

CS FOR HOUSE BILL NO. 317(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 3/15/00

Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to recruitment, selection, appointment, promotion, and
2 nonretention of state employees and to the duties of the Department of
3 Administration concerning those and other related functions; and providing for an
4 effective date."

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

6 * **Section 1.** AS 39.25.080(a) is amended to read:

7 (a) State personnel records, including employment applications and
8 examination **and other assessment** materials, are confidential and are not open to
9 public inspection except as provided in this section.

10 * **Sec. 2.** AS 39.25.120(b) is amended to read:

11 (b) A person holding a position in the partially exempt service is not required
12 to **complete an assessment** [TAKE AN EXAMINATION OR QUALIFY OR EARN
13 A PLACE ON A REGISTER,] and is not eligible for a hearing by the personnel board
14 in case of dismissal, demotion, or suspension. Positions in the partially exempt service

are specifically exempt from the rules established under AS 39.25.150(3) - (10), (12), (13), and (16).

* **Sec. 3.** AS 39.25.130(a) is amended to read:

Sec. 39.25.130. Extension of partially exempt and classified services. (a)

The personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position in the classified service that, in the judgment of the board,

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and assessment [EXAMINING] procedures.

* **Sec. 4.** 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 shall 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) shall 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

1 this chapter or unless the payment is in accordance with a valid agreement entered into
2 in accordance with AS 23.40;

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

7 (4) the formulation of a list [ESTABLISHMENT AND
8 MAINTENANCE OF ELIGIBLE LISTS] for appointment and promotion to a position
9 [PROVIDING THE NAMES OF ELIGIBLE CANDIDATES IN ORDER OF THEIR
10 RELATIVE PERFORMANCE IN THE EXAMINATIONS];

11 (5) the procedure for filling positions [CERTIFYING ELIGIBLE
12 CANDIDATES]; the rule adopted under this paragraph may include procedures
13 providing a preference for [CERTIFYING] local residents when appropriate;

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

20 (7) a period of probation not to exceed one year before an appointment
21 to a position becomes permanent, except that a permanent employee receiving a
22 promotional appointment retains permanent status in the service and job class from
23 which appointed for the duration of the probationary period and may be demoted to
24 a former class without right of appeal, notwithstanding AS 39.25.170, but, if the
25 employee is dismissed from the service, the appeal rights under AS 39.25.170 apply;

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

28 (9) provisional appointment without competitive assessment
29 [EXAMINATION] when the recruitment and assessment procedures have not
30 identified qualified candidates in sufficient number [APPROPRIATE ELIGIBLE
31 LISTS ARE NOT AVAILABLE];

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

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

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

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

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

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

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

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

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

17 (19) the granting of employment preference rights, not within the area
18 of promotion, to a veteran or **former** prisoner of war under AS 39.25.159;

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

23 (21) the granting of employment preference to **individuals with severe**
24 **disabilities** [SEVERELY HANDICAPPED PERSONS]; this includes the right to
25 provisional appointment without competitive **assessment** [EXAMINATION] for
26 periods **of** up to four months and the granting of eligibility to **an individual with a**
27 **severe disability** [A SEVERELY HANDICAPPED PERSON] provisionally appointed
28 under the rules who demonstrates ability to perform the job for permanent appointment
29 without competitive **assessment** [EXAMINATION]; provisional employment under this
30 paragraph may not exceed four months during a 12-month period; **"individual with**
31 **a severe disability,**" ["SEVERELY HANDICAPPED"] as used in this paragraph,

means **an individual** [PERSONS] certified by the director of the division of vocational rehabilitation to be **severely disabled** [SEVERELY HANDICAPPED];

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

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

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

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

* **Sec. 5.** AS 39.25.155(c) is amended to read:

(c) Applicants shall be placed on [ELIGIBLE] lists for the vocational classification indicated in their applications [SUBMITTED TO THE DIVISION OF PERSONNEL IN THE ORDER OF THEIR RELATIVE RANKING] based on an assessment of their **vocational** [TECHNICAL] ability **and** [,] place of residence [AND WITHOUT WRITTEN EXAMINATION. APTITUDE OR OCCUPATIONAL TESTS MAY BE GIVEN IF A POSITION REQUIRES A SPECIFIC ABILITY].

* **Sec. 6.** AS 39.25.155(e) is amended to read:

(e) The director of personnel shall embody a concept combined of **vocational** [TECHNICAL] ability, place of residence, local hire, and area unemployment in the personnel rules to accomplish the intent of this section.

* **Sec. 7.** AS 39.25.159(a) is amended to read:

(a) A 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 a preference under this subsection. In an **assessment using numerical ratings, points equal to five percent of the points available from the assessment device or devices shall be added to the passing score 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 a disabled veteran or former prisoner of**

1 war. In an assessment not using numerical ratings, consideration shall be
 2 afforded to a veteran; additionally, an opportunity to interview for the position
 3 shall be afforded to a disabled veteran or [EXAMINATION TO DETERMINE THE
 4 QUALIFICATION OF APPLICANTS FOR THE CLASSIFIED SERVICE UNDER
 5 MERIT SYSTEM EXAMINATION, FIVE POINTS SHALL BE ADDED TO THE
 6 PASSING GRADE OF A VETERAN, 10 POINTS SHALL BE ADDED TO THE
 7 PASSING GRADE OF A DISABLED VETERAN, OR 10 POINTS SHALL BE
 8 ADDED TO THE PASSING GRADE OF] a **former** prisoner of war. A person may
 9 receive preference [POINTS] under only one of the categories described in this
 10 subsection or in (c) of this section. A person may use the preference without
 11 limitation when being considered for a position for which persons who are not
 12 currently state employees are being considered. If the recruitment for a position
 13 [CONSIDERATION OF APPLICANTS] is limited to state employees, preference
 14 [POINTS] under this subsection may not be counted. If a position in the classified
 15 service is eliminated, employees shall be released in accordance with rules **adopted**
 16 **under AS 39.25.150(13). In the case of a comparison of employees with equal**
 17 **qualifications on the factors adopted under AS 39.25.150(13)** [THAT GIVE DUE
 18 EFFECT TO ALL FACTORS. IF ALL JOB QUALIFICATIONS ARE EQUAL], a
 19 veteran or **former** prisoner of war shall be given preference over a person who **is**
 20 [WAS] not a veteran or **former** prisoner of war, and the veteran or **former** prisoner
 21 of war shall be kept on the job. This subsection may not be interpreted to amend the
 22 terms of a collective bargaining agreement.

23 * Sec. 8. AS 39.25.159(c) is amended to read:

24 (c) A member of the national guard who possesses the necessary qualifications
 25 for a **position or** job classification applied for under this chapter is entitled to a
 26 preference under this subsection. In an **assessment using numerical ratings, points**
 27 **equal to five percent of the points available from the assessment device or devices**
 28 **shall be added to the passing score of a member of the national guard. In an**
 29 **assessment not using numerical ratings, consideration shall be afforded to**
 30 [EXAMINATION TO DETERMINE THE QUALIFICATION OF APPLICANTS FOR
 31 THE CLASSIFIED SERVICE UNDER MERIT SYSTEM EXAMINATION, FIVE

POINTS SHALL BE ADDED TO THE PASSING GRADE OF] a member of the national guard. A person may use the preference without limitation when being considered for a position for which persons who are not currently state employees are being considered. If the recruitment for a position [CONSIDERATION OF APPLICANTS] is limited to state employees, preference [POINTS] under this subsection may not be counted. If a position in the classified service is eliminated, employees shall be released in accordance with rules adopted under AS 39.25.150(13). In the case of a comparison of employees with equal qualifications on the factors adopted under AS 39.25.150(13) [THAT GIVE DUE EFFECT TO ALL FACTORS. IF ALL JOB QUALIFICATIONS ARE EQUAL], a member of the national guard shall be given preference over a person who is [WAS] not a veteran, a former prisoner of war, or a member of the national guard. This subsection may not be interpreted to amend the terms of a collective bargaining agreement. In this subsection, "member of the national guard" means a person who is presently serving as a member of the Alaska National Guard and who has at least eight years of service in the Alaska National Guard.

* **Sec. 9.** AS 39.25.159(d) is amended by adding a new paragraph to read:

(4) "consideration" means reviewing a person's entire application in order to determine whether the person should be selected, rejected, or admitted to further steps in the assessment or selection process.

* **Sec. 10.** AS 39.25.160(h) is amended to read:

(h) A person may not knowingly make a false statement, [CERTIFICATE,] mark, rating, or report with regard to an assessment [A TEST], certification, or appointment made under this chapter or in any manner commit a fraud preventing the impartial execution of this chapter and the personnel rules adopted under this chapter.

* **Sec. 11.** AS 39.25.160(i) is amended to read:

(i) A person may not obstruct the right of another person to assessment [EXAMINATION], eligibility, certification, appointment, or promotion under this chapter.

* **Sec. 12.** AS 39.25.195(b) is amended to read:

(b) An appointment to state service, except an emergency appointment, shall

be made from **the list of applicants qualified for the position** [AN APPLICABLE ELIGIBLE LIST OR DISPATCHING REGISTER] unless, in appropriate circumstances, the director has waived this requirement.

* **Sec. 13.** AS 39.25.195(c) is amended to read:

(c) An appointment of a nonpermanent employee may not be made unless the request for authorization is approved by the director, adequate money is available for the anticipated duration of the appointment, and the director determines that

[(1)] the hiring department or agency has certified that

(1) the legislature has appropriated money for the work in question knowing that it is to be performed by a nonpermanent employee;

(2) [THE HIRING DEPARTMENT OR AGENCY HAS CERTIFIED THAT] there is an immediate need to fill an authorized, permanent position and it is impractical either to establish **or recruit for** the position [OR TO MAKE CERTIFICATION] within a reasonable time;

(3) [THE HIRING DEPARTMENT OR AGENCY HAS CERTIFIED THAT] an immediate need exists and the director determines that the hiring department or agency could not reasonably have been expected to anticipate and meet **that need** through the creation of a permanent position; or

(4) [THE HIRING DEPARTMENT OR AGENCY HAS CERTIFIED THAT] a program or project exists and the director determines that the need for employees can most appropriately be met through the use of program or project employees.

* **Sec. 14.** AS 39.25.196(a) is amended to read:

(a) Notwithstanding the provisions of AS 39.25.195, a hiring department or agency may grant a preference to local residents in the appointment of nonpermanent employees or in the appointment of permanent employees to perform seasonal work assignments of 180 calendar days or less in a 12-month period. If there are no local residents on the applicable **list of applicants qualified for** [ELIGIBLE LIST FOR] a nonpermanent or a permanent seasonal position or if the local residents on the applicable [ELIGIBLE] list **of applicants qualified for the position** are unavailable, the hiring department or agency may obtain referrals of qualified job applicants for

these positions from the job service office of the Department of Labor and Workforce Development serving the area and, from those applicants, select a qualified person who is a local resident for the position.

* **Sec. 15.** AS 44.21.020 is amended to read:

Sec. 44.21.020. Duties of department. The Department of Administration shall

(1) make surveys and studies to improve administrative procedures, methods, and organization;

(2) keep general accounts;

(3) approve vouchers and disburse funds for all purposes;

(4) operate centralized purchasing and supply services, and necessary storerooms and warehouses;

(5) allot space in state buildings to the various departments according to need and available space;

(6) supervise telephone, mailing, messenger, duplicating, and similar services adaptable to centralized management;

(7) administer the public employees' retirement system and teachers' retirement system;

(8) administer a statewide personnel program, including central personnel services such as recruitment, assessment [EXAMINATION], position classification, and pay administration;

(9) administer the Alaska Pioneers' Homes;

(10) administer and supervise a statewide automatic data processing program;

(11) study, design, implement, and manage the telecommunications systems and services of the state under AS 44.21.305 - 44.21.330;

(12) [REPEALED

(13)] administer state veterans' home facilities; in carrying out its duties under this paragraph, the department shall consult with the Department of Military and Veterans' Affairs.

* **Sec. 16.** AS 39.25.153(b), 39.25.153(c), and 39.25.153(d) are repealed.

1 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section
2 to read:

3 TRANSITION: REGULATIONS. The personnel board may proceed to adopt
4 amendments to the personnel rules to implement the changes made by this Act. The
5 amendments to the personnel rules take effect under AS 39.25.140, but not before the effective
6 date of secs. 1 - 16 of this Act.

7 * **Sec. 18.** Section 17 of this Act takes effect immediately under AS 01.10.070(c).