interpretations," and the like, that have the
 10 effect of rules, orders, regulations, or standards of general application, and this and
 11 similar phraseology may not be used to avoid or circumvent this chapter; whether a
 12 regulation, regardless of name, is covered by this chapter depends in part on whether it
 13 affects the public or is used by the agency in dealing with the public;

14 (4) "state agency" means a department, office, agency, or other
 15 organizational unit of the executive branch, except one expressly excluded by law, but
 16 does not include an agency in the judicial or legislative branches of the state
 17 government.

18 * **Sec. 23.** AS 44.62.710(a) is amended to read:

19 (a) The purpose of AS 44.62.710 - 44.62.800 is to establish a framework for
 20 the conduct of negotiated regulation making consistent with AS 44.62.010 - 44.62.325
 21 [AS 44.62.010 - 44.62.319]. Negotiated regulation making is not a substitute for the
 22 requirements of AS 44.62.010 - 44.62.325 [AS 44.62.010 - 44.62.319] but may be
 23 used as a supplemental procedure to permit the direct participation of affected interests
 24 in the development of new regulations or the amendment or repeal of existing
 25 regulations. A consensus agreement reached by a negotiated regulation making
 26 committee may be modified by an agency head as a result of the subsequent regulation
 27 making process. AS 44.62.710 - 44.62.800 may not be construed as an attempt to limit
 28 innovation and experimentation with the negotiated regulation making process or to
 29 limit other means to obtain public participation in the regulation making process.

30 * **Sec. 24.** AS 44.62.720(a) is amended to read:

31 (a) In addition to the regulation adoption requirements under AS 44.62.010 -

1 **44.62.325** [AS 44.62.010 - 44.62.319], an agency head may determine that the use of a
 2 negotiated regulation making committee to negotiate and develop a proposed
 3 regulation is in the public interest. In making that determination, the agency head is
 4 advised to consider whether

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

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

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

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

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

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

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

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

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

25 * **Sec. 25.** AS 44.62.740(e) is amended to read:

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

29 * **Sec. 26.** AS 44.62.790 is amended to read:

30 **Sec. 44.62.790. Relationship to other requirements.** The negotiated
 31 regulation making authorized by AS 44.62.710 - 44.62.800 is in addition to the

1 procedures required under AS 44.62.010 - 44.62.325 [AS 44.62.010 - 44.62.319] for
2 adopting, amending, or repealing regulations, and, if an agency head decides to use
3 negotiated regulation making, the negotiated regulation making shall, where possible,
4 occur before the procedures under AS 44.62.010 - 44.62.325 [AS 44.62.010 -
5 44.62.319] begin.

6 * **Sec. 27.** AS 44.88.085(a) is amended to read:

7 (a) Except for AS 44.62.310 - 44.62.319 (Open Meetings Act), the provisions
8 of the Administrative Procedure Act regarding the adoption of regulations
9 (AS 44.62.040 - 44.62.325) [(AS 44.62.040 - 44.62.319)] do not apply to the
10 authority. The authority shall make available to members of the public copies of the
11 regulations adopted under this section. Within 45 days after the adoption of a
12 regulation under this section, the chair of the authority shall submit the
13 regulation adopted to the administrative regulation review division under
14 AS 24.20.465 - 24.20.475.

15 * **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

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