

Original sponsor(s): Rules/Legislative Council

1 IN THE HOUSE BY THE RESOURCES COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 452 (Resources)
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 AS 24.55.080(a) is repealed and reenacted to read: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 24.55.080(c) is amended to read:

10 (c) The ombudsman shall submit a budget for each fiscal year to
11 the Alaska Legislative Council [FINANCE COMMITTEES OF THE LEGISLATURE]
12 and the council shall annually submit an estimated budget to the
13 governor for information purposes in the preparation of the executive
14 budget. After reviewing and approving, with or without modifications,
15 the budget submitted by the ombudsman, the council shall submit the
16 approved budget to the finance committees of the legislature.

17 * Sec. 6. AS 24.55.090 is amended to read:

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

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

26 * Sec. 7. AS 24.55.130 is amended by adding a new subsection to read:

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

1 * Sec. 8. AS 24.55.140 is amended to read:

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

8 * Sec. 9. AS 24.55.160 is amended to read:

9 Sec. 24.55.160. INVESTIGATION PROCEDURES. (a) In an inves-
10 tigation, the ombudsman may

11 (1) make inquiries and obtain information considered neces-
12 sary;

13 (2) enter without notice to inspect the premises of an
14 agency, but only when agency personnel are present; [AND]

15 (3) hold private hearings; and

16 (4) notwithstanding other provisions of law, have access at
17 all times to records of every state agency, including confidential
18 records, except sealed court records, production of which may only be
19 compelled by subpoena, and except for records of active criminal
20 investigations and records that could lead to the identity of
21 confidential police informants.

22 (b) The ombudsman shall maintain confidentiality with respect to
23 all matters and the identities of the complainants or witnesses coming
24 before the ombudsman except insofar as disclosures may be necessary to
25 enable the ombudsman to carry out duties and to support recommenda-
26 tions. However, the ombudsman may not disclose a confidential record
27 obtained from an agency.

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

29 (a) Subject to the privileges that [WHICH] witnesses have in the

1 courts of this state, the ombudsman may compel by subpoena, at a
2 specified time and place, the

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

7 (2) production by [COMPEL] a person of a record or object
8 that [, BY SUBPOENA, TO PRODUCE DOCUMENTS, PAPERS, OR OBJECTS WHICH]
9 the ombudsman reasonably believes may relate to the matter under
10 investigation.

11 * Sec. 11. AS 24.55.180 is amended to read:

12 Sec. 24.55.180. CONSULTATION [WITH AGENCY]. Before giving an
13 opinion or recommendation that [WHICH] is critical of an agency or
14 person, the ombudsman shall consult with that agency or person. The
15 ombudsman may make a preliminary opinion or recommendation available
16 to the agency or person for review, but the preliminary opinion or
17 recommendation is confidential and may not be disclosed to the public
18 by the agency or person.

19 * Sec. 12. AS 24.55.190 is amended by adding a new subsection to read:

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

24 (1) to the agency; and

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

27 * Sec. 13. AS 24.55.310 is amended to read:

28 Sec. 24.55.310. CONFLICT OF INTEREST. The ombudsman, the acting
29 [DEPUTY] ombudsman and their professional staff are subject to AS 39.-

1 50 (conflict of interest).

2 * Sec. 14. AS 24.55.320 is amended to read:

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

23 * Sec. 15. AS 24.55.330 is amended by adding a new paragraph to read:

24 (4) "record" means a document, paper, memorandum, book,
25 letter, file, drawing, map, plat, photo, photographic file, motion
26 picture, film, microfilm, microphotograph, exhibit, magnetic or paper
27 tape, punched card, or other item developed or received under law or
28 in connection with the transaction of official business, but does not
29 include an attorney's work product, material that is confidential as a

1 privileged communication between an attorney and client under rules
2 adopted by the supreme court, or confidential oil and gas geological
3 and geophysical data.