

Original sponsor(s): Rules/Legislative Council

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR HOUSE BILL NO. 452 (State Affairs)  
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 AS 24.55.080(a) is repealed and reenacted to read: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, except sealed court records, production of which may only be  
10 compelled by subpoena.

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

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

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

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

22 \* Sec. 10. AS 24.55.180 is amended to read:

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

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

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

6 (1) to the agency; and

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

9 \* Sec. 12. AS 24.55.310 is amended to read:

10 Sec. 24.55.310. CONFLICT OF INTEREST. The ombudsman, the acting  
11 [DEPUTY] ombudsman and their professional staff are subject to AS 39.-  
12 50 (conflict of interest).

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

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

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

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

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