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Wayne
4/15/19

CS FOR HOUSE BILL NO. 113()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES JACKSON, Shaw

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to private sector and state employment preferences for active service**
2 **members, veterans, and spouses and dependent children of active service members and**
3 **veterans; relating to employment preferences for surviving spouses of deceased service**
4 **members and veterans; and relating to employment preferences for disabled veterans**
5 **and former prisoners of war."**

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

7 *** Section 1.** AS 18.80.200(c) is amended to read:

8 (c) Nothing in this chapter is intended to prohibit a private employer from
9 granting an employment preference **described in AS 23.88.010** [TO A MEMBER OF
10 THE NATIONAL GUARD OR A VETERAN WHEN HIRING AN EMPLOYEE. IN
11 THIS SUBSECTION,

12 (1) "MEMBER OF THE NATIONAL GUARD" MEANS A PERSON
13 PRESENTLY SERVING AS A MEMBER IN GOOD STANDING IN THE

1 NATIONAL GUARD;

2 (2) "VETERAN" MEANS A PERSON WHO WAS DISCHARGED
3 UNDER HONORABLE CONDITIONS FROM SERVICE IN

4 (A) THE ARMED FORCES OF THE UNITED STATES;

5 (B) A RESERVE UNIT OF THE ARMED FORCES OF THE
6 UNITED STATES;

7 (C) THE ALASKA TERRITORIAL GUARD;

8 (D) THE ALASKA ARMY NATIONAL GUARD;

9 (E) THE ALASKA AIR NATIONAL GUARD; OR

10 (F) THE ALASKA NAVAL MILITIA].

11 * **Sec. 2.** AS 23.88.010 is repealed and reenacted to read:

12 **Sec. 23.88.010. Active military, veteran, and family hiring preference**
13 **allowed.** (a) When hiring an employee, a private employer may grant an employment
14 preference to

15 (1) a person in active service, on furlough from active service, or
16 discharged under honorable conditions from service in

17 (A) the armed forces of the United States;

18 (B) a reserve unit of the armed forces of the United States;

19 (C) the Alaska Territorial Guard;

20 (D) the Alaska Army National Guard;

21 (E) the Alaska Air National Guard; or

22 (F) the Alaska Naval Militia;

23 (2) the spouse or dependent child of a person described in (1) of this
24 subsection; and

25 (3) the surviving spouse or a dependent child of a person who, at the
26 time of death, was a person in active service or on furlough from active service as
27 described in (1) of this subsection.

28 (b) In this section, "dependent child" means a natural or adopted child who is

29 (1) permanently disabled; or

30 (2) under

31 (A) 19 years of age; or

(B) 23 years of age and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education and Early Development.

* **Sec. 3.** AS 39.25.150 is amended to read:

Sec. 39.25.150. Scope of the rules. The personnel rules must provide for

(1) the preparation, maintenance, and revision, by the director of personnel, subject to approval of the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; the position classification plan must include

(A) a grouping together of all positions into classes on the basis of duties and responsibilities;

(B) an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary specifications for each class of positions;

(2) the preparation, maintenance, revision, and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan (A) shall be based upon the position classification plan; (B) must provide for fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work; (C) may be amended, approved, or disapproved by the legislature in regular or special session; after the pay plan is in effect, a salary or wage payment may not be made to a state employee covered by the plan unless the payment is in accordance with this chapter and the rules adopted under this chapter or unless the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;

(3) the use of employee selection methods, including open competitive assessment devices, when appropriate, that will fairly evaluate the capacity and fitness of the person assessed to discharge the duties of the position in which employment is sought;

(4) the formulation of a list for appointment and promotion to a position;

(5) the procedure for filling positions; the rule adopted under this

paragraph may include procedures providing a preference for local residents when appropriate;

(6) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state service, and promotion shall be by competitive assessment whenever possible; in considering promotions, the applicants' qualifications, performance records, seniority, and conduct shall be evaluated;

(7) a period of probation not to exceed one year before an appointment to a position becomes permanent, unless the period of probation is extended as set out in a collective bargaining agreement under AS 23.40; however, a permanent employee receiving a promotional appointment retains permanent status in the service and job class from which appointed for the duration of the probationary period and may be demoted to a former class without right of appeal, notwithstanding AS 39.25.170, but, if the employee is dismissed from the service, the appeal rights under AS 39.25.170 apply;

(8) nonpermanent and emergency appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200;

(9) provisional appointment without competitive assessment when the recruitment and assessment procedures have not identified qualified candidates in sufficient number;

(10) transfers from one department to another and from another merit system jurisdiction to the state service;

(11) transfers from one area of the state to another;

(12) the reinstatement of a person who resigns in good standing;

(13) layoffs for reason of lack of money or work, abolition of positions, or material changes in duties or organization; both performance and seniority records shall be considered in the development of layoff orders;

(14) the development, maintenance, and use of employee performance records;

(15) the establishment of disciplinary measures, which may include disciplinary suspension without pay;

1 (16) the procedures for review of disputed personnel actions, for
2 resolving employee and interagency grievances, and for resolving grievances of the
3 general public concerning the operation of the state personnel system;

4 (17) hours of work for all employees in the state service;

5 (18) methods and procedures covering overtime work and pay;

6 (19) the granting of employment preference rights, not within the area
7 of promotion, [TO A VETERAN, FORMER PRISONER OF WAR, OR MEMBER
8 OF THE NATIONAL GUARD] under AS 39.25.159;

9 (20) the employment of persons in permanent positions on a part-time
10 basis of 15 hours or more a week, including the employment of two persons to fill one
11 permanent full-time position; these employees shall be designated as permanent part-
12 time employees;

13 (21) the granting of employment preference to individuals with severe
14 disabilities; this includes the right to provisional appointment without competitive
15 assessment for periods of up to four months and the granting of eligibility to an
16 individual with a severe disability provisionally appointed under the rules who
17 demonstrates ability to perform the job for permanent appointment without
18 competitive assessment; provisional employment under this paragraph may not exceed
19 four months during a 12-month period; "individual with a severe disability," as used in
20 this paragraph, means an individual certified by the director of the division of
21 vocational rehabilitation to be severely disabled;

22 (22) the establishment of programs facilitating the employment of
23 disadvantaged persons;

24 (23) the delegation, when feasible, of personnel responsibilities and
25 duties to the principal departments of the executive branch;

26 (24) the establishment of a transition period of up to 12 months for an
27 employee to be reappointed to a classified position if the employee's position is
28 withdrawn from the partially exempt or exempt service and placed in the classified
29 service;

30 (25) other rules and administrative regulations, not inconsistent with
31 this chapter, that are necessary for its enforcement.

* **Sec. 4.** AS 39.25.159(a) is amended to read:

(a) A **person** [VETERAN OR FORMER PRISONER OF WAR] who possesses the necessary qualifications for a position or job classification applied for under this chapter is entitled to an employment preference as follows:

(1) in an assessment using numerical ratings,

(A) points equal to five percent of the points available from the assessment device or devices shall be added to the passing score **if the person is**

(i) in active service, on furlough from active service, or discharged under honorable conditions from service in the armed forces of the United States, a reserve unit of the armed forces of the United States, the Alaska Territorial Guard, the Alaska Army National Guard, the Alaska Air National Guard, or the Alaska Naval Militia;

(ii) the spouse or dependent child of a person described in (i) of this subparagraph; or

(iii) the surviving spouse or a dependent child of a person who, at the time of death, was a person in active service or on furlough from active service as described in (i) of this subparagraph;

(B) points equal to 10 percent of the points available from the assessment device or devices shall be added to the passing score if the person is

(i) a disabled veteran;

(ii) a former prisoner of war;

(2) in an assessment not using numerical ratings,

(A) consideration shall be afforded to a person under (1)(A)(i) of this subsection;

(B) [OF A VETERAN, AND POINTS EQUAL TO 10 PERCENT OF THE POINTS AVAILABLE FROM THE ASSESSMENT DEVICE OR DEVICES SHALL BE ADDED TO THE PASSING SCORE OF

1 A DISABLED VETERAN OR FORMER PRISONER OF WAR;

2 (2) IN AN ASSESSMENT NOT USING NUMERICAL RATINGS,
3 CONSIDERATION SHALL BE AFFORDED TO A VETERAN; ADDITIONALLY,]
4 an opportunity to interview for the position shall be afforded to a disabled veteran or a
5 former prisoner of war.

6 * **Sec. 5.** AS 39.25.159(d) is amended to read:

7 (d) A person may receive an employment preference under only one of the
8 categories described in (a) [OR (c)] of this section. A person may use the preference
9 without limitation when being considered for a position for which persons who are not
10 currently state employees are being considered. If the recruitment for a position is
11 limited to state employees, preference under (a) or (c) of this section may not be
12 counted. If a position in the classified service is eliminated, employees shall be
13 released in accordance with rules adopted under AS 39.25.150(13). In the case of a
14 comparison of employees with equal qualifications based on the factors adopted under
15 AS 39.25.150(13), an employee who is eligible for an employment preference
16 under (a) of this section [A VETERAN, FORMER PRISONER OF WAR, OR
17 MEMBER OF THE NATIONAL GUARD] shall be given preference over an
18 employee who is not eligible for a preference under (a) of this section and [A
19 PERSON WHO IS NOT A VETERAN, FORMER PRISONER OF WAR, OR
20 MEMBER OF THE NATIONAL GUARD, AND THE VETERAN, FORMER
21 PRISONER OF WAR, OR MEMBER OF THE NATIONAL GUARD] shall be kept
22 on the job.

23 * **Sec. 6.** AS 39.25.159(e) is amended to read:

24 (e) Subsections (a) [(a), (c),] and (d) of this section may not be interpreted to
25 amend the terms of a collective bargaining agreement.

26 * **Sec. 7.** AS 39.25.159(f) is amended by adding a new paragraph to read:

27 (6) "dependent child" means a natural or adopted child who is

28 (A) permanently disabled; or

29 (B) under

30 (i) 19 years of age; or

31 (ii) 23 years of age and registered at and attending on a

- 1 full-time basis an accredited educational or technical institution
- 2 recognized by the Department of Education and Early Development.
- 3 * **Sec. 8.** AS 39.25.159(c) is repealed.