From: [redacted]
To: House Community and Regional Affairs; House State Affairs
Subject: HB 58 Public Testimony
Date: Thursday, March 13, 2025 9:08:08 AM

Public Testimony of Alaska HB 58 (Public Advocate Bill)

Chairperson and Honorable members of the Committee

I object to this bill unless it is amended.

1. Overview of Alaska HB 58:

Bill Summary:
Alaska HB 58 seeks to establish the position of a Public Advocate for the state of Alaska. The Public Advocate would serve as an independent office to represent Alaskan residents, advocating for their rights in issues such as consumer protection, environmental justice, government accountability, and corporate responsibility. The bill would also provide a framework for the appointment of the Public Advocate, define their scope of responsibilities, and allocate funding for the office's operations.

2. Constitutionality and State-Level Legal Concerns:

Creation of an Independent Office:
The establishment of an independent Public Advocate could face challenges related to Alaska's Constitution regarding the scope of executive power. The bill should ensure that the Public Advocate's powers do not encroach upon the authority of existing government offices, such as the Attorney General's Office, which may lead to constitutional conflict over the delineation of powers.

Issue 1: Separation of Powers:
The separation of powers doctrine, which is a fundamental principle in Alaska's constitution, must be considered. The Public Advocate's role should not interfere with the executive branch's authority or the legislature's authority to enact laws, and should remain distinctly within the framework of providing advocacy for the public.

Precedent: Storer v. State, 573 P.2d 854 (Alaska 1978), emphasized the importance of the separation of powers in avoiding conflicts between branches of government.

Issue 2: Budget and Legislative Oversight:
The bill's provisions for funding the Public Advocate must be evaluated to ensure that the legislature maintains control over the allocation of public funds, in alignment with constitutional rules for appropriations and state budgeting processes.

Precedent: State of Alaska v. Dillingham, 602 P.2d 446 (Alaska 1979), reinforced the principle that public funding must adhere to constitutional procedures for legislative oversight.

3. Tribal Sovereignty and Consultation:

Impact on Tribal Communities:
While the Public Advocate is designed to represent all residents of Alaska, it is essential that the bill includes explicit consultation provisions to ensure that the interests of tribal communities are not overlooked. Alaska's tribal governments have sovereignty, and any representation related to tribal matters should be done in close cooperation with these communities.

Issue 1: Tribal Rights and Representation:
Tribes may have specific concerns or needs that are distinct from those of other Alaskans. The Public Advocate should have clear protocols in place for interacting with and representing Alaska Native tribes to ensure their legal rights are upheld.

Precedent: Native Village of Kivalina v. ExxonMobil Corp., 663 F.3d 1024 (9th Cir. 2011), illustrated the importance of tribal consultation in legal matters related to land and resources, which the Public Advocate could be involved with in the future.

Issue 2: Tribal Jurisdiction:
The bill should recognize the jurisdictional authority of tribes over certain matters, ensuring that the Public Advocate's work does not infringe upon tribal self-governance.

Precedent: United States v. Wheeler, 435 U.S. 313 (1978), upheld the importance of respecting tribal sovereignty.

4. Accountability and Oversight:

Accountability of the Public Advocate's Office:
As an independent office, it is crucial that the Public Advocate be held accountable to both the legislature and the public. The bill should ensure that checks and balances are in place, such as reporting requirements, audits, and periodic reviews of the office's operations, budget, and effectiveness.

Issue 1: Potential for Overreach:
The Public Advocate must act within the limits of its defined role and avoid encroaching on the functions of other governmental bodies, such as the Alaska Human Rights Commission, the Attorney General, or regulatory agencies. Clear limitations of scope should be included in the bill to avoid overlap.

Precedent: United States v. Nixon, 418 U.S. 683 (1974), affirmed that independent offices need clear mandates to prevent unnecessary overreach.

5. Consumer Protection and Corporate Accountability:

Advocacy for Consumers and Marginalized Communities:
One of the core purposes of the Public Advocate is to serve as a voice for consumers and marginalized communities in Alaska. This includes advocating against corporate malfeasance, such as environmental degradation, unfair business practices, and worker exploitation.

Issue 1: Corporate Accountability:
The Public Advocate may need to pursue legal challenges against corporations engaging in harmful practices, especially in sectors such as oil and gas, mining, and fisheries. The bill

should ensure that the Public Advocate has adequate legal authority to hold corporations accountable while avoiding any conflict of interest or undue influence by powerful corporate interests in Alaska.

Precedent: Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984), illustrated the role of government entities in challenging corporate behavior that harms the public interest.

Issue 2: Protection of Marginalized Communities:
Special attention should be given to how the Public Advocate will represent Alaska Native tribes, low-income residents, and other marginalized groups who may face disproportionate impacts from government policies or corporate activities. The office must be equipped to ensure that fair representation is provided, and social justice issues are effectively addressed.

Precedent: LULAC v. Perry, 548 U.S. 399 (2006), addressed the issue of marginalized communities being disproportionately affected by political and corporate decisions.

6. Worker Protections and Labor Rights:

Role in Worker Advocacy:
The Public Advocate should have a role in protecting workers' rights, particularly in industries like oil extraction, fisheries, and mining. This includes advocacy for better working conditions, fair wages, and health and safety standards.

Issue 1: Protecting Workers' Rights:
The bill should clarify the Public Advocate's role in advocating for workers' rights. It should include provisions for addressing unsafe working conditions, unfair labor practices, and worker exploitation. The office should collaborate with state agencies like the Alaska Department of Labor and Workforce Development to advocate for effective legal remedies.

Precedent: National Labor Relations Board v. Jones & Laughlin Steel Corp., 301 U.S. 1 (1937), established the importance of worker advocacy in industry sectors that are prone to labor violations.

7. Conclusion:

Alaska HB 58 presents a potentially transformative move to establish an independent Public Advocate to protect the rights of Alaskans, particularly in relation to consumer protection, worker rights, and environmental justice. However, the bill must address several legal concerns, including:

Separation of powers issues with existing offices,

Clear limitations on the scope of authority of the Public Advocate to prevent overlap with other agencies,

Strong provisions for tribal consultation and respect for tribal sovereignty,

Mechanisms for ensuring accountability and transparency in the office's operations.

By addressing these concerns, HB 58 can serve as an effective mechanism for advocating on behalf of Alaska's residents without overstepping constitutional boundaries or infringing on existing legal rights.

Thank you for your attention to these matters
Susan Allmeroth
Two Rivers
Myself

References:

Storer v. State, 573 P.2d 854 (Alaska 1978).

State of Alaska v. Dillingham, 602 P.2d 446 (Alaska 1979).

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Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984).

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National Labor Relations Board v. Jones & Laughlin Steel Corp., 301 U.S.