

CS FOR HOUSE BILL NO. 86(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 4/25/05

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES MEYER, Kerttula

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing in the office of the ombudsman a public employee fraud, waste,
2 and abuse report hotline program."

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

4 * **Section 1.** AS 24.55.090(a) is amended to read:

5 (a) The ombudsman shall, by regulations adopted under AS 44.62
6 (Administrative Procedure Act), establish procedures for receiving and processing

7 (1) complaints, conducting investigations, reporting findings, and
8 ensuring that confidential information obtained by the ombudsman in the course of an
9 investigation will not be improperly disclosed; **and**

10 (2) reports made by public employees using the public employee
11 fraud, waste, and abuse hotline program.

12 * **Sec. 2.** AS 24.55 is amended by adding a new section to read:

13 **Article 4A. Public Employee Fraud, Waste, and Abuse Hotline Program.**

14 **Sec. 24.55.222. Public employee fraud, waste, and abuse hotline program.**

1 (a) The ombudsman shall establish, maintain, and administer the public employee
2 fraud, waste, and abuse hotline program to encourage agency employees to report
3 situations where fraud, waste, or abuse may be occurring in the state's agencies.

4 (b) The ombudsman may make available to agency employees a variety of
5 means to report fraud, waste, and abuse in agencies, one of which shall be an
6 anonymous toll-free telephone number, and including any other communications to
7 the ombudsman made through the governor or heads of agencies, or made by mail,
8 electronic mail, facsimile, and the Internet.

9 (c) An allegation made to the hotline shall be considered to be anonymous.
10 The ombudsman may attempt to identify any person contacting the hotline and shall
11 protect the anonymity of the agency employee reporting to the hotline.

12 (d) The ombudsman shall report to the Legislative Budget and Audit
13 Committee every six months, and to the legislature annually, regarding the number of
14 calls, and the types of fraud, waste, and abuse reported through the hotline program.

15 (e) In this section,

16 (1) "abuse" means the intentional destruction, diversion, manipulation,
17 misapplication, maltreatment, or misuse of government resources, and extravagant or
18 excessive use of one's position or authority; abuse may include financial and non-
19 financial misuse of government resources;

20 (2) "fraud" means the intentional deception, including a false
21 representation of a matter or fact, whether by words or by conduct, by false or
22 misleading statements, or by concealment of that which should have been disclosed
23 and that deceives and is intended to deceive, by any person within or external to the
24 state government that could result in a benefit to the person perpetrating the fraud, or a
25 detriment to others or the state;

26 (3) "waste" means the intentional or unintentional, thoughtless or
27 careless expenditure, consumption, mismanagement, use of, or squandering of a
28 resource of an agency to the detriment or potential detriment of the state, or incurring
29 unnecessary costs as a result of inefficient or ineffective practices, systems, or
30 controls.

31 * **Sec. 3.** AS 39.25 is amended by adding a new section to read:

1 **Sec. 39.25.920. Department of administration to inform employees of**
 2 **hotline.** The commissioner of administration shall inform agency employees of the
 3 public employee fraud, waste, and abuse hotline program established under
 4 AS 24.55.222. In this section, "agency" has the meaning given in AS 24.55.330.

5 * **Sec. 4.** AS 39.90.100(a) is amended to read:

6 (a) A public employer may not discharge, threaten, or otherwise discriminate
 7 against an employee regarding the employee's compensation, terms, conditions,
 8 location, or privileges of employment because

9 (1) the employee, or a person acting on behalf of the employee, reports
 10 to a public body or is about to report to a public body a matter of public concern; [OR]

11 (2) the employee participates in a court action, an investigation, a
 12 hearing, or an inquiry held by a public body on a matter of public concern; or

13 **(3) the employee contacted the ombudsman in regard to an**
 14 **allegation of fraud, waste, or abuse under the public employee fraud, waste, and**
 15 **abuse hotline program under AS 24.55.**

16 * **Sec. 5.** AS 39.90.110(c) is amended to read:

17 (c) As part of its written personnel policy, a public employer may require that,
 18 before an employee initiates a report on a matter of public concern under
 19 AS 39.90.100, the employee shall submit a written report concerning the matter to the
 20 employer. However, the employee is not required to submit a report if the employee

21 (1) reasonably believes that reports to the employer will not result in
 22 prompt action to remedy the matter of public concern;

23 (2) believes with reasonable certainty that the activity, policy, or
 24 practice is already known to one or more supervisors;

25 (3) reasonably believes that an emergency is involved; [OR]

26 (4) reasonably fears reprisal or discrimination as a result of disclosure;

27 or

28 **(5) contacts the ombudsman under the public employee fraud,**
 29 **waste, and abuse hotline program under AS 24.55.**