

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL

1 IN THE HOUSE

2

HOUSE BILL NO. 452

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the office of the ombudsman and
7 to the powers and duties of the ombudsman."

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

9 * Section 1. AS 24.55.040(b) is amended to read:

10 (b) If the term of an ombudsman expires without the appointment
11 of a successor under this chapter, the incumbent ombudsman may con-
12 tinue in office until a successor is appointed. If the ombudsman
13 dies, resigns, becomes ineligible to serve, or is removed or suspended
14 from office, the person appointed as [DEPUTY OMBUDSMAN BECOMES] acting
15 ombudsman under AS 24.55.070(a) serves until a new ombudsman is ap-
16 pointed for a full term.

17 * Sec. 2. AS 24.55.070(a) is amended to read:

18 (a) The ombudsman shall [MAY] appoint a person to serve as
19 acting [DEPUTY] ombudsman in the absence of the ombudsman. The om-
20 budsman shall also appoint assistants and clerical personnel necessary
21 to carry out the provisions of this chapter.

22 * Sec. 3. AS 24.55.070(b) is amended to read:

23 (b) The ombudsman may delegate to the [DEPUTY OR] assistants any
24 of the ombudsman's duties except those specified in AS 24.55.190 and
25 24.55.200, however, during the ombudsman's absence from the principal
26 business offices, the ombudsman may delegate the duties specified in
27 AS 24.55.190 and 24.55.200 to the acting ombudsman [DEPUTY] for the
28 duration of the absence. The duties specified in AS 24.55.190 and
29 24.55.200 shall be performed by the acting [DEPUTY] ombudsman when

1 serving [AS ACTING OMBUDSMAN] under AS 24.55.040(b).

2 * Sec. 4. AS 24.55.080(a) is repealed and reenacted to read:

3 (a) Subject to restrictions and limitations imposed by the
4 executive director of the Legislative Affairs Agency, the administra-
5 tive facilities and services of the Legislative Affairs Agency, in-
6 cluding computer, data processing, and teleconference facilities, may
7 be made available to the ombudsman to be used in the management of the
8 office of the ombudsman and to carry out the purposes of this chapter.

9 * Sec. 5. AS 24.55.090 is amended to read:

10 Sec. 24.55.090. PROCEDURE. (a) The ombudsman shall, by regula-
11 tions adopted under the Administrative Procedure Act (AS 44.62),
12 establish procedures for receiving and processing complaints, conduct-
13 ing investigations, [AND] reporting findings, and ensuring that confi-
14 dential information obtained by the ombudsman in the course of an
15 investigation will not be improperly disclosed.

16 (b) The [HOWEVER, THE] ombudsman may not charge fees for the
17 submission or investigation of complaints.

18 * Sec. 6. AS 24.55.130 is amended by adding a new subsection to read:

19 (c) Notice given under this section may be oral but the om-
20 budsman shall state in writing the reasons for not investigating a
21 complaint if requested by the complainant.

22 * Sec. 7. AS 24.55.140 is amended to read:

23 Sec. 24.55.140. NOTICE TO THE AGENCY. If the ombudsman decides
24 to investigate a complaint, the ombudsman shall notify the agency of
25 the intention to investigate unless the ombudsman believes that ad-
26 vance notice will unduly hinder the investigation or make it ineffec-
27 tual. Notice given under this section may be oral or written, at the
28 discretion of the ombudsman.

29 * Sec. 8. AS 24.55.160(a) is amended to read:

1 (a) In an investigation, the ombudsman may
2 (1) make inquiries and obtain information considered neces-
3 sary;
4 (2) enter without notice to inspect the premises of an
5 agency, but only when agency personnel are present; [AND]
6 (3) hold private hearings; and
7 (4) notwithstanding other provisions of law, have access at
8 all times to records of every state agency, including confidential
9 records.

10 * Sec. 9. AS 24.55.170(a) is amended to read:

11 (a) Subject to the privileges that [WHICH] witnesses have in the
12 courts of this state, the ombudsman may compel by subpoena, at a
13 specified time and place, the

14 (1) [COMPEL BY SUBPOENA, AT A SPECIFIED TIME AND PLACE,
15 THE] appearance and sworn testimony of a person who the ombudsman
16 reasonably believes may be able to give information relating to a
17 matter under investigation; and

18 (2) production by [COMPEL] a person of a record that [, BY
19 SUBPOENA, TO PRODUCE DOCUMENTS, PAPERS, OR OBJECTS WHICH] the ombuds-
20 man reasonably believes may relate to the matter under investigation.

21 * Sec. 10. AS 24.55.180 is amended to read:

22 Sec. 24.55.180. CONSULTATION [WITH AGENCY]. Before giving an
23 opinion or recommendation that [WHICH] is critical of an agency or
24 person, the ombudsman shall consult with that agency or person. The
25 ombudsman may make a preliminary opinion or recommendation available
26 to the agency or person for review, but the preliminary opinion or
27 recommendation is confidential and may not be disclosed to the public
28 by the agency or person.

29 * Sec. 11. AS 24.55.190 is amended by adding a new subsection to read:

1 (c) The report provided under (a) of this section is confiden-
2 tial and may not be disclosed to the public by the agency. The om-
3 budsman may disclose the report under AS 24.55.200 only after provid-
4 ing notice that the investigation has been concluded

5 (1) to the agency; and

6 (2) if the investigation was conducted in response to a
7 complaint, to the complainant under AS 24.55.210.

8 * Sec. 12. AS 24.55.310 is amended to read:

9 Sec. 24.55.310. CONFLICT OF INTEREST. The ombudsman, the acting
10 [DEPUTY] ombudsman and their professional staff are subject to AS 39.-
11 50 (conflict of interest).

12 * Sec. 13. AS 24.55.320 is amended to read:

13 Sec. 24.55.320. MUNICIPALITIES AND SCHOOL DISTRICTS. A munic-
14 ipality or school district may [BY ORDINANCE] elect to become subject
15 to the jurisdiction of the ombudsman appointed under this chapter. If
16 a municipality or school district so elects, it shall notify the
17 ombudsman of that election and shall thereafter be considered an
18 agency for the purposes of this chapter. If a municipality or school
19 district subjects itself to the jurisdiction of the ombudsman, the
20 municipality or school district shall pay its pro rata share of the
21 cost of the operation of the office of the ombudsman based on the
22 number of complaints or the case load emanating from that municipality
23 or school district, as prescribed by the ombudsman. If a municipality
24 or school district elects to remove itself from the jurisdiction of
25 the ombudsman, it [SHALL DO SO BY ORDINANCE,] shall notify the ombuds-
26 man of that election and shall not thereafter be considered an agency
27 for the purposes of this chapter. A municipality that elects to
28 become subject to the jurisdiction of the ombudsman or to remove
29 itself from that jurisdiction must do so by ordinance. A school

1 district that elects to become subject to the jurisdiction of the
2 ombudsman or to remove itself from that jurisdiction must do so by
3 resolution.

4 * Sec. 14. AS 24.55.330 is amended by adding a new paragraph to read:

5 (4) "record" means a document, paper, memorandum, book,
6 letter, file, drawing, map, plat, photo, photographic file, motion
7 picture, film, microfilm, microphotograph, exhibit, magnetic or paper
8 tape, punched card, or other item developed or received under law or
9 in connection with the transaction of official business, but does not
10 include an attorney's work product.