

HOUSE BILL NO. 317

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/24/00

Referred: House Special Committee on Military and Veterans' Affairs, State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

10 (b) A person holding a position in the partially exempt service is not required
11 to complete an assessment [TAKE AN EXAMINATION OR QUALIFY OR EARN
12 A PLACE ON A REGISTER], and is not eligible for a hearing by the personnel board
13 in case of dismissal, demotion, or suspension. Positions in the partially exempt service
14 are specifically exempt from the rules established under AS 39.25.150(3) - (10), (12),

1 (13), and (16).

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

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

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

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

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

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

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

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

31 (5) the procedure for filling positions [CERTIFYING ELIGIBLE

1 CANDIDATES]; the rule adopted under this paragraph may include procedures
2 providing a preference for certifying local residents when appropriate;

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

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

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

17 (9) provisional appointment without competitive assessment
18 [EXAMINATION] when the recruitment and assessment processes have not
19 identified qualified candidates in sufficient number [APPROPRIATE ELIGIBLE
20 LISTS ARE NOT AVAILABLE];

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

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

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

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

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

30 (15) the establishment of disciplinary measures which may include
31 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 or prisoner of war under AS 39.25.159;

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

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

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

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

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

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

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

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

29 * **Sec. 5.** AS 39.25.159(c) is amended to read:

30 (c) A member of the national guard who possesses the necessary qualifications
 31 for a **position or** job classification applied for under this chapter is entitled to a

1 preference under this subsection. In an **assessment using numerical ratings, points**
 2 **equal to five percent of the points available from the assessment device or devices**
 3 **shall be added to the passing score of a member of the national guard. In an**
 4 **assessment not using numerical ratings, consideration shall be afforded to**
 5 [EXAMINATION TO DETERMINE THE QUALIFICATION OF APPLICANTS FOR
 6 THE CLASSIFIED SERVICE UNDER MERIT SYSTEM EXAMINATION, FIVE
 7 POINTS SHALL BE ADDED TO THE PASSING GRADE OF] a member of the
 8 national guard. A person may use the preference without limitation when being
 9 considered for a position for which persons who are not currently state employees are
 10 being considered. If **the scope of recruitment for a position** [CONSIDERATION OF
 11 APPLICANTS] is limited to state employees, preference [POINTS] under this
 12 subsection may not be counted. If a position in the classified service is eliminated,
 13 employees shall be released in accordance with rules **adopted under AS 39.25.150(13)**
 14 [THAT GIVE DUE EFFECT TO ALL FACTORS]. **In the case of a comparison of**
 15 **employees with equal qualifications on the factors adopted under AS 39.25.150(13)**
 16 [IF ALL JOB QUALIFICATIONS ARE EQUAL], a member of the national guard
 17 shall be given preference over a person who was not a veteran, prisoner of war, or a
 18 member of the national guard. This subsection may not be interpreted to amend the
 19 terms of a collective bargaining agreement. In this subsection, "member of the national
 20 guard" means a person who is presently serving as a member of the Alaska National
 21 Guard and who has at least eight years of service in the Alaska National Guard.

22 * **Sec. 6.** AS 39.25.159(d) is amended by adding a new paragraph to read:

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

26 * **Sec. 7.** AS 39.25.160(h) is amended to read:

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

31 * **Sec. 8.** AS 39.25.160(i) is amended to read:

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

4 * **Sec. 9.** AS 39.25.195(b) is amended to read:

5 (b) An appointment to state service, except an emergency appointment, shall
6 be made from **the list of applicants qualified for the position** [AN APPLICABLE
7 ELIGIBLE LIST OR DISPATCHING REGISTER] unless in appropriate circumstances
8 the director has waived this requirement.

9 * **Sec. 10.** AS 39.25.196(a) is amended to read:

10 (a) Notwithstanding the provisions of AS 39.25.195, a hiring department or
11 agency may grant a preference to local residents in the appointment of nonpermanent
12 employees or in the appointment of permanent employees to perform seasonal work
13 assignments of 180 calendar days or less in a 12-month period. If there are no local
14 residents on the applicable **list of applicants qualified for the** [ELIGIBLE LIST FOR
15 A] nonpermanent or a permanent seasonal position or if the local residents on the
16 applicable [ELIGIBLE] list **of applicants qualified for the position** are unavailable,
17 the hiring department or agency may obtain referrals of qualified job applicants for
18 these positions from the job service office of the Department of Labor and Workforce
19 Development serving the area and from those applicants select a qualified person who
20 is a local resident for the position.

21 * **Sec. 11.** AS 44.21.020 is amended to read:

22 **Sec. 44.21.020. Duties of department.** The Department of Administration
23 shall

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

26 (2) keep general accounts;

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

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

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

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

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

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

8 (9) administer the Alaska Pioneers' Homes;

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

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

13 (12) [REPEALED

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

17 * **Sec. 12.** AS 39.25.153(b), 39.25.153(c), 39.25.153(d), and 39.25.155 are repealed.

18 * **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section
19 to read:

20 **TRANSITION: REGULATIONS.** The personnel board may proceed to adopt
21 regulations to implement the changes made by this Act. The regulations take effect under
22 AS 39.25.140, but not before the effective date of secs. 1 - 12 of this Act.

23 * **Sec. 14.** Section 13 of this Act takes effect immediately under AS 01.10.070(c).