

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

IN THE HOUSE

BY MR. TAYLOR

HOUSE BILL NO. 316

IN THE LEGISLATURE OF THE STATE OF ALASKA

SECOND LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to district attorneys and assistant district attorneys; and providing for an effective date."

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

Section 1. APPOINTMENT OF DISTRICT ATTORNEYS. The Governor shall appoint one district attorney for each judicial district in the state.

Sec. 2. APPOINTMENT OF ASSISTANT DISTRICT ATTORNEYS. The Attorney General may appoint one or more assistant district attorneys to a district when he determines that the public interest requires it. The appointment of an assistant district attorney is subject to the approval of the district attorney of the district to which the appointment is to be made.

Sec. 3. TENURE AND REMOVAL. (a) A district attorney is appointed for four years. Upon the expiration of his term a district attorney shall perform the duties of his office until his successor is appointed.

(b) The governor may remove a district attorney after finding, at a hearing held under the provisions of the Administrative Procedure Act, that the district attorney has failed to perform his duty, or has performed it improperly or corruptly.

(c) Assistant district attorneys and attorneys appointed under Sec. 9-1-16, ACLA 1949, as amended, serve at the pleasure of the attorney general.

1           Sec. 4. DUTIES: SUPERVISION BY ATTORNEY GENERAL. (a) A  
2 district attorney, within his district,

3           (1) shall prosecute for all offenses against the state,  
4 having all commonly recognized powers and duties of a prosecuting  
5 attorney at common law and all obligations and duties relative to  
6 criminal actions imposed upon the United States Attorney and his  
7 assistants or the attorney general by the various statutes  
8 effective within the state;

9           (2) shall, when directed by the attorney general to  
10 do so, bring or defend, for the state, civil actions, suits or  
11 proceedings in which the state is concerned;

12           (3) is primarily responsible for law enforcement and  
13 may direct peace officers in the performance of their duties.

14           (b) The attorney general

15           (1) has general supervision over all civil litigation  
16 in which a district attorney, an assistant district attorney, or  
17 an attorney appointed under Sec. 9-1-16, ACLA 1949, as amended,  
18 is engaged;

19           (2) may prosecute for offenses against the state,  
20 when he determines that a district attorney has failed to do so,  
21 or may intervene on behalf of the state in a criminal proceeding  
22 when he determines that a district attorney is prosecuting a  
23 case improperly or corruptly;

24           (3) in criminal cases has control of appeals taken to  
25 the Supreme Court, and may require a district attorney to act as  
26 his assistant on an appeal.

27           Sec. 5. ADMINISTRATION. District attorneys, assistant  
28 district attorneys, attorneys appointed under Sec. 9-1-16, ACLA  
29 1949, as amended, and district attorneys' employees are assigned

1 to the Department of Law for administrative services.

2 Sec. 6. SALARY. The governor shall establish annual  
3 salaries for district attorneys, not to exceed \$15,000 a year for  
4 each district attorney. The governor may not reduce a district  
5 attorney's salary during the district attorney's term of office.

6 Sec. 7. RESIDENCE. District attorneys and assistant  
7 district attorneys shall reside in the districts to which they  
8 are appointed. A district attorney may determine the official  
9 stations of assistant district attorneys in his district.

10 Sec. 8. PRIVATE PRACTICE PROHIBITED. A district attorney  
11 shall not engage in the private practice of law.

12 Sec. 9. The first paragraph of Sec. 9-1-5, ACLA 1949, as  
13 amended by Sec. 1, Ch. 128, SLA 1959, is amended to read:

14 Sec. 9-1-5. DUTIES. The Attorney General of Alaska  
15 shall be the official legal advisor of the Governor, [THE  
16 TREASURER,] the Secretary of State and other officers of the  
17 State. He shall bring, prosecute and defend in the name of  
18 the State, all necessary and proper actions or suits for  
19 the collection of the revenue under state laws; [HE SHALL  
20 FILE INFORMATIONS AND PROSECUTE ALL OFFENSES AGAINST THE  
21 REVENUE, AND OTHER LAWS OF THE STATE, PROSECUTION OF WHICH  
22 IS NOT OTHERWISE PROVIDED FOR; PROVIDED, HOWEVER, AND  
23 NOTWITHSTANDING CHAPTER 64, SLA 1959, THE ATTORNEY GENERAL  
24 SHALL HAVE CONCURRENT JURISDICTION AND POWER WITH EACH OF  
25 THE UNITED STATES DISTRICT ATTORNEYS OVER CRIMINAL PROSECU-  
26 TIONS ARISING OUT OF STATE LAWS;] he shall when requested  
27 by the Legislature or any member thereof, give legal advice  
28 concerning any law or proposed law or legislative measure;  
29 [HE SHALL TAKE COGNIZANCE OF ALL MEMORIALS PASSED BY THE

1 STATE LEGISLATURE, SHALL URGE ON THE VARIOUS ORGANIZATIONS  
2 OR PERSONS TO WHOM SUCH MEMORIALS ARE ADDRESSED THE NECES-  
3 SITY FOR THE ACTION PRAYED FOR IN THE MEMORIAL, AND SHALL  
4 SUBMIT TO THE NEXT LEGISLATURE, A REPORT ON THE MEMORIALS  
5 THERETOFORE PASSED BY PREVIOUS LEGISLATURES;] and all such  
6 other duties as may be required by law, or as usually per-  
7 tain to the office of Attorney General in relation to civil  
8 matters in a State; and he shall make through the Governor,  
9 to the Legislature, at each regular session thereof, a  
10 report of the work and expenditures of the office and upon  
11 needed legislation or amendments to existing laws.

12 Sec. 10. Sec. 9, Ch. 64, SLA 1959, is amended to read:

13 Sec. 9. DEPARTMENT OF LAW. There shall be a principal  
14 executive officer of the Department of Law to be known as  
15 the Attorney General.

16 The Department of Law is hereby vested with the duties,  
17 powers, and responsibilities involved in the administration  
18 of state legal services, including the furnishing of written  
19 legal opinions to the Governor, to the Legislature, and to  
20 all state officers and departments as the Governor may  
21 direct; the representation of the State in all civil actions  
22 in which the State is a party; and the drafting of legal  
23 instruments for the State [AND THE PROSECUTION IN COURT OF  
24 ALL CASES INVOLVING VIOLATIONS OF STATE LAW, PROVIDED HOW-  
25 EVER, THE DEPARTMENT OF LAW SHALL UNDERTAKE NO PROSECUTION  
26 OF CRIMINAL ACTIONS UNTIL SUCH TIME AS THE STATE JUDICIARY  
27 HAS ASSUMED JURISDICTION OVER CASES INVOLVING VIOLATIONS OF  
28 STATE LAW]. All functions and authority heretofore performed  
29 and exercised by the Attorney General and the Board of

1 Commissioners for the Promotion of Uniform Legislation in  
2 the United States are hereby transferred to the Department  
3 of Law.

4 Sec. 11. Sec. 5, Ch. 144, SLA 1960, is amended by adding a  
5 new subdivision to read:

6 (12) District attorneys.

7 Sec. 12. Sec. 6, Ch. 144, SLA 1960, is amended by adding a  
8 new subdivision to read:

9 (9) Assistant district attorneys.

10 Sec. 13. Sec. 23, b, Ch. 161, SLA 1960, is amended to read:

11 b. Duty of Department of Law and of District Attorneys  
12 [STATE'S ATTORNEY]. Upon the request of the commission, it  
13 shall be the duty of the Department of Law of this state to  
14 whom the commission may apply to institute in the proper  
15 court and to prosecute under the direction of the attorney  
16 general of the state all necessary proceedings for the  
17 enforcement of the provisions of this Act or any rule, regu-  
18 lation, requirement, or order thereunder, or any term,  
19 condition or limitation of any certificate or permit [, AND  
20 FOR THE PUNISHMENT OF ALL VIOLATIONS THEREOF]. A district  
21 attorney shall prosecute in his district for criminal viola-  
22 tions of this Act, or of rules, regulations requirements or  
23 orders promulgated under it.

24 Sec. 14. Section 1, Ch. 68, SLA 1961, is amended to read:

25 Section 1. Whenever any statute or regulation  
26 designates any state department, agency, board, commission  
27 or public officers as a necessary or proper party to pro-  
28 secute or defend any action in any court of the state, such  
29 statute or regulation shall also be deemed to have designated

1 the State of Alaska as a proper party in any such action  
2 before any court. It shall not be necessary to name any  
3 department, agency, board, commission or public officer of  
4 this state as an additional party to the action. In all of  
5 the foregoing cases the Department of Law is authorized to  
6 bring [, PROSECUTE,] or defend any civil action, and the  
7 district attorneys, in their respective districts, to pro-  
8 secute any criminal action, in any court in the name of the  
9 State of Alaska.

10 Sec. 15. Sec. 1, Ch. 36, SLA 1955, as amended by Ch. 127,  
11 SLA 1960, is repealed and re-enacted to read:

12 Sec. 1. (a) The attorney general shall bring all  
13 civil actions growing out of a state revenue law.

14 (b) The district attorney shall prosecute all criminal  
15 actions in his district growing out of a state revenue law.

16 (c) The attorney general with the approval of the  
17 commissioner of revenue may retain the services of one or  
18 more attorneys-at-law to assist in the collection of revenue  
19 owing to the state where it is necessary to prosecute  
20 actions for the collection of such revenue or make efforts  
21 to collect revenue outside of the State of Alaska. The  
22 commissioner of revenue may compensate such attorneys on a  
23 direct fee or contingent fee basis at such rate as he deems  
24 fair and reasonable. If the compensation is for a direct  
25 fee or fees the commissioner of revenue shall pay for such  
26 services from the proper appropriation for the Department  
27 of Revenue.

28 Sec. 16. Sec. 2, Ch. 74, SLA 1960, is repealed and re-  
29 enacted to read:

1           Sec. 2. (a) The Department of Law is authorized to  
2 undertake and perform all of the obligations and duties  
3 relative to civil matters, imposed upon the United States  
4 Attorney and his assistants by the various state statutes  
5 effective within the state.

6           (b) When statutes mentioned in (a) of this section  
7 refer to the United States Attorney and his assistants

8                 (1) in a civil matter, the reference means "the  
9 Department of Law";

10                (2) in a criminal matter, the reference means "a  
11 district attorney."

12           Sec. 17. REPEALER. Secs. 9-1-12, 9-1-13, 54-1-1, 54-1-2,  
13 54-1-3, 54-1-4, and 54-5-1, ACLA 1949, are repealed.

14           Sec. 18. SAVINGS CLAUSE. The transfer of functions from  
15 the attorney general or the Department of Law to the district  
16 attorneys by this Act does not affect litigation begun before  
17 the effective date of this Act.

18           Sec. 19. EFFECTIVE DATE. This Act takes effect on July 1,  
19 1962.

20  
21  
22  
23  
24  
25  
26  
27  
28  
29