



# LAWS OF ALASKA

1990

**Source**

SCS CSHB 452(Res)

**Chapter No.**

71

**AN ACT**

Relating to the office of the ombudsman and to the powers and duties of the ombudsman.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 4, 1990  
Actual Effective Date: September 2, 1990

AN ACT

Relating to the office of the ombudsman and to the powers and duties of the ombudsman.

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

(b) If the term of an ombudsman expires without the appointment of a successor under this chapter, the incumbent ombudsman may continue in office until a successor is appointed. If the ombudsman dies, resigns, becomes ineligible to serve, or is removed or suspended from office, the person appointed as [DEPUTY OMBUDSMAN BECOMES] acting ombudsman under AS 24.55.070(a) serves until a new ombudsman is appointed for a full term.

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

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

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

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

Chapter 71

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 AS 24.55.080(a) is repealed and reenacted to read: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  
29 complaint if requested by the complainant.

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

Sec. 24.55.140. NOTICE TO THE AGENCY. If the ombudsman decides to investigate a complaint, the ombudsman shall notify the agency of the intention to investigate unless the ombudsman believes that advance notice will unduly hinder the investigation or make it ineffectual. Notice given under this section may be oral or written, at the discretion of the ombudsman.

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

Sec. 24.55.160. INVESTIGATION PROCEDURES. (a) In an investigation, the ombudsman may

(1) make inquiries and obtain information considered necessary;

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

(3) hold private hearings; and

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

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

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

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

Chapter 71

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

Chapter 71

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.  
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