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CS FOR SENATE BILL NO. 45(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 3/30/09

Referred: Today's Calendar

Sponsor(s): SENATORS HUGGINS AND THERRIault, Wagoner, French, Olson, Thomas, Davis, Ellis, Paskvan, Wielechowski, Menard, Meyer, McGuire, Hoffman, Stedman, Stevens, Bunde

REPRESENTATIVES Guttenberg, Stoltze, Kelly, Fairclough, Thomas, Dahlstrom, Chenault, Herron, Lynn, Ramras, Kawasaki, Johnson, Tuck, Millett, Wilson, Petersen, Gardner, Gara, Neuman

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.** The uncodified law of the State of Alaska is amended by adding a new section
 9 to read:

10 LEGISLATIVE INTENT. It is the intent of the legislature that, during fiscal year
 11 2010, the Department of Military and Veterans' Affairs, in cooperation with federal
 12 authorities, begin the planning and design of an Alaska veterans' cemetery, authorized by
 13 AS 44.35.035, enacted by sec. 10 of this Act, to be located in or near Fairbanks, and that the

1 Department of Military and Veterans' Affairs submit a report on the status of the cemetery
 2 project to the president of the senate and the speaker of the house of representatives before
 3 December 15, 2009.

4 * **Sec. 2.** AS 28.10.421(d)(16) is amended to read:

5 (16) special request plates commemorating Alaska veterans \$100
 6 plus a fee of \$35 and the fee required for that vehicle under (b), (c), (h), or (i) of this
 7 section; the \$100 fee required by this paragraph shall be collected only on the first
 8 issuance of and the replacement of the commemorative veterans' plates; the \$35 fee
 9 required by this paragraph shall be collected biennially in the same manner as the fee
 10 required under (b), (c), (h), or (i) of this section; the commissioner of administration
 11 shall separately account for the fees received under this paragraph that the department
 12 deposits in the general fund; notwithstanding (g) of this section, the annual estimated
 13 balance in the account that is in excess of the cost of issuing special request plates may
 14 be appropriated by the legislature **to the Alaska veterans' cemetery fund created**
 15 **under AS 37.05.600 and** for the support of programs benefiting Alaska veterans;

16 * **Sec. 3.** AS 37.05.146(c) is amended by adding a new paragraph to read:

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

20 * **Sec. 4.** AS 37.05 is amended by adding a new section to article 6 to read:

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

24 (b) Beginning with the appropriations for the fiscal year beginning July 1,
 25 2008, on an annual basis and under AS 37.07 (Executive Budget Act), the legislature
 26 may appropriate amounts from the Alaska veterans' cemetery fund to the Department
 27 of Military and Veterans' Affairs for the construction, operation, and maintenance of
 28 the Alaska veterans' cemeteries established under AS 44.35.035.

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

31 (d) The unexpended and unobligated balance of an appropriation from the

1 Alaska veterans' cemetery fund lapses into the Alaska veterans' cemetery fund at the
2 end of the fiscal year for which it was appropriated.

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

6 * **Sec. 5.** AS 39.25.150 is amended to read:

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

8 (1) the preparation, maintenance, and revision, by the director of
9 personnel, subject to approval of the commissioner of administration and the
10 personnel board, of a position classification plan for all positions in the classified and
11 partially exempt services; the position classification plan must include

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

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

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

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

31 (4) the formulation of a list for appointment and promotion to a

1 position;

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

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

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

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

20 (9) provisional appointment without competitive assessment when the
21 recruitment and assessment procedures have not identified qualified candidates in
22 sufficient number;

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

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

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

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

30 (14) the development, maintenance, and use of employee performance
31 records;

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

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

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

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

8 (19) the granting of employment preference rights, not within the area
9 of promotion, to a veteran, [OR] former prisoner of war, **or member of the national**
10 **guard** under AS 39.25.159;

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

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

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

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

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

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

3 * **Sec. 6.** AS 39.25.159(a) is amended to read:

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

7 **(1) in** [UNDER THIS SUBSECTION. IN] an assessment using
 8 numerical ratings, points equal to five percent of the points available from the
 9 assessment device or devices shall be added to the passing score of a veteran, and
 10 points equal to 10 percent of the points available from the assessment device or
 11 devices shall be added to the passing score of a disabled veteran or former prisoner of
 12 war;

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

1 AGREEMENT.]

2 * **Sec. 7.** AS 39.25.159(c) is amended to read:

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

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

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

29 * **Sec. 8.** AS 39.25.159(d) is amended by adding a new paragraph to read:

30 (5) "member of the national guard" means a person who is presently
31 serving as a member of the Alaska National Guard and who has at least eight years of

1 service in the Alaska National Guard.

2 * **Sec. 9.** AS 39.25.159 is amended by adding new subsections to read:

3 (e) A person may receive an employment preference under only one of the
4 categories described in (a) or (c) of this section. A person may use the preference
5 without limitation when being considered for a position for which persons who are not
6 currently state employees are being considered. If the recruitment for a position is
7 limited to state employees, preference under (a) or (c) of this section may not be
8 counted. If a position in the classified service is eliminated, employees shall be
9 released in accordance with rules adopted under AS 39.25.150(13). In the case of a
10 comparison of employees with equal qualifications on the factors adopted under
11 AS 39.25.150(13), a veteran, former prisoner of war, or member of the national guard
12 shall be given preference over a person who is not a veteran, former prisoner of war,
13 or member of the national guard, and the veteran, former prisoner of war, or member
14 of the national guard shall be kept on the job.

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

17 * **Sec. 10.** AS 44.35 is amended by adding a new section to read:

18 **Sec. 44.35.035. Alaska veterans' cemeteries.** (a) The department may, subject
19 to the requirements of 38 U.S.C. 2408, establish and maintain Alaska veterans'
20 cemeteries in the state to serve state veterans and spouses and eligible dependents of
21 state veterans.

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

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

28 (1) receive the plot or interment allowance on behalf of the state under
29 38 U.S.C. 2303;

30 (2) comply with all requirements for a state veterans' cemetery grant
31 established by the United States Department of Veterans Affairs under 38 U.S.C.

1 2408; and

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

4 (d) The department may

5 (1) adopt regulations necessary to administer Alaska veterans'
6 cemeteries;

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

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

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