

SENATE BILL NO. 45

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATORS HUGGINS AND THERRIAULT

Introduced: 1/21/09

Referred: State Affairs, Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to state employment preferences for veterans, former prisoners of war,**
2 **and members of the Alaska National Guard; authorizing the Department of Military**
3 **and Veterans' Affairs to establish and maintain Alaska veterans' cemeteries;**
4 **establishing the Alaska veterans' cemetery fund in the general fund; and authorizing the**
5 **legislature to appropriate income from fees collected for commemorative veterans'**
6 **plates to the Alaska veterans' cemetery fund."**

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

8 *** Section 1.** AS 28.10.421(d)(16) is amended to read:

9 (16) special request plates commemorating Alaska veterans \$100
10 plus a fee of \$35 and the fee required for that vehicle under (b), (c), (h), or (i) of this
11 section; the \$100 fee required by this paragraph shall be collected only on the first
12 issuance of and the replacement of the commemorative veterans' plates; the \$35 fee
13 required by this paragraph shall be collected biennially in the same manner as the fee

1 required under (b), (c), (h), or (i) of this section; the commissioner of administration
 2 shall separately account for the fees received under this paragraph that the department
 3 deposits in the general fund; notwithstanding (g) of this section, the annual estimated
 4 balance in the account that is in excess of the cost of issuing special request plates may
 5 be appropriated by the legislature **to the Alaska veterans' cemetery fund created**
 6 **under AS 37.05.600 and** for the support of programs benefiting Alaska veterans;

7 * **Sec. 2.** AS 37.05.146(c) is amended by adding a new paragraph to read:

8 (85) gifts, donations, and grants received by the Department of
 9 Military and Veterans' Affairs for the purpose of establishing and maintaining Alaska
 10 veterans' cemeteries under AS 26.10.030 and AS 44.35.035(b).

11 * **Sec. 3.** AS 37.05 is amended by adding a new section to article 6 to read:

12 **Sec. 37.05.600. Alaska veterans' cemetery fund.** (a) There is created as a
 13 special account in the general fund the Alaska veterans' cemetery fund into which
 14 shall be deposited appropriations to the Alaska veterans' cemetery fund.

15 (b) Beginning with the appropriations for the fiscal year beginning July 1,
 16 2008, on an annual basis and under AS 37.07 (Executive Budget Act), the legislature
 17 may appropriate amounts from the Alaska veterans' cemetery fund to the Department
 18 of Military and Veterans' Affairs for the construction, operation, and maintenance of
 19 the Alaska veterans' cemeteries established under AS 44.35.035.

20 (c) Appropriations to the Alaska veterans' cemetery fund are not one-year
 21 appropriations and do not lapse under AS 37.25.010.

22 (d) The unexpended and unobligated balance of an appropriation from the
 23 Alaska veterans' cemetery fund lapses into the Alaska veterans' cemetery fund at the
 24 end of the fiscal year for which it was appropriated.

25 (e) Nothing in this section exempts money deposited into the Alaska veterans'
 26 cemetery fund from the requirements of AS 37.07 (Executive Budget Act) or dedicates
 27 that money for a specific purpose.

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

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

30 (1) the preparation, maintenance, and revision, by the director of
 31 personnel, subject to approval of the commissioner of administration and the

1 personnel board, of a position classification plan for all positions in the classified and
2 partially exempt services; the position classification plan must include

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

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

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

18 (3) the use of employee selection methods, including open competitive
19 assessment devices, when appropriate, that will fairly evaluate the capacity and fitness
20 of the person assessed to discharge the duties of the position in which employment is
21 sought;

22 (4) the formulation of a list for appointment and promotion to a
23 position;

24 (5) the procedure for filling positions; the rule adopted under this
25 paragraph may include procedures providing a preference for local residents when
26 appropriate;

27 (6) promotions from within the state service when there are qualified
28 candidates in the state service; vacancies shall be filled by promotion whenever
29 practicable and in the best interest of the state service, and promotion shall be by
30 competitive assessment whenever possible; in considering promotions, the applicants'
31 qualifications, performance records, seniority, and conduct shall be evaluated;

1 (7) a period of probation not to exceed one year before an appointment
2 to a position becomes permanent, unless the period of probation is extended as set out
3 in a collective bargaining agreement under AS 23.40; however, a permanent employee
4 receiving a promotional appointment retains permanent status in the service and job
5 class from which appointed for the duration of the probationary period and may be
6 demoted to a former class without right of appeal, notwithstanding AS 39.25.170, but,
7 if the employee is dismissed from the service, the appeal rights under AS 39.25.170
8 apply;

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

11 (9) provisional appointment without competitive assessment when the
12 recruitment and assessment procedures have not identified qualified candidates in
13 sufficient number;

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

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

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

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

21 (14) the development, maintenance, and use of employee performance
22 records;

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

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

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

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

30 (19) the granting of employment preference rights, not within the area
31 of promotion, to a veteran, [OR] former prisoner of war, or member of the national

1 **guard** under AS 39.25.159;

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

6 (21) the granting of employment preference to individuals with severe
7 disabilities; this includes the right to provisional appointment without competitive
8 assessment for periods of up to four months and the granting of eligibility to an
9 individual with a severe disability provisionally appointed under the rules who
10 demonstrates ability to perform the job for permanent appointment without
11 competitive assessment; provisional employment under this paragraph may not exceed
12 four months during a 12-month period; "individual with a severe disability," as used in
13 this paragraph, means an individual certified by the director of the division of
14 vocational rehabilitation to be severely disabled;

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

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

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

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

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

26 (a) A veteran or former prisoner of war who possesses the necessary
27 qualifications for a position or job classification applied for under this chapter is
28 entitled to **an employment** [A] preference **as follows:**

29 **(1) in** [UNDER THIS SUBSECTION. IN] an assessment using
30 numerical ratings, points equal to five percent of the points available from the
31 assessment device or devices shall be added to the passing score of a veteran, and

1 points equal to 10 percent of the points available from the assessment device or
 2 devices shall be added to the passing score of a disabled veteran or former prisoner of
 3 war;

4 (2) in [. IN] an assessment not using numerical ratings, consideration
 5 shall be afforded to a veteran; additionally, an opportunity to interview for the position
 6 shall be afforded to a disabled veteran or a former prisoner of war. [A PERSON MAY
 7 RECEIVE PREFERENCE UNDER ONLY ONE OF THE CATEGORIES
 8 DESCRIBED IN THIS SUBSECTION OR IN (c) OF THIS SECTION. A PERSON
 9 MAY USE THE PREFERENCE WITHOUT LIMITATION WHEN BEING
 10 CONSIDERED FOR A POSITION FOR WHICH PERSONS WHO ARE NOT
 11 CURRENTLY STATE EMPLOYEES ARE BEING CONSIDERED. IF THE
 12 RECRUITMENT FOR A POSITION IS LIMITED TO STATE EMPLOYEES,
 13 PREFERENCE UNDER THIS SUBSECTION MAY NOT BE COUNTED. IF A
 14 POSITION IN THE CLASSIFIED SERVICE IS ELIMINATED, EMPLOYEES
 15 SHALL BE RELEASED IN ACCORDANCE WITH RULES ADOPTED UNDER
 16 AS 39.25.150(13). IN THE CASE OF A COMPARISON OF EMPLOYEES WITH
 17 EQUAL QUALIFICATIONS ON THE FACTORS ADOPTED UNDER
 18 AS 39.25.150(13), A VETERAN OR FORMER PRISONER OF WAR SHALL BE
 19 GIVEN PREFERENCE OVER A PERSON WHO IS NOT A VETERAN OR
 20 FORMER PRISONER OF WAR, AND THE VETERAN OR FORMER PRISONER
 21 OF WAR SHALL BE KEPT ON THE JOB. THIS SUBSECTION MAY NOT BE
 22 INTERPRETED TO AMEND THE TERMS OF A COLLECTIVE BARGAINING
 23 AGREEMENT.]

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

25 (c) A member of the national guard who possesses the necessary qualifications
 26 for a position or job classification applied for under this chapter is entitled to **an**
 27 **employment** [A] preference **as follows:**

28 (1) in [UNDER THIS SUBSECTION. IN] an assessment using
 29 numerical ratings, points equal to five percent of the points available from the
 30 assessment device or devices shall be added to the passing score of a member of the
 31 national guard;

1 (2) in [. IN] an assessment not using numerical ratings, consideration
 2 shall be afforded to a member of the national guard. [A PERSON MAY USE THE
 3 PREFERENCE WITHOUT LIMITATION WHEN BEING CONSIDERED FOR A
 4 POSITION FOR WHICH PERSONS WHO ARE NOT CURRENTLY STATE
 5 EMPLOYEES ARE BEING CONSIDERED. IF THE RECRUITMENT FOR A
 6 POSITION IS LIMITED TO STATE EMPLOYEES, PREFERENCE UNDER THIS
 7 SUBSECTION MAY NOT BE COUNTED. IF A POSITION IN THE CLASSIFIED
 8 SERVICE IS ELIMINATED, EMPLOYEES SHALL BE RELEASED IN
 9 ACCORDANCE WITH RULES ADOPTED UNDER AS 39.25.150(13). IN THE
 10 CASE OF A COMPARISON OF EMPLOYEES WITH EQUAL QUALIFICATIONS
 11 ON THE FACTORS ADOPTED UNDER AS 39.25.150(13), A MEMBER OF THE
 12 NATIONAL GUARD SHALL BE GIVEN PREFERENCE OVER A PERSON WHO
 13 IS NOT A VETERAN, A FORMER PRISONER OF WAR, OR A MEMBER OF
 14 THE NATIONAL GUARD. THIS SUBSECTION MAY NOT BE INTERPRETED
 15 TO AMEND THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT. IN
 16 THIS SUBSECTION, "MEMBER OF THE NATIONAL GUARD" MEANS A
 17 PERSON WHO IS PRESENTLY SERVING AS A MEMBER OF THE ALASKA
 18 NATIONAL GUARD AND WHO HAS AT LEAST EIGHT YEARS OF SERVICE
 19 IN THE ALASKA NATIONAL GUARD.]

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

21 (5) "member of the national guard" means a person who is presently
 22 serving as a member of the Alaska National Guard and who has at least eight years of
 23 service in the Alaska National Guard.

24 * **Sec. 8.** AS 39.25.159 is amended by adding new subsections to read:

25 (e) A person may receive an employment preference under only one of the
 26 categories described in (a) or (c) of this section. A person may use the preference
 27 without limitation when being considered for a position for which persons who are not
 28 currently state employees are being considered. If the recruitment for a position is
 29 limited to state employees, preference under (a) or (c) of this section may not be
 30 counted. If a position in the classified service is eliminated, employees shall be
 31 released in accordance with rules adopted under AS 39.25.150(13). In the case of a

1 comparison of employees with equal qualifications on the factors adopted under
 2 AS 39.25.150(13), a veteran, former prisoner of war, or member of the national guard
 3 shall be given preference over a person who is not a veteran, former prisoner of war,
 4 or member of the national guard, and the veteran, former prisoner of war, or member
 5 of the national guard shall be kept on the job.

6 (f) Subsections (a), (c), and (e) of this section may not be interpreted to amend
 7 the terms of a collective bargaining agreement.

8 * **Sec. 9.** AS 44.35 is amended by adding a new section to read:

9 **Sec. 44.35.035. Alaska veterans' cemeteries.** (a) The department may
 10 establish and maintain Alaska veterans' cemeteries in the state to serve state veterans
 11 and spouses and eligible dependents of state veterans.

12 (b) The department may accept gifts, donations, and grants, including land,
 13 under AS 26.10.030 for the purpose of establishing and maintaining Alaska veterans'
 14 cemeteries. Land received by the department for an Alaska veterans' cemetery shall be
 15 owned by the state.

16 (c) The department shall, in consultation with the Alaska Veterans' Advisory
 17 Council,

18 (1) adopt regulations for determining individuals eligible for burial in
 19 an Alaska veterans' cemetery;

20 (2) receive the plot or interment allowance on behalf of the state under
 21 38 U.S.C. 2303;

22 (3) comply with all requirements for a state veterans' cemetery grant
 23 established by the United States Department of Veterans Affairs under 38 U.S.C.
 24 2408; and

25 (4) apply to the United States Department of Veterans Affairs for state
 26 veterans' cemetery grants under 38 U.S.C. 2408.

27 (d) The department may

28 (1) adopt regulations necessary to administer Alaska veterans'
 29 cemeteries;

30 (2) enter into agreements for the maintenance and operation of Alaska
 31 veterans' cemeteries with political subdivisions of the state and other persons; and

1 (3) solicit gifts, donations, and grants in addition to a state veterans'
2 cemetery grant in (c) of this section that may be designated for the establishment and
3 maintenance of an Alaska veterans' cemetery and received by the department under
4 AS 26.10.030.

5 (e) In this section, "department" means the Department of Military and
6 Veterans' Affairs.