

CS FOR HOUSE BILL NO. 317(MLV)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS

Offered: 3/3/00

Referred: State Affairs, 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

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

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

4 **Sec. 39.25.130. Extension of partially exempt and classified services.** (a)
5 The personnel board, upon written recommendation of the commissioner of
6 administration, may extend the partially exempt service to include any position in the
7 classified service that, in the judgment of the board,

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

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

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

13 * **Sec. 4.** AS 39.25.150 is amended to read:

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

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

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

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

24 (2) the preparation, maintenance, revision and administration by the
25 director of personnel of a pay plan for all positions in the classified and partially
26 exempt services; the pay plan (A) shall be based upon the position classification plan;
27 (B) shall provide for fair and reasonable compensation for services rendered, and
28 reflect the principle of like pay for like work; (C) may be amended, approved, or
29 disapproved by the legislature in regular or special session; after the pay plan is in
30 effect, a salary or wage payment may not be made to a state employee covered by the
31 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,

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

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

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

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

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

13 * **Sec. 5.** AS 39.25.159(a) is amended to read:

14 (a) A veteran or **former** prisoner of war who possesses the necessary
15 qualifications for a **position or** job classification applied for under this chapter is
16 entitled to a preference under this subsection. In an **assessment using numerical**
17 **ratings, points equal to five percent of the points available from the assessment**
18 **device or devices shall be added to the passing score of a veteran, and points**
19 **equal to 10 percent of the points available from the assessment device or devices**
20 **shall be added to the passing score of a disabled veteran or former prisoner of**
21 **war. In an assessment not using numerical ratings, consideration shall be**
22 **afforded to a veteran; additionally, an opportunity to interview for the position**
23 **shall be afforded to a disabled veteran or** [EXAMINATION TO DETERMINE THE
24 QUALIFICATION OF APPLICANTS FOR THE CLASSIFIED SERVICE UNDER
25 MERIT SYSTEM EXAMINATION, FIVE POINTS SHALL BE ADDED TO THE
26 PASSING GRADE OF A VETERAN, 10 POINTS SHALL BE ADDED TO THE
27 PASSING GRADE OF A DISABLED VETERAN, OR 10 POINTS SHALL BE
28 ADDED TO THE PASSING GRADE OF] a **former** prisoner of war. A person may
29 receive preference [POINTS] under only one of the categories described in this
30 subsection or in (c) of this section. A person may use the preference without
31 limitation when being considered for a position for which persons who are not

1 currently state employees are being considered. If **the recruitment for a position**
 2 [CONSIDERATION OF APPLICANTS] is limited to state employees, preference
 3 [POINTS] under this subsection may not be counted. If a position in the classified
 4 service is eliminated, employees shall be released in accordance with rules **adopted**
 5 **under AS 39.25.150(13). In the case of a comparison of employees with equal**
 6 **qualifications on the factors adopted under AS 39.25.150(13)** [THAT GIVE DUE
 7 EFFECT TO ALL FACTORS. IF ALL JOB QUALIFICATIONS ARE EQUAL], a
 8 veteran or **former** prisoner of war shall be given preference over a person who **is**
 9 [WAS] not a veteran or **former** prisoner of war, and the veteran or **former** prisoner
 10 of war shall be kept on the job. This subsection may not be interpreted to amend the
 11 terms of a collective bargaining agreement.

12 * **Sec. 6.** AS 39.25.159(c) is amended to read:

13 (c) A member of the national guard who possesses the necessary qualifications
 14 for a **position or** job classification applied for under this chapter is entitled to a
 15 preference under this subsection. In an **assessment using numerical ratings, points**
 16 **equal to five percent of the points available from the assessment device or devices**
 17 **shall be added to the passing score of a member of the national guard. In an**
 18 **assessment not using numerical ratings, consideration shall be afforded to**
 19 [EXAMINATION TO DETERMINE THE QUALIFICATION OF APPLICANTS FOR
 20 THE CLASSIFIED SERVICE UNDER MERIT SYSTEM EXAMINATION, FIVE
 21 POINTS SHALL BE ADDED TO THE PASSING GRADE OF] a member of the
 22 national guard. A person may use the preference without limitation when being
 23 considered for a position for which persons who are not currently state employees are
 24 being considered. If **the recruitment for a position** [CONSIDERATION OF
 25 APPLICANTS] is limited to state employees, preference [POINTS] under this
 26 subsection may not be counted. If a position in the classified service is eliminated,
 27 employees shall be released in accordance with rules **adopted under**
 28 **AS 39.25.150(13). In the case of a comparison of employees with equal**
 29 **qualifications on the factors adopted under AS 39.25.150(13)** [THAT GIVE DUE
 30 EFFECT TO ALL FACTORS. IF ALL JOB QUALIFICATIONS ARE EQUAL], a
 31 member of the national guard shall be given preference over a person who **is** [WAS]

1 not a veteran, **a former** prisoner of war, or a member of the national guard. This
 2 subsection may not be interpreted to amend the terms of a collective bargaining
 3 agreement. In this subsection, "member of the national guard" means a person who
 4 is presently serving as a member of the Alaska National Guard and who has at least
 5 eight years of service in the Alaska National Guard.

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

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

10 * **Sec. 8.** AS 39.25.160(h) is amended to read:

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

15 * **Sec. 9.** AS 39.25.160(i) is amended to read:

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

19 * **Sec. 10.** AS 39.25.195(b) is amended to read:

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

24 * **Sec. 11.** AS 39.25.195(c) is amended to read:

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

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

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

31 (2) [THE HIRING DEPARTMENT OR AGENCY HAS CERTIFIED

1 THAT] there is an immediate need to fill an authorized, permanent position and it is
 2 impractical either to establish or recruit for the position [OR TO MAKE
 3 CERTIFICATION] within a reasonable time;

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

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

12 * **Sec. 12.** AS 39.25.196(a) is amended to read:

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

24 * **Sec. 13.** AS 44.21.020 is amended to read:

25 **Sec. 44.21.020. Duties of department.** The Department of Administration
 26 shall

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

29 (2) keep general accounts;

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

31 (4) operate centralized purchasing and supply services, and necessary

1 storerooms and warehouses;

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

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

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

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

11 (9) administer the Alaska Pioneers' Homes;

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

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

16 (12) [REPEALED

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

20 * **Sec. 14.** AS 39.25.153(b), 39.25.153(c), and 39.25.153(d) are repealed.

21 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section
22 to read:

23 **TRANSITION: REGULATIONS.** The personnel board may proceed to adopt
24 amendments to the personnel rules to implement the changes made by this Act. The
25 amendments to the personnel rules take effect under AS 39.25.140, but not before the effective
26 date of secs. 1 - 14 of this Act.

27 * **Sec. 16.** Section 15 of this Act takes effect immediately under AS 01.10.070(c).