

## Legislature Changes Statute, Beefs Up Ombudsman Confidentiality

Near the end of the 2014 legislative session, the Alaska Legislature passed HB 127, containing amendments to the Alaska Ombudsman Act (AS 24.55). The amendments were drafted by the Office of the Ombudsman to address several problems of statutory interpretation. The ombudsman extends thanks to all of the legislators who worked on this bill.

The changes, enacted as Chapter 38 SLA 2014, accomplished the following:

- Strengthened the ombudsman's existing privilege not to testify, by expressly providing that the ombudsman may not be compelled to produce records in a judicial proceeding or administrative adjudication, except as necessary for the ombudsman to enforce the provisions of the Ombudsman Act.
- Updated the statute regarding procurement by the Office of the Ombudsman, by allowing the ombudsman to adopt the Legislative Procurement Procedures by reference, to the extent appropriate for the ombudsman's office.
- Added language that allows an agency to voluntarily share an attorney-client privileged communication or attorney work-product with the ombudsman without waiving the privilege generally.
- Amended AS 24.55.160(a)(4), which provides the ombudsman with access to most agency records, by changing "records of every state agency" to "records of every agency." If a municipality or school district "opts in" to the state ombudsman's jurisdiction, then the ombudsman will have same access to the municipal or school district records as it does to state agency records.
- Ensured that the ombudsman may employ staff using a personal services contract under AS 24.55.060(f), like other legislative branch agencies.
- Provided that the ombudsman may receive salary step increases within Range 26, as budget allows. This granted the ombudsman a salary flexibility matching that already provided for other directors of legislative agencies.

As mandated by the revision of the ombudsman's procurement statute (AS 24.55.275), the ombudsman has drafted new procurement regulations. The ombudsman has also proceeded with a comprehensive revision of its regulations for complaints and investigations. This was needed both to implement the legislative changes in 2014 and to update regulations that were no longer practical, due to substantial changes in the office's staffing levels and organization.

The ombudsman's draft regulations were published for comments on December 5, 2014. The 45-day comment period closed on January 21, 2015, and the ombudsman is preparing the final version of the regulations.