



LAWS OF ALASKA

1979

Source

HCS CSSB 198

Chapter No.

67

AN ACT

Relating to the hiring of nonpermanent employees in the state personnel system; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: May 18, 1979
Actual Effective Date: January 1, 1980

AN ACT

Relating to the hiring of nonpermanent employees in the state personnel system; and providing for an effective date.

* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that certain inconsistencies and abuses in the hiring of nonpermanent employees have jeopardized the integrity and efficiency of the merit system as well as the morale of employees. The legislature intends to curb the widespread administrative practice of using nonpermanent state employment to evade departmental accountability and mask poor planning. The legislature further intends that nonpermanent employees be used only to the extent that it is impractical to meet the need with permanent employees and that the burden of proof shall fall upon the department or agency which proposes nonpermanent hire.

* Sec. 2. AS 39.25.150(9) is amended to read:

(9) nonpermanent [TEMPORARY] appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200 [WHICH ARE DETERMINED TO BE OF A SEASONAL OR TEMPORARY NATURE];

* Sec. 3. AS 39.35.680(21)(C)(iii) is amended to read:

(iii) casual or [,] emergency [OR TEMPORARY] workers or nonpermanent employees as defined in AS 39.25.200;

* Sec. 4. AS 39.25 is amended by adding new sections to article 6 to read:

Sec. 39.25.195. APPOINTMENT OF NONPERMANENT EMPLOYEES. (a) An individual may not be appointed as a nonpermanent employee in the state

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1 service without prior written approval of the director except as an
2 emergency employee.

3 (b) Every appointment to state service, except an emergency
4 appointment, shall be made from an applicable eligible list or dis-
5 patching register unless in appropriate circumstances the director has
6 waived this requirement.

7 (c) No appointment of a nonpermanent employee may be made unless
8 the request for authorization is approved by the director, adequate
9 money is available for the anticipated duration of the appointment, and
10 the director determines that

11 (1) the hiring department or agency has certified that the
12 legislature has appropriated money for the work in question knowing that
13 it is to be performed by a nonpermanent employee;

14 (2) the hiring department or agency has certified that there
15 is an immediate need to fill an authorized, permanent position and it is
16 impractical either to establish the position or to make certification
17 within a reasonable time;

18 (3) the hiring department or agency has certified that an
19 immediate need exists and the director determines that the hiring depart-
20 ment or agency could not reasonably have been expected to anticipate and
21 meet through the creation of a permanent position; or

22 (4) the hiring department or agency has certified that a
23 program or project exists and the director determines that the need for
24 employees can most appropriately be met through the use of program or
25 project employees.

26 (d) The director may not authorize the appointment of a nonperma-
27 nent employee if he determines that

28 (1) the need for the nonpermanent employee can practicably be
29 met through establishing and filling an authorized permanent position;

1 (2) the need for the nonpermanent employee would be more
2 appropriately met through an emergency appointment; or

3 (3) the need for the nonpermanent employee is not immediate
4 and could reasonably have been anticipated and met by the appointing
5 authority through the creation and filling of a permanent position.

6 (e) A nonpermanent employee may not be placed on the state payroll
7 unless the director has first approved the personnel action for the
8 employee's appointment.

9 (f) Nothing in this section prevents the director from adopting
0 regulations to provide for timely substitution for permanent employees
1 on medical or personal leave or other situations in which the appoint-
2 ment of an emergency or permanent employee would be inappropriate or
3 when delay in making a temporary replacement would cause serious interrup-
4 tion.

5 (g) A department or agency may not use nonpermanent employees to
6 perform a given work assignment for more than 120 calendar days in a
7 12-month period. A department or agency may not employ any individual
8 as a nonpermanent employee for more than 120 calendar days in a 12-month
9 period. In appropriate circumstances the director may authorize an
10 extension of the limit imposed by this subsection if he finds that there
11 is an immediate need for the extension. The limit imposed by this
12 subsection does not apply to program or project employees or to substi-
13 tutes appointed under (f) of this section.

14 (h) The director shall present a report on nonpermanent and emer-
15 gency hire practices in state government to the legislature within the
16 first 10 days of each regular legislative session. A hiring department
17 or agency shall certify to the director within 15 working days following
18 the appointment its reasons for appointing an emergency employee. The
19 report shall include information on the number of nonpermanent employees
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1 authorized under this section and the number of emergency employees
2 hired in each department, a description of the procedures used in autho-
3 rizing the hiring of nonpermanent employees, and any recommendations for
4 legislation required to implement the intent of this section.

5 Sec. 39.25.197. TERMINATION OF NONPERMANENT EMPLOYEES. When the
6 director determines that an employee has been appointed as a result of a
7 false certification under AS 39.25.195, he shall immediately notify the
8 head of the affected department or agency in writing and the department
9 or agency shall terminate the employee from state service within one
10 working day after receipt of notice.

11 Sec. 39.25.198. CIVIL LIABILITY. A person who makes a false
12 certificate under AS 39.25.195 is personally liable in a civil action to
13 an individual terminated under AS 39.25.197 for any resultant damages
14 and for punitive damages of an amount not to exceed three times the
15 gross monthly salary at which the nonpermanent employee was appointed.

16 Sec. 39.25.200. DEFINITIONS. In AS 39.25.195 - 39.25.200,

17 (1) "certified" means signed by the head of a department or
18 agency or by a responsible person designated by him;

19 (2) "director" means the director of the division of person-
20 nel and labor relations;

21 (3) "emergency employee" means an employee appointed for a
22 period not to exceed 30 calendar days, whose appointment was made under
23 conditions requiring immediate action to carry on work that is required
24 in the public interest;

25 (4) "nonpermanent employee" means a person who is employed in
26 state service in a position which is not in the exempt or partially
27 exempt service and who is not a permanent or an emergency employee;

28 (5) "permanent employee" means an employee who has been
29 appointed to an authorized, permanent full-time or part-time or perma-

1 nent seasonal position in the classified service and who is in the
2 process of completing or has successfully completed the required proba-
3 tionary service in that position;

4 (6) "program or project employee" means a nonpermanent em-
5 ployee, including a student intern, who is employed in state service
6 with prior written understanding that employment in that position will
7 continue for at most the duration of a specified program or project
8 which is not a regular and continuing function of a department or agency
9 and which has an established probable date of termination.

10 * Sec. 5. This Act takes effect January 1, 1980.