

**ALASKA STATE LEGISLATURE**  
**SENATE STATE AFFAIRS STANDING COMMITTEE**

April 23, 2019

3:33 p.m.

**MEMBERS PRESENT**

Senator John Coghill, Vice Chair  
Senator Lora Reinbold  
Senator Peter Micciche  
Senator Scott Kawasaki

**MEMBERS ABSENT**

Senator Mike Shower, Chair

**COMMITTEE CALENDAR**

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 48 (FIN) AM

"An Act removing from the exempt service of the state persons who are employed in a professional capacity to make a temporary or special inquiry, study, or examination as authorized by the governor and including those persons in the partially exempt service of the state; repealing the authority of the governor or a designee of the governor to authorize higher pay than is otherwise allowable for certain partially exempt employees in the executive branch; requiring the commissioner of administration to submit a report to the legislature; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 73

"An Act relating to succession to the offices of governor and lieutenant governor in case of vacancy; and providing for an effective date."

- BILL HEARING CANCELED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 48

SHORT TITLE: TEMP STATE EMPLOYEES IN PART EXEMPT SVCE

SPONSOR(S): REPRESENTATIVE(S) WILSON

02/20/19 (H) READ THE FIRST TIME - REFERRALS  
 02/20/19 (H) L&C, FIN  
 03/18/19 (H) L&C AT 3:15 PM BARNES 124  
 03/18/19 (H) Heard & Held  
 03/18/19 (H) MINUTE(L&C)  
 03/20/19 (H) L&C AT 3:15 PM BARNES 124  
 03/20/19 (H) Moved HB 48 Out of Committee  
 03/20/19 (H) MINUTE(L&C)  
 03/22/19 (H) L&C AT 3:15 PM BARNES 124  
 03/22/19 (H) Moved HB 48 Out of Committee  
 03/22/19 (H) MINUTE(L&C)  
 03/25/19 (H) L&C RPT 3DP 1NR  
 03/25/19 (H) DP: HANNAN, TALERICO, LEDOUX  
 03/25/19 (H) NR: WOOL  
 03/26/19 (H) FIN AT 9:00 AM ADAMS ROOM 519  
 03/26/19 (H) Heard & Held  
 03/26/19 (H) MINUTE(FIN)  
 03/28/19 (H) FIN AT 9:00 AM ADAMS ROOM 519  
 03/28/19 (H) Moved CSHB 48(FIN) Out of Committee  
 03/28/19 (H) MINUTE(FIN)  
 03/29/19 (H) FIN RPT CS(FIN) NT 7DP 4NR  
 03/29/19 (H) DP: JOHNSTON, LEBON, KNOPP, JOSEPHSON,  
 ORTIZ, WILSON, FOSTER  
 03/29/19 (H) NR: CARPENTER, TILTON, MERRICK,  
 SULLIVAN-LEONARD  
 04/08/19 (H) BEFORE HOUSE IN SECOND READING  
 04/09/19 (H) NOT TAKEN UP 4/9 - ON 4/10 CALENDAR  
 04/10/19 (H) NOT TAKEN UP 4/10 - ON 4/11 CALENDAR  
 04/12/19 (H) TRANSMITTED TO (S)  
 04/12/19 (H) VERSION: CSHB 48(FIN) AM  
 04/15/19 (S) READ THE FIRST TIME - REFERRALS  
 04/15/19 (S) STA  
 04/23/19 (S) STA AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

REPRESENTATIVE TAMMIE WILSON  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HB 48

REMOND HENDERSON, Staff  
 Representative Tammie Wilson  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** Provided information about HB 48 on behalf of the sponsor.

NANCY SUTCH, Deputy Director  
Division of Personnel and Labor Relations  
Department of Administration  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions related to HB 48.

## **ACTION NARRATIVE**

[3:33:20 PM](#)

**VICE CHAIR JOHN COGHILL** called the Senate State Affairs Standing Committee meeting to order at 3:33 p.m. Present at the call to order were Senators Kawasaki, Micciche, Reinbold, and Vice Chair Coghill.

### **HB 48- TEMP STATE EMPLOYEES IN PART EXEMPT SVCE**

[3:34:08 PM](#)

**VICE CHAIR COGHILL** announced the consideration of CS FOR HOUSE BILL NO. 48(FIN) am "An Act removing from the exempt service of the state persons who are employed in a professional capacity to make a temporary or special inquiry, study, or examination as authorized by the governor and including those persons in the partially exempt service of the state; repealing the authority of the governor or a designee of the governor to authorize higher pay than is otherwise allowable for certain partially exempt employees in the executive branch; requiring the commissioner of administration to submit a report to the legislature; and providing for an effective date."

[3:35:03 PM](#)

**REPRESENTATIVE T. WILSON**, Alaska State Legislature, Juneau, sponsor of HB 48, introduced the bill speaking to the following sponsor statement:

The purpose of CSHB48(FIN) am is to discontinue the historical practice by the Executive Branch of using AS 39.25.110(9) to unilaterally establish high level executive exempt positions that have no salary limits. The statute was enacted to employ persons in a professional capacity to make a temporary or special inquiry, study or examination by establishing "temporary exempt" positions.

CSHB 48(FIN) am would eliminate the establishment of "temporary exempt" positions and place these positions

in the partially exempt service. Positions in the partially exempt service are included in the position classification plans established under AS 39.25.120 and are compensated according to the pay plan under AS 39.27.011. It would limit the amount paid to a newly hired temporary employee. It applies only to employment contracts entered into, on, or after the effective date that AS 39.23.110(9) is repealed. It does not affect the salary of existing employees or individuals hired prior to the effective date of the bill.

CSHB 48(FIN) am requires that not later than 60 days after the effective date of this Act, the Commissioner of Administration prepare and submit to the legislature a report that includes a list of all positions in exempt service of the state under AS 39.25.110 and the partially exempt service of the state under AS 39.25.120 and the salary and proposed salary schedule for each of the positions.

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REPRESENTATIVE T. WILSON said she'd like to be able to provide a list of the employees in these temporary exempt positions but she has been unable to get that information. What is clear is that some people have been in these positions for years. When the statute was put in place it was for jobs that required a special skillset that paid more but were needed for just a limited period of time. She clarified that this is not about the current Governor. "You can pretty much name any governor and they have not been utilizing this statute in a way that we thought it was actually put in." She explained that the House Finance Committee capped the salaries that previously had no limit. The bill was subsequently amended on the House floor to require a report listing the individuals in these positions and their salaries.

[3:38:11 PM](#)

CHAIR COGHILL asked where and how many inquiries were made to get information and salary levels for these temporary employees.

[3:38:22 PM](#)

REMOND HENDERSON, Staff, Representative T. Wilson, Alaska State Legislature, Juneau, explained that the first request was sent in August 2017 and eventually the Office of Management and Budget provided a consolidated response. However, it did not include the positions that were specifically established under

this statute. It was a laundry list of all exempt and partially exempt positions without specifically identifying the positions established under this statute. Early this year the sponsor made another attempt to get the information and while there has been some response, they have not received a comprehensive list.

SENATOR MICCICHE noted that AS 39.25.110(9) talks about "persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor." He said he has some of those skills and he knows that this expertise is not cheap. He asked how hiring such a specialist for a short period would be handled.

MR. HENDERSON explained that someone could be hired under the exempt service statute which does not have salary limits.

3:41:00 PM

CHAIR COGHILL asked if repealing this statute closes one avenue for hiring individuals with specific expertise.

MR. HENDERSON clarified that the bill does not close a hiring avenue; it moves the positions from exempt to partially exempt and places a cap on the salary.

VICE CHAIR COGHILL expressed satisfaction with the answer. He asked Senator Micciche if that addressed his concerns.

SENATOR MICCICHE responded that he needed to review the statutes a little more.

SENATOR KAWASAKI asked the sponsor if she had an idea about who was hired under AS 39.25.110(9).

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REPRESENTATIVE T. WILSON said she's spent a lot of time looking at the book that shows the position control numbers (PCNs) and the salary for each of the positions and she learned that some of these individuals are being paid out of the governor's office and are not temporary. Switching these positions to partially exempt will result in the PCNs being listed under the appropriate agency and there will be a cap on the salary. She offered her understanding that initially these exempt positions were used for political appointments or favors. She opined that it's not necessary to have these kinds of positions if there isn't transparency about who they are and why they are classified as temporary when they really aren't. Employees who

are not temporary should get all the benefits that come with fulltime service, she said.

3:44:00 PM

SENATOR KAWASAKI asked if there is a definition for "temporary" so that a governor could hire a specialist for a specific job without putting it out for a request for proposal (RFP) or any other method of procurement.

REPRESENTATIVE T. WILSON said Mr. Henderson described other ways of doing that. It's not that the governor's office couldn't hire the same individuals, it's that it would be under a different statute. HB 48 establishes that process.

SENATOR KAWASAKI asked, should the bill pass, if it wouldn't be necessary to work with the Governor's Office to ensure that specialty hiring is done through the process the bill establishes.

MR. HENDERSON restated that the governor or a commissioner could still hire the same kind of individuals with specialized skills; it's just that the positions would move from exempt to partially exempt and the salary would be capped. He added that if the exempt statute is used, a higher salary is available. The bill allows somebody to be hired at a step F.

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SENATOR REINBOLD thanked the sponsor and stated support for HB 48 because it closes an important loophole.

SENATOR MICCICHE summarized that the bill eliminates the ability to hire professionals in exempt service and allows those professionals to be hired in the partially exempt service. He asked if the highest compensation in the partially exempt service is \$10,979 per month.

MR. HENDERSON answered yes; range 30 step F is \$10.9 thousand. He deferred further explanation to Nancy Sutch with the Department of Administration.

3:48:36 PM

SENATOR MICCICHE asked, should HB 48 pass, what is the highest somebody employed in a professional capacity could be paid in the partially exempt service.

3:48:50 PM

NANCY SUTCH, Deputy Director, Division of Personnel and Labor Relations, Department of Administration, Juneau, answered that somebody hired after the effective date could start at step F of a range. She noted that a provision in AS 39.27.011(k) allows the governor to authorize a higher pay than Step F but that would typically be the cutoff. She said Mr. Henderson has information about the salary for that step.

SENATOR MICCICHE pointed out that the bill repeals subsection (k) so that option would not be available. He said the warning that goes with that is that \$10.9 thousand is less than half what a critical specialist would receive. On the upper end of that skillset it would be nearly impossible to get somebody to accept that salary. He commented that it's often a bargain to hire a specialist for the length of a project, but the bill doesn't seem to allow that.

[3:51:10 PM](#)

MR. HENDERSON said he believes a specialist could still be hired temporarily at a high salary under the exempt service. The other option would be to contract for the specific expertise without doing an RFP.

CHAIR COGHILL asked Ms. Sutch if she agrees with those statements.

MS. SUTCH replied the position would have to fall under one of the 43 categories of exempt service listed in AS 39.25.110.

CHAIR COGHILL asked if she agrees that there would be the ability to contract for specific expertise under AS 39.

MS. SUTCH said her basic understanding is that contracting would be possible as long as the procurement rules were followed.

SENATOR MICCICHE said the downside of repealing AS 39.23.110(9) is that it adversely impacts the ability to temporarily hire somebody with highly specialized expertise who commands a salary that is much higher than \$10,900 a month.

REPRESENTATIVE T. WILSON advised that the Governor has a bill that also deletes paragraph (9) which leads her to believe that he doesn't see the purpose of keeping that section of statute.

[3:55:02 PM](#)

SENATOR KAWASAKI said he'd like to know who these people are and how long they've been in these temporary positions. He asked Ms. Sutch if she could provide that information to the committee.

MS. SUTCH replied she could provide a report that lists the individuals who are in a temporary position. The specific agencies would need to supply information about what duties those individuals have been assigned and that would take longer to assemble.

SENATOR KAWASAKI said he'd initially be satisfied with a list of the people working under paragraph (9) and their salaries.

MS. SUTCH agreed to provide the information.

CHAIR COGHILL asked when she could send that information to the committee.

MS. SUTCH offered to try to do it sooner than the typical 10-day turnaround for data requests.

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At ease

[3:59:48 PM](#)

CHAIR COGHILL reconvened the meeting and asked Ms. Sutch to send the information to the committee as quickly as possible.

MS. SUTCH said she'd work with committee staff to get satisfactory information to the committee as quickly as possible. She noted that an older report may be more readily available.

CHAIR COGHILL said even an older report would be instructive and it may answer Senator Kawasaki's question.

SENATOR KAWASAKI said knowing who these people are is part of it but he'd also like to know what they're doing. He said it's troublesome when it's not clear how these people are getting paid, but it also makes sense for the governor to have the ability to hire someone temporarily in exempt service.

[4:02:28 PM](#)

CHAIR COGHILL asked Ms. Sutch if she could get information about where these individuals are assigned.

MS. SUTCH answered yes.

CHAIR COGHILL commented that would likely be sufficient and it may not be necessary to repeal either paragraph (9) or subsection (k).

SENATOR WILSON pointed out that the repeal applies to employment entered into on or after the effective date. There is no intention to suddenly fire all these people, she said.

SENATOR MICCICHE said he'd like to say he likes the idea but he worries that these sections of statute may be needed. He read the list of exempt positions and clarified that while he'd like to see more restraints there, those positions would not be affected.

REPRESENTATIVE T. WILSON talked about the frustration trying to run down who the people are and in what department. She emphasized that the bill is about transparency, equity, and ensuring that people who should receive benefits do so.

[4:08:06 PM](#)

CHAIR COGHILL said he was willing to hold the bill until Thursday for Ms. Sutch to provide the report.

SENATOR KAWASAKI asked that the report include information about when the employee was appointed to the exempt position.

MR. HENDERSON suggested that Ms. Sutch also provide the date that the position was established.

CHAIR COGHILL asked Ms. Sutch if that was possible.

MS. SUTCH said she didn't want to over-promise but she'd do as much as she could prior to Thursday.

SENATOR COGHILL said thanks.

[4:10:27 PM](#)

SENATOR MICCICHE asked the sponsor if she had considered sideboards instead of repealing paragraph (9) and subsection (k).

REPRESENTATIVE T. WILSON said she didn't consider that but she would provide information about avenues other than this statute to hire expertise and which have a limit and which don't because that seems to be causing some confusion.

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CHAIR COGHILL held HB 48 in committee.

SENATOR MICCICHE said he likes the idea but he's trying to think about whether this will hamstring a governor from doing the right thing with the right expertise. He said he looks forward to hearing about the other ways to hire an expert.

CHAIR COGHILL reviewed the agenda for Thursday.

[4:14:37 PM](#)

There being no further business to come before the committee, Vice Chair Coghill adjourned the Senate State Affairs Standing Committee meeting at 4:14 pm.