

tive actuarial value of their accrued benefits as of the date of termination, appropriately adjusted for any payments made under subparagraph (1) above.

h. Any distribution made as a result of termination of participation by an employer may, to the extent that no discrimination in value results, be paid in cash or in annuity contracts, according to the discretion of the board.

i. In making such distributions, any and all determinations, divisions, appraisals, apportionments, and allotments so made shall be final and conclusive and not subject to question by any person. In no event shall an employer receive, at any time, any amounts from the pension fund, except that, upon termination of its participation, the employer shall receive such amounts, if any, as may remain after the satisfaction of all liabilities of the system to the employees of such employer and arising out of any

variations between actual requirements and expected actuarial requirements.

Sec. 45. Construction. The masculine gender, where appearing in this Act shall be deemed to include the feminine gender, unless the context clearly indicates to the contrary. The words "hereof," "herein," and "hereunder" and other similar compounds of the word "here" shall mean and refer to the entire Act, not to any particular provision or section.

Sec. 46. Separability. If, regardless of cause, any section, subsection, paragraph, sentence, or clause of this Act is held invalid or to be unconstitutional, the remaining sections, subsection, paragraphs, sentences, or clauses shall continue in full force and effect, and shall be construed thereafter as being the entire provisions of this Act.

Sec. 47. Effective Date. This Act shall take effect on January 1, 1961.

Approved April 18, 1960

CHAPTER 144

AN ACT

Establishing a system of personnel administration for state employees based on the merit principle; providing penalties; repealing certain conflicting acts; and providing for an effective date.

(C.S.H.B. 188)

Be it enacted by the Legislature of the State of Alaska:

Section 1. Purpose. It is the purpose of this Act to establish a system of personnel administration based upon the merit principle and adapted to the requirements of the State of Alaska to the end that persons best qualified to perform the functions of the state will be employed, and that an effective career service will be encouraged, developed and maintained.

Sec. 2. Short Title. This Act, and all amendments to this Act, shall be known and may be cited as the "State Personnel Act of 1960."

Sec. 3. Coverage of Act. This Act and the rules adopted pursuant to this Act apply to all positions in the classified service. This Act and the rules adopted

pursuant to this Act apply to all positions in the partially exempt service as specifically provided.

Sec. 4. Classified Service. The classified service consists of all positions in the state service not included in the exempt service or in the partially exempt service.

Sec. 5. Exempt Service. The following positions in the state service constitute the exempt service and are exempt from the provisions of this Act and the rules adopted pursuant to this Act:

(1) Persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

(2) Justices of the supreme court, judges of the superior court, judges, magistrates and deputy magistrates of other

state courts established by law;

(3) The administrative director of the state court system;

(4) The chief administrative officer of each house of the legislature;

(5) The executive director of the Legislative Council; the legislative auditor; and the head of any other legislative agency established by law;

(6) The head of each principal department in the executive branch;

(7) Officers, members of the teaching staff, and student employees of the University of Alaska;

(8) Certificated teachers employed by the state to teach in schools operated by the Department of Education;

(9) Patients and inmates employed in state institutions;

(10) Persons employed in a professional capacity to make a temporary and special inquiry, study, or examination as authorized by the governor, the legislature or a legislative committee;

(11) Members of boards, commissions or authorities.

Sec. 6. Partially Exempt Service. The following positions in the state service constitute the partially exempt service and are subject to the provisions of this Act and the rules adopted pursuant to this Act only as specifically provided in this Act.

Positions in the partially exempt service shall be included in the position classification plan established pursuant to this Act, and said positions shall be compensated according to the pay plan established pursuant to this Act. Persons holding positions in the partially exempt service are not required to take examinations, to qualify or earn a place on any register, nor are they eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension. Positions in the partially exempt service are specifically exempt from the rules established under Sec. 13, (3), (4), (5), (6), (7), (8), (9), (10), (11), (14), (15), and (18) of this Act. They are also specifically exempt from the provisions of Secs. 16 and 17 and as stated in Sec. 19a of this Act.

(1) All employees of the state legislature and the employees of any legislative agency;

(2) Assistant commissioners of the principal departments of the executive branch;

(3) Those directors of the major divisions of the principal departments of the executive branch as are specifically designated by the governor; provided, that the director of personnel shall be in the classified service;

(4) Attorney members on the staff of the Department of Law;

(5) One private secretary for each head of a principal department in the executive branch;

(6) All employees of the office of the governor and the secretary of state, including the staff of the governor's mansion;

(7) All employees of the state judicial system, including employees of the Judicial Council;

(8) All employees of the University of Alaska not included in the exempt service.

Sec. 7. Extension of Partially Exempt and Classified Services. After June 30, 1961, 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 on the effective date of this Act) which, in the judgment of the board:

(1) Involves principal responsibility for the determination of policy; or

(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 examining procedures.

No positions may be included in the partially exempt service pursuant to the provisions of this section if the inclusion is inconsistent with federal requirements for state agencies supported in whole or in part by federal funds.

After June 30, 1961, the personnel

board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position in the partially exempt service on the effective date of this Act.

Sec. 8. Appointing Authority. The authority to appoint to positions in the state service is as follows:

(1) The legislature is the appointing authority for all officers and employees of the legislature and the legislative agencies, but the authority to make appointments may be delegated.

(2) The governor is the appointing authority for all officers and employees of the executive branch, but the authority to make appointments may be delegated.

(3) The chief justice of the Supreme Court is the appointing authority for all administrative and clerical personnel of the state judicial system, but the authority to make appointments may be delegated.

(4) The Board of Regents is the appointing authority for all employees of the University of Alaska, but the authority to make appointments may be delegated.

Sec. 9. Organization for Personnel Administration: Division Board. There is established within the Department of Administration a division of personnel. There is established within the division of personnel a personnel board.

Sec. 10. Director of Personnel: Appointment: Qualifications. The head of the division of personnel is the director of personnel appointed by the commissioner of administration and responsible to the commissioner of administration for the execution of the duties and responsibilities imposed by this Act and the rules adopted pursuant to this Act. The director of personnel must have had at least three years of practical working experience in the field of personnel administration. This position shall be within the classified service.

Sec. 11. Personnel Board: Appointment: Qualifications: Removal. The personnel board is composed of three members appointed by the governor and confirmed by the legislature meeting in joint session. The governor shall appoint

the first board within 30 days of the effective date of this Act. Initial appointments to the board are for terms of two, four, and six years. Subsequent appointments will be for six-year terms. Vacancies in unexpired terms will be filled by appointment by the governor for the remainder of the terms and are subject to confirmation in the same manner as full term appointments. Members of the board shall be qualified electors of the state who are not employees or officers of the state. Not more than two members of the board may be members of the same political party. Board members shall hold office at the pleasure of the governor notwithstanding their respective terms. Members of the board may receive a per diem allowance and be paid transportation expenses incurred in carrying out the duties set out in this Act.

Sec. 12. Personnel Rules: Preparation: Adoption: Amendment. a. The director of personnel shall prepare and submit to the commissioner of administration within 60 days after the effective date of this Act, proposed personnel rules for all positions and employees subject to this Act.

b. The commissioner of administration shall review the rules and submit them to the personnel board within 70 days after the effective date of this Act.

c. At the time he submits the initial rules to the personnel board, the commissioner of administration shall, by posting in public buildings throughout the state, give notice that the personnel board has the rules under consideration. The initial rules, or any part of the rules will have the force and effect of law sixty days after they have been submitted to the personnel board if not disapproved by the personnel board. The personnel board, if requested, may hold public hearings on the initial rules.

d. Amendments to the rules shall be prepared, submitted and publicized in the same manner as the initial rules, and will have the force and effect of law 30 days after they have been submitted to the personnel board, if not disapproved by the personnel board. The personnel board, if requested, may hold public hearings on amendments to the rules.

e. The rules may provide for such exemptions and modifications as may be necessary to assure the continuity of federal grants to those agencies supported in whole or in part by federal contributions.

f. The rules adopted pursuant to this Act relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act. This paragraph does not preclude the publication of the rules in the Alaska Administrative Register and Code for informational purposes.

Sec. 13. Jurisdiction of Rules. The personnel rules shall provide:

(1) For the preparation, maintenance, and revision by the director of personnel, subject to approval by the commissioner of administration and the personnel board of a position classification plan for all positions in the classified and partially exempt services. In the position classification plan all positions will be grouped together into classes on the basis of duties and responsibilities. The position classification plan will include for each class of position an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary position specifications.

(2) For the preparation, maintenance, revision, and administration by the director of personnel, subject to approval by the commissioner of administration, of a pay plan for all positions in the classified and partially exempt services. The pay plan shall be prepared after consultation with the appointing authorities or their designees, and with representatives of interested employee groups. The pay plan shall be based upon the position classification plan, shall provide for fair and reasonable compensation for services rendered and shall be based on the principle of like pay for like work. The pay plan may provide for uniform starting pay, increments, and area and time differentials. The pay plan prepared pursuant to this section is subject to approval by the legislature in regular or special session. Amendments to the pay plan are also subject to approval by the legislature. After the pay plan is put into effect, no salary or wage payment may be made to any state employee

covered by the pay plan unless the payment is in accordance with this Act and the rules adopted pursuant to this Act.

(3) For the use of sound employee selection methods, including open competitive examinations to test the fitness of applicants for positions in the state service.

(4) For 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 examination whenever possible. In considering promotions, applicants' qualifications, performance record, seniority, and conduct shall be evaluated.

(5) For the establishment and maintenance of eligible lists for appointment and promotion. The names of eligible candidates shall be placed on such lists in order of their relative performance in the examinations.

(6) For the procedure for certifying eligibles.

(7) For a period of probation not to exceed one year before appointment or promotion is permanent.

(8) For emergency appointments to positions in the state service.

(9) For temporary appointments to positions in the state service which are determined to be of a seasonal or temporary nature.

(10) For provisional appointment without competitive examination when appropriate eligible lists are not available.

(11) For transfers from one department to another and from another merit system jurisdiction to the state service.

(12) For transfers from one area of the state to another.

(13) For the payment of transportation costs when an employee transfers from one area to another at the request of the employer.

(14) For the reinstatement of persons who resign in good standing.

(15) For layoffs for reasons of lack

of funds 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.

(16) For the development, maintenance, and utilization of employee performance records.

(17) For the imposition of disciplinary suspension without pay for not longer than 30 days in any 12-month period.

(18) For the procedures for review of disputed personnel actions and for resolving employee and inter-agency grievances.

(19) For hours of work for all employees in the state service.

(20) For methods and procedures covering overtime work and pay.

(21) For the delegation, where feasible, of personnel responsibilities and duties to the principal departments of the executive branch.

(22) For other rules and administrative regulations, not inconsistent with this Act, as may be necessary for its enforcement.

Sec. 14. Director: Powers and Duties. The director of personnel shall direct and supervise all the administrative and technical activities of the division of personnel. In addition to the other duties imposed on him by this Act, he shall:

(1) Administer this Act and the personnel rules;

(2) Encourage and exercise leadership in the development of effective personnel administration in the state government;

(3) Develop, in cooperation with appointing authorities and others, programs for the improvement of employee effectiveness and morale;

(4) Attend all meetings of the personnel board and serve as secretary for the board;

(5) Establish and maintain a roster of all employees subject to this Act;

(6) Prepare such rules, not inconsistent with this Act, as may be required

to implement and administer this Act;

(7) Perform any other lawful acts which he may consider necessary or desirable to carry out the purposes of this Act.

Sec. 15. Personnel Board: Powers and Duties. In addition to the other duties imposed by this Act, the personnel board shall:

(1) Approve or disapprove the original rules or any part of them within 60 days of their submission to the board and approve or disapprove any amendment to the rules within 30 days of their submission to the board. In carrying out this duty, the board, if requested, may hold such public hearings as it may deem necessary.

(2) Consider and act upon recommendations for the extension of the partially exempt service and the classified service as provided in Sec. 7 of this Act.

(3) Hear and determine appeals by employees in the classified service as provided in Sec. 16 of this Act.

(4) Establish its own rules of procedure, provided that two members shall constitute a quorum for the transaction of business and that two affirmative votes are required for final action on matters acted upon by the board.

(5) Elect a chairman from its membership.

(6) Have the power to administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any hearing authorized by this Act.

Sec. 16. Hearings: Appeals. Any employee in the classified service who has been dismissed, demoted, or suspended for more than 30 working days in a 12-month period, must be notified in writing by his employer of the action and the reason therefor, and has the right to be heard publicly by the personnel board and to be represented by counsel at such hearing. In order to be heard, the complainant must request a hearing within 15 days of such dismissal, demotion or suspension. If the board finds that the action complained of was taken for any political, racial or religious reason, or in violation of the provisions of this

Act or the rules promulgated pursuant to this Act, the officer or employee shall be reinstated to his position without loss of pay or leave benefit for the period of his dismissal, demotion or suspension. In all other cases, the board shall report its findings and recommendations to both parties.

Sec. 17. Status of Present Employees.

a. State employees with permanent status on the effective date of this Act under the merit system applying to the agencies receiving federal grants-in-aid will be continued without examination and are not required to serve a new probationary period.

b. State employees with probationary status on the effective date of this Act under the merit system applying to the agencies receiving federal grants-in-aid, will be continued without examination, but must satisfactorily complete their probationary period in order to achieve permanent status.

c. All other employees coming under the jurisdiction of this Act and holding positions in the state service on the effective date of this Act may be continued in their respective positions without examination if they meet the minimum qualifications for their respective positions and if they have been in the state service for at least six months. Employees who do not meet the minimum qualifications for positions are subject to examination pursuant to the provisions of this Act and the personnel rules.

d. Federal civil service employees may transfer to positions in the state service without examination, providing they meet the minimum qualifications for their respective positions and have been on permanent status under federal civil service for not less than six months immediately preceding their transfer. Such employees may be required to serve a probationary period of employment.

e. Nothing in this section shall preclude the reclassification or reallocation of any position held by any incumbent as provided in this Act and the rules adopted pursuant to this Act.

Sec. 18. Public Records. The state personnel records, except such records as the rules may properly require to be held

confidential for reasons of public policy, shall be public records and shall be open to public inspection, subject to reasonable regulations as to the time and manner of inspection.

Sec. 19. Prohibitions. a. No employee in the classified service or in those partially exempt positions named in Subsecs. (7) and (8) of Sec. 6 of this Act may be a member of any national, state, or local committee of a political party, or take part in the management of any political party or in any political campaign, except to exercise his right as a citizen to express his opinion, register his party preference, if any, and cast his vote. This section does not prohibit appointment, nomination, or election to nonpartisan public office in any local government unit.

b. No person may give, render, pay, offer, solicit, or accept any money, service, or other valuable thing in connection with any appointment, any promotion, or any advantage in a position in the classified service.

c. No person may require any assessment, subscription, contribution, or service for any political party from any employee in the classified service.

d. No person may seek or attempt to use any political party endorsement in connection with any appointment or promotion in the classified service.

e. Any employee in the classified service who seeks nomination or becomes a candidate for any state or national elective political office shall immediately resign his position in the state service.

f. No action affecting the employment status of any employee in the classified service or applicant for a position in the classified service, including appointment, promotion, demotion, suspension, or removal may be taken or withheld for racial, political, or religious reasons.

g. No person may make any false statement, certificate, mark, rating, or report with regard to any test, certification, or appointment made under any provision of this Act or in any manner commit any fraud preventing the impartial execution of this Act and the personnel rules adopted pursuant to this Act.

h. No state employee or other person may defeat, deceive, or obstruct any person in his right to examination, eligibility, certification, appointment, or promotion under this Act.

Sec. 20. **Penalties.** a. Any person who wilfully violates any provision of this Act or of the personnel rules adopted pursuant to this Act is guilty of a misdemeanor.

b. Any state employee who is convicted of a misdemeanor under this Act or the personnel rules adopted pursuant to this Act shall immediately forfeit his office or position.

Sec. 21. **Transition.** The merit system in effect and applying to the agencies receiving federal grants-in-aid shall continue in effect until the commissioner of administration certifies to the governor that the division of personnel is organized to administer the system as required for eligibility for federal grants.

Sec. 22. **Conflict with Federal Requirements.** If any part of this Act is found to be in conflict with Federal requirements which are a condition precedent to the allocation of federal funds to the state, the conflicting part of this Act is hereby declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such findings shall not affect the operation of the remainder of this Act in its application to the agencies concerned.

Sec. 23. **Repeals of Existing Legislation.** a. On the date that the initial rules prepared pursuant to Secs. 12 and 13 of this Act are in full force and effect the following are repealed:

(1) Sec. 11-5-3, ACLA 1949 as repealed and re-enacted by Ch. 88, SLA 1955;

(2) Secs. 11-5-4 and 11-5-5, ACLA 1949;

(3) Secs. 3 and 4, Ch. 144, SLA 1953.

b. On the date that the commissioner of administration certifies to the governor as required by Sec. 21 of this Act, Sec. 314, Ch. 5, ESLA 1955 is repealed.

c. On the date that the pay plan prepared according to the provisions of this Act is put into effect the following are repealed:

(1) Sec. 11-3-7, ACLA 1949 as repealed and re-enacted by Ch. 82, SLA 1957;

(2) Sec. 2, Ch. 105, SLA 1959.

Sec. 24. **Date of Effect of Pay Plan.** Notwithstanding any other provisions of this Act, the pay plan prepared according to the provisions of Sec. 13 (2) will not take effect until approved by the legislature; provided, however, that during the interim between the approval by the personnel board of the initial pay plan and its approval by the legislature, said pay plan may be put into effect in all affected agencies by executive order signed by the governor. This pay plan shall be valid under such executive order until such time as it is altered or approved in full by the legislature.

Sec. 25. **Effective Date of Act.** This Act takes effect on the day after its passage and approval on or the day it becomes law without such approval.

Approved April 18, 1960

CHAPTER 145

AN ACT

Relating to leaves of absence of state officers and employees; repealing and re-enacting Sec. 11-5-6, ACLA 1949 as amended by Ch. 182, SLA 1957; and providing for an effective date.

(H.B. 454)

Be it enacted by the Legislature of the State of Alaska:

amended by Ch. 182, SLA 1957 is repealed and re-enacted to read as follows:

Section 1. Sec. 11-5-6, ACLA 1949 as

Sec. 11-5-6. **Leaves of Absence.** a.