



STATE OF ARIZONA  
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY  
GOVERNOR

EXECUTIVE OFFICE

March 24, 2020

The Honorable Katie Hobbs  
Secretary of State  
1700 W. Washington, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

Dear Secretary Hobbs:

I am transmitting to you the following bills from the Fifty-fourth Legislature, 2nd Regular Session, which I signed on March 24th, 2020:

- H.B. 2494 internal revenue code; conformity (Toma)
- H.B. 2625 civics celebration day; civics education (Bolick)
- H.B. 2684 crisis management team; underperforming districts (Udall)
- S.B. 1049 advisory council on aging (Brophy-McGee)
- S.B. 1050 board of athletic training; continuation (Brophy-McGee)
- S.B. 1052 homeopathic board; continuation (Brophy-McGee)
- S.B. 1053 psychiatric security review board; continuation (Brophy-McGee)
- S.B. 1054 psychology board; continuation (Brophy-McGee)
- S.B. 1055 hard of hearing; commission; continuation (Brophy-McGee)
- S.B. 1072 state board of investment; continuation (Leach)
- S.B. 1128 joint legislative budget committee; continuation (Gowan)
- S.B. 1130 auditor general; continuation. (Gray)
- S.B. 1275 department of gaming; continuation (Ugenti-Rita)
- S.B. 1293 DOI; DFI; omnibus (Livingston)
- S.B. 1294 insurance and financial institutions; continuation (Mesnard)
- S.B. 1295 department of revenue; continuation (Mesnard)
- S.B. 1296 internal revenue code; conformity. (Mesnard)
- S.B. 1297 legislative council; continuation (Fann)
- S.B. 1331 self-insured employers; deviation continuation(Livingston)
- S.B. 1348 tax corrections act of 2020 (Mesnard)
- S.B. 1408 ombudsman-citizens aide; continuation; reports; assistants (Farnsworth, D.)
- S.B. 1399 reviser's technical corrections; 2020 (Gray)

Sincerely,

Douglas A. Ducey  
Governor  
State of Arizona

cc: Senate Secretary  
Chief Clerk of the House of Representatives  
Arizona News Service

Senate Engrossed

**FILED**  
**KATIE HOBBS**  
**SECRETARY OF STATE**

State of Arizona  
Senate  
Fifty-fourth Legislature  
Second Regular Session  
2020

**CHAPTER 44**  
**SENATE BILL 1408**

AN ACT

AMENDING SECTIONS 41-1376 AND 41-1376.01, ARIZONA REVISED STATUTES;  
REPEALING SECTION 41-3020.22, ARIZONA REVISED STATUTES; AMENDING TITLE 41,  
CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION  
41-3028.22; RELATING TO THE OFFICE OF 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, Arizona Revised Statutes, is amended to  
3 read:

4 41-1376. Powers and duties

5 A. The ombudsman-citizens aide shall:

6 1. Investigate the administrative acts of agencies pursuant to  
7 section 41-1377, subsections A and B except as provided in section  
8 41-1377, subsections C, D and E. The ombudsman-citizens aide shall  
9 investigate the administrative acts of an agency without regard to the  
10 finality of the administrative act.

11 2. Annually before January 1 prepare a written report to the  
12 governor, the legislature and the public that contains a summary of the  
13 ombudsman-citizens aide's activities during the previous fiscal year. The  
14 ombudsman-citizens aide shall ~~semiannually~~ present this report ANNUALLY  
15 before the legislative council and distribute copies of the report to the  
16 director of the governor's office of strategic planning and budgeting, the  
17 chairperson of the joint legislative budget committee and the  
18 cochairpersons of the administrative rules oversight committee. This  
19 report shall include:

20 (a) The ombudsman-citizens aide's mission statement.

21 (b) The number of matters that were within each of the categories  
22 specified in section 41-1379, subsection B.

23 (c) Legislative issues affecting the ombudsman-citizens aide.

24 (d) Selected case studies that illustrate the ombudsman-citizens  
25 aide's work and reasons for complaints.

26 (e) Ombudsman-citizens aide's contact statistics.

27 (f) A description of the public awareness and outreach activities  
28 conducted by the ombudsman-citizens aide.

29 (g) Ombudsman-citizens aide's staff.

30 3. Before conducting the first investigation, adopt rules that  
31 ensure that confidential information that is gathered will not be  
32 disclosed.

33 4. Appoint a deputy ombudsman and prescribe the duties of employees  
34 or, subject to appropriation, contract for the services of independent  
35 contractors necessary to administer the duties of the office of  
36 ombudsman-citizens aide. All staff serves at the pleasure of the  
37 ombudsman-citizens aide, and they are exempt from chapter 4, articles 5  
38 and 6 of this title. All staff shall be subject to the conflict of  
39 interest provisions of title 38, chapter 3, article 8.

40 5. Before conducting the first investigation, adopt rules that  
41 establish procedures for receiving and processing complaints, including  
42 guidelines to ensure each complainant has exhausted all reasonable  
43 alternatives within the agency, conducting investigations, incorporating  
44 agency responses into recommendations and reporting findings.

1           6. Notify the chief executive or administrative officer of the  
2 agency in writing of the intention to investigate unless notification  
3 would unduly hinder the investigation or make the investigation  
4 ineffectual.

5           7. Appoint an assistant to help the ombudsman-citizens aide  
6 investigate complaints relating to the department of child safety. The  
7 assistant shall have expertise in the department of child safety  
8 procedures and laws. Notwithstanding any law to the contrary, the  
9 ombudsman-citizens aide and the assistant have access to the department of  
10 child safety records and to any automated case management system used by  
11 the department of child safety.

12           B. After the conclusion of an investigation and notice to the head  
13 of the agency pursuant to section 41-1379, the ombudsman-citizens aide may  
14 present the ombudsman-citizens aide's opinion and recommendations to the  
15 governor, the legislature, the office of the appropriate prosecutor or the  
16 public, or any combination of these persons. The ombudsman-citizens aide  
17 shall include in the opinion the reply of the agency, including those  
18 issues that were resolved as a result of the ombudsman-citizens aide's  
19 preliminary opinion or recommendation.

20           Sec. 2. Section 41-1376.01, Arizona Revised Statutes, is amended to  
21 read:

22           41-1376.01. Additional powers and duties; definitions

23           A. In addition to the powers and duties prescribed in section  
24 41-1376, the ombudsman-citizens aide shall appoint ~~two assistants, one of~~  
25 ~~whom shall be~~ ONE ASSISTANT WHO IS an attorney, to help the  
26 ombudsman-citizens aide investigate complaints relating to public access  
27 laws involving an agency and complaints and compliance with reporting  
28 requirements pursuant to this article. The ~~assistants~~ ASSISTANT shall  
29 train public officials and educate the public on the rights of the public  
30 and the responsibilities of public agencies under the public access  
31 laws. The ~~assistants~~ ASSISTANT shall prepare interpretive and educational  
32 materials and programs in cooperation with the ombudsman-citizens aide and  
33 shall distribute to elected or appointed public officials the public  
34 access laws and educational materials concerning the public access laws.

35           B. The annual report of the ombudsman-citizens aide shall include  
36 the following information about public access:

37           1. The number of inquiries that are received from the public, the  
38 media and government agencies.

39           2. The number of inquiries that are received about state agencies,  
40 county agencies, city or town agencies, school districts and other local  
41 jurisdictions.

42           3. The number of requests that are received concerning public  
43 records and public meetings.

44           4. The number of investigations that are conducted and the results  
45 of the investigations.

1 C. For investigations made pursuant to this section, the  
2 ombudsman-citizens aide may:

3 1. Make inquiries and obtain information considered necessary  
4 subject to the restrictions in section 41-1377.

5 2. Enter without notice to inspect agency premises with agency  
6 staff on the premises.

7 3. Hold hearings.

8 4. Notwithstanding any other law, have access to all agency  
9 records, including confidential records, except:

10 (a) Sealed court records without a subpoena.

11 (b) Active criminal investigation records.

12 (c) Records that could lead to the identity of confidential police  
13 informants.

14 (d) Attorney work product and communications that are protected  
15 under attorney-client privilege.

16 (e) Confidential information as defined in section 42-2001, except  
17 as provided in section 42-2003, subsection L.

18 (f) Information protected by section 6103(d), 6103(p) or 7213 of  
19 the internal revenue code.

20 (g) Confidential information relating to section 36-2903,  
21 subsection I, section 36-2917, section 36-2932, subsection F or section  
22 36-2972.

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

25 (i) Documents that are protected by section 214 of the critical  
26 infrastructure information act of 2002 (6 United States Code section  
27 133(a)) or by 49 Code of Federal Regulations part 1520.

28 (j) Information that is protected by section 214 of the critical  
29 infrastructure information act of 2002 (6 United States Code section  
30 133(a)) or 49 Code of Federal Regulations part 1520 or critical  
31 infrastructure information as defined by IN section 41-1801 on government  
32 owned facilities that are classified as critical infrastructure by the  
33 federal government or as defined by IN section 41-1801.

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

42 D. It is contrary to the public policy of this state for any agency  
43 or any individual acting for an agency to take any adverse action against  
44 an individual in retaliation because the individual cooperated with or

1 provided information to the ombudsman-citizens aide or the  
2 ombudsman-citizens aide's staff.

3 E. For the purposes of this section:

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

7 2. "Public access laws" means:

8 (a) Title 39, chapter 1.

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

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

12 Sec. 3. Repeal

13 Section 41-3020.22, Arizona Revised Statutes, is repealed.

14 Sec. 4. Title 41, chapter 27, article 2, Arizona Revised Statutes,  
15 is amended by adding section 41-3028.22, to read:

16 41-3028.22. Office of ombudsman-citizens aide; termination  
17 July 1, 2028

18 A. THE OFFICE OF OMBUDSMAN-CITIZENS AIDE TERMINATES ON JULY 1,  
19 2028.

20 B. TITLE 41, CHAPTER 8, ARTICLE 5 AND THIS SECTION ARE REPEALED ON  
21 JANUARY 1, 2029.

22 Sec. 5. Purpose

23 Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,  
24 the legislature continues the office of ombudsman-citizens aide to service  
25 citizens' complaints by investigating the administrative acts of state  
26 agencies and to annually report to the governor, the legislature and the  
27 public on its activities.

28 Sec. 6. Retroactivity

29 Sections 3 and 4 of this act apply retroactively to from and after  
30 July 1, 2020.

**APPROVED BY THE GOVERNOR MARCH 24, 2020.**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 24, 2020.**

Passed the House March 17, 2020

Passed the Senate February 20, 2020

by the following vote: 48 Ayes,

by the following vote: 26 Ayes,

7 Nays, 5 Not Voting

0 Nays, 4 Not Voting

R. R. Boyce  
Speaker of the House

R. Gray  
Temporary President of the Senate

Jim Drake  
Chief Clerk of the House

Susan Owens  
Pro Tempore Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

18<sup>th</sup> day of March, 2020,

at 2:03 o'clock P M.

[Signature]  
Secretary to the Governor

Approved this 24<sup>th</sup> day of

March, 2020,

at 3:23 o'clock P M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 24<sup>th</sup> day of March, 2020,

at 4:29 o'clock P M.

[Signature]  
Secretary of State

S.B. 1408