House Engrossed

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 92

HOUSE BILL 2563

AN ACT

AMENDING SECTION 41-1376.01, ARIZONA REVISED STATUTES; RELATING TO THE OMBUDSMAN-CITIZENS AIDE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 41-1376.01, Arizona Revised Statutes, is amended to
3 read:
4 41-1376.01. Additional powers and duties; definitions
5 A. In addition to the powers and duties prescribed in section 41-1376,
6 the ombudsman-citizens aide shall appoint two assistants, one of whom shall
7 be an attorney, to help the ombudsman-citizens aide investigate complaints
8 relating to public access laws involving an agency. The assistants shall
9 train public officials and educate the public on the rights of the public and
10 the responsibilities of public agencies under the public access laws. The
11 assistants shall prepare interpretive and educational materials and programs
12 in cooperation with the ombudsman-citizens aide and shall distribute to
13 elected or appointed public officials the public access laws and educational
14 materials concerning the public access laws.
15 B. The annual report of the ombudsman-citizens aide shall include the
16 following information about public access:
17 1. The number of inquiries that are received from the public, the
18 media and government agencies.
19 2. The number of inquiries that are received about state agencies,
20 county agencies, city or town agencies, school districts and other local
21 jurisdictions.
22 3. The number of requests that are received concerning public records
23 and public meetings.
24 4. The number of investigations that are conducted and the results of
25 the investigations.
26 C. For investigations made pursuant to this section, the
27 ombudsman-citizens aide may:
28 1. Make inquiries and obtain information considered necessary subject
29 to the restrictions in section 41-1377.
30 2. Enter without notice to inspect agency premises with agency staff
31 on the premises.
32 3. Hold hearings.
33 4. Notwithstanding any other law, have access to all agency records,
34 including confidential records, except:
35 (a) Sealed court records without a subpoena.
36 (b) Active criminal investigation records.
37 (c) Records that could lead to the identity of confidential police
38 informants.
39 (d) Attorney work product and communications that are protected under
40 attorney-client privilege.
41 (e) Confidential information as defined in section 42-2001, except as
42 provided in section 42-2003, subsection M.
43 (f) Information protected by section 6103(d), 6103(p) or 7213 of the
44 internal revenue code.

(g) Confidential information relating to section 36-2903, subsection I, section 36-2917, section 36-2932, subsection F or section 36-2972.

(h) Confidential information relating to sections 36-507, 36-509 and 36-2220.

(i) DOCUMENTS THAT ARE PROTECTED BY SECTION 214 OF THE CRITICAL INFRASTRUCTURE INFORMATION ACT OF 2002 (6 UNITED STATES CODE SECTION 133a) OR BY 49 CODE OF FEDERAL REGULATIONS PART 1520.

(j) INFORMATION THAT IS PROTECTED BY SECTION 214 OF THE CRITICAL INFRASTRUCTURE INFORMATION ACT OF 2002 (6 UNITED STATES CODE SECTION 133a) OR 49 CODE OF FEDERAL REGULATIONS PART 1520 OR CRITICAL INFRASTRUCTURE INFORMATION AS DEFINED BY SECTION 41-1801 ON GOVERNMENT OWNED FACILITIES THAT ARE CLASSIFIED AS CRITICAL INFRASTRUCTURE BY THE FEDERAL GOVERNMENT OR AS DEFINED BY SECTION 41-1801.

5. Issue subpoenas if necessary to compel the attendance and testimony of witnesses and the production of books, records, documents and other evidence to which the ombudsman-citizens aide may have access pursuant to paragraph 4 of this subsection. The ombudsman-citizens aide may only issue a subpoena if the ombudsman-citizens aide has previously requested testimony or evidence and the person or agency to which the request was made has failed to comply with the request in a reasonable amount of time.

D. It is contrary to the public policy of this state for any agency or any individual acting for an agency to take any adverse action against an individual in retaliation because the individual cooperated with or provided information to the ombudsman-citizens aide or the ombudsman-citizens aide's staff.

E. For the purposes of this section:

1. "Agency" has the same meaning prescribed in section 41-1371 but includes a public body as defined in section 39-121.01, subsection A, paragraph 2.

2. "Public access laws" means:

(a) Title 39, chapter 1.

(b) Title 38, chapter 3, article 3.1.

(c) Any other state statute or rule governing access to public meetings or public records.

APPROVED BY THE GOVERNOR APRIL 18, 2007.

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