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IN THE SENATE BY SENATOR STEPOVICH

SENATE BILL NO. 71

IN THE LEGISLATURE OF THE TERRITORY OF ALASKA
TWENTY-SECOND SESSION

A BILL

For an Act entitled: "An Act providing for a Merit System Commission; providing for the appointment of its Members, their tenure, and compensation; providing for the Executive Director of the Merit System Commission; prescribing and defining the powers, duties and functions of such Merit System Commission and Executive Director; providing for the classification of positions under the Territory; creating a revolving fund and making an appropriation; and declaring an emergency."

BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

Section 1. DEFINITIONS.

(a) The term "Commission" shall mean the Merit System Commission established pursuant to this Act.

(b) The term "Council" shall mean the Merit System Council heretofore established under authority of Sections 40-1-6 and 51-5-11, Alaska Compiled Laws Annotated, 1949, as amended, and Section 51-1-38, Alaska Compiled Laws Annotated, 1949.

(c) The term "Executive Director" shall mean the principal administrative officer of the Commission appointed pursuant to this Act.

(d) The term "Alaska Merit System" shall mean the merit system of personnel administration, heretofore established under

1 authority of Sections 40-1-6 and 51-5-11, Alaska Compiled Laws
2 Annotated, 1949, as amended, and Section 51-1-3, Alaska Compiled
3 Laws Annotated, 1949, and administered by the Merit System Council.

4 Section 2. ORGANIZATION.

5 (a) There is hereby established the Merit System Com-
6 mission, composed of three members, which is authorized and di-
7 rected to administer this Act. The Commission shall succeed to
8 and be vested with all of the powers and duties heretofore exer-
9 cised by and vested in the Merit System Council.

10 (b) The members of the Commission shall be appointed
11 by the Governor, by and with the consent of the Legislature, in
12 joint session of both houses, on the basis of their known sympathy
13 with merit principles, for overlapping terms of six years, but
14 shall serve until their successors are appointed and confirmed.
15 The first members shall be appointed for terms of two, four, and
16 six years. Thereafter all members shall be appointed for six year
17 terms.

18 (c) No member of the Commission shall hold political
19 office, or be an officer of a political organization, during his
20 term, nor shall any member have held such office during the twelve
21 months preceding his appointment. The Commission shall elect one
22 of the members Chairman, and shall meet at regular intervals, and
23 hold extraordinary sessions as needed, on call of the Chairman.
24 Two members shall constitute a quorum for the transaction of busi-
25 ness. Members shall each be paid the per diem and allowances as
26 provided by law.

27 (d) This Act shall be administered through an Executive
28 Director, who shall be the principal administrative officer of the
29 Commission, and its official agent for all purposes under this Act.

1 The Executive Director shall be appointed by the Commission from a
2 list established by open competitive examination and shall serve
3 at the pleasure of the Commission.

4 Section 3. APPLICABILITY.

5 (a) Insofar as this Act provides for a merit system of
6 personnel administration and a compensation plan, it shall be
7 limited in its application to the classified service of the Alaska
8 Department of Health, Department of Public Welfare, Employment
9 Security Commission and Merit System Commission; Provided, however,
10 that Section 15 herein, which provides for the classification of
11 positions under the Territory of Alaska, shall, except as otherwise
12 provided, apply to all departments, commissions, boards, bureaus
13 and other Territorial agencies.

14 (b) The merit system of Alaska is hereby divided into
15 the unclassified and the classified service.

16 The unclassified service shall comprise:

17 (1) All heads of departments, except the Executive
18 Director of the Merit System Commission.

19 (2) All members of boards or commissions appointed
20 by the Governor or Legislature.

21 (3) One private secretary for each board, commis-
22 sion, or head of a department, other than the Merit System
23 Commission and the Executive Director of the Merit System
24 Commission.

25 (4) Attorneys serving as legal counsel.

26 (5) Patient or inmate help in eleemosynary institu-
27 tions.

28 (6) Part-time professional personnel who are paid
29 for any form of medical, nursing or other professional service.

and who are not engaged in the performance of administrative duties.

(7) Employees working less than half-time.

The classified service shall include all other positions now existing or hereafter created.

Section 4. DUTIES OF THE MERIT SYSTEM COMMISSION. It shall be the duty of the Commission:

(a) To advise the Executive Director with respect to policies and procedures of the merit system.

(b) To adopt a classification plan applicable to positions in the Territorial service, as provided by Section 15 herein.

(c) To adopt a classification and compensation plan applicable to the classified service of the Alaska Department of Health, Department of Public Welfare, Employment Security Commission, and the Merit System Commission.

(d) To adopt rules and regulations necessary to carry out the provisions of this Act.

(e) To formulate procedures for, and to hear and decide appeals of employees and appointing authorities with respect to position classifications.

(f) To formulate procedures for, and to hear and decide appeals of employees and applicants subject to the merit system.

(g) To make annual reports to the Governor and to recommend improvements in the merit system.

The personnel records of employees in the classified service of the Alaska Department of Health, Department of Public Welfare, and Employment Security Commission shall be open to inspection by the Commission.

Section 5. DUTIES OF THE EXECUTIVE DIRECTOR. It shall be the

1 duty of the Executive Director to administer this act, with the
2 advice and consent of the Commission, and to that end he shall have
3 the following duties and powers:

4 (a) To attend all meetings of the Commission and to act
5 as its secretary and keep minutes of all proceedings.

6 (b) To develop rules for the establishment and mainte-
7 nance of the merit system and submit the same for the consideration
8 of the Commission.

9 (c) To develop a classification and compensation plan
10 for all employees in the classified service of the Alaska Depart-
11 ment of Health, Department of Public Welfare, Employment Security
12 Commission and Merit System Commission.

13 (d) To establish and maintain a record of the employ-
14 ment history and other appropriate information relating to employ-
15 ees under the merit system.

16 (e) To review the payrolls of the Department of Health,
17 the Department of Public Welfare and the Employment Security Com-
18 mission for conformity with the provisions of the Commission's
19 rules and regulations.

20 (f) To perform and do any other lawful thing which may
21 be necessary to carry into effect the purposes and provisions of
22 this Act.

23 Section 6. RULES OF THE MERIT SYSTEM COMMISSION. The rules
24 of the Commission shall include provision for:

25 (a) The establishment and maintenance of the classifi-
26 cation plans required by this Act, based upon investigation and
27 analysis of the duties and responsibilities of positions.

28 (b) The establishment and maintenance of a compensation
29 plan for all positions subject to the merit system based upon the
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1 principle of equal pay for equal work. The compensation plan shall
2 be developed by the Executive Director and approved by the Commis-
3 sion after consultation with the appointing authorities, and after
4 a public hearing held by the Commission. Such pay plan shall be-
5 come effective after approval by the Commission. Amendments to
6 the pay plan shall be made in the same manner. The compensation
7 plan may contain geographical differentials.

8 (c) The fair and impartial selection and appointment of
9 all personnel subject to the merit system on the basis of open
10 competitive merit examinations. Applicants admitted to such exami-
11 nations shall meet the minimum requirements prescribed in the rules
12 of the Commission and the class specification for the position for
13 which they apply. Examinations shall include such parts as are
14 required in order to ascertain the relative fitness of applicants,
15 such as written tests, oral examinations, and investigation of
16 training and experience. Employment lists shall be established in
17 order of final score and certification to vacancies shall be made
18 in accordance with a formula which limits selection to the top
19 three available eligibles.

20 (d) Limited duration non-competitive appointments when
21 an eligible list is not available, or to meet an emergency.

22 (e) The promotion and advancement of personnel subject
23 to the merit system on the basis of qualifications and of perform-
24 ance and service ratings which measure actual performance on the
25 job. Promotion shall be on a competitive basis except that, where
26 there are not more than three persons eligible for promotion to a
27 given vacancy, a non-competitive promotion may be made, subject to
28 the approval of the Executive Director.

29 (f) A system of service ratings and the use of such

1 ratings in connection with promotion, salary advancement, salary
2 decrease, and reduction in staff, including written notice to the
3 employee and an opportunity for the employee to be heard on his
4 own behalf.

5 (g) The prohibition of disqualification of any person
6 from taking an examination, from appointment to a position, from
7 promotion, or from holding a position, because of political, racial,
8 or religious opinions or affiliations.

9 (h) The prohibition of political activity by any person-
10 nel employed under the merit system.

11 (i) Cooperation with other public personnel agencies
12 whose merit systems operate in accordance with standards compar-
13 able to those provided in this Act and in the rules of the Commis-
14 sion.

15 (j) The adoption of such other rules, not inconsistent
16 with the foregoing provisions of this Section and Section 7 of this
17 Act, as may be necessary and proper for the enforcement of this
18 Act.

19 Section 7. APPEAL. Any employee subject to the merit system
20 who is dismissed or demoted or who is suspended for more than
21 thirty days in any one year, may, within fifteen days after such
22 dismissal, demotion, or suspension, appeal to the Commission for
23 review thereof. Upon such review, both the appealing employee and
24 the appointing authority whose action is reviewed shall have the
25 right to be heard publicly. At the hearing of such appeals, the
26 Commission may establish such reasonable rules of procedure and
27 for the admission of evidence as it deems advisable. If the Com-
28 mission finds that the action complained of was taken by the
29 appointing authority for any political, religious or racial reason,

1 the employee shall be reinstated to his former position or a posi-
2 tion of like seniority, status and pay, without loss of pay for the
3 period of his suspension. In all other cases, the Commission shall
4 make such recommendations to the appointing authority as the Com-
5 mission may deem just and proper.

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7 Section 8. PRESENT MERIT SYSTEM.

8 (a) Any examination held under the Alaska Merit System,
9 but not completed on the effective date of this Act, shall be com-
10 pleted by the Commission, and employment lists established, and
11 appointments made in the same manner as had been provided under the
12 previously existing merit system. Employment lists established and
13 in effect on the effective date of this Act shall be used by the
14 Commission in the same manner as lists established under the pro-
15 visions of the Act.

16 (b) All employment registers, papers, books, and other
17 documents relating to the Alaska Merit System, and all registers,
18 papers, books, and other documents in the possession of the Council,
19 shall be transferred to the Commission.

20 (c) On the effective date of this Act, the Alaska Merit
21 System shall cease to be operative and all functions, powers and
22 duties carried on by it shall be continued under and in accord-
23 ance with the provisions of this Act.

24 Section 9. EMPLOYEES APPOINTED PRIOR TO ENACTMENT OF THIS ACT.

25 Employees of the Alaska Department of Health, Department
26 of Public Welfare, and the Employment Security Commission, and the
27 Alaska Merit System Council, appointed under the rules of the
28 Alaska Merit System, shall retain without impairment their status
29 acquired under the Alaska Merit System.

30 Section 10. VETERANS' PREFERENCE. Persons who have engaged

1 in any war, campaign, or expedition as a member of the armed forces
2 of the United States, and who were separated from the armed forces
3 under conditions other than dishonorable, shall be given veterans'
4 preference as here described. The final score of eligible persons
5 entitled to such preference, who have passed an examination held in
6 accordance with the provisions of Section 6, shall be increased by
7 five points on the basis of 100 as a maximum score. Additional
8 preference of five points shall be given to those persons who have
9 established a compensable disability rating of 10 per cent or more
10 with the United States Veterans Administration. As used in this
11 section, the terms "armed forces" and "war," "campaign," or
12 "expedition" shall have the same meaning as that given the same
13 terms by the United States Civil Service Commission for similar
14 purposes.

15 Section 11. DISBURSING OFFICER. No treasurer or other public
16 disbursing officer shall pay any salary or compensation for service
17 to any person holding a position in the classified service under
18 the merit system unless the payroll or account for such salary or
19 compensation shall bear the certificate of the Executive Director
20 that the persons named therein have been appointed or employed and
21 are performing service in accordance with the provisions of this
22 Act and of the rules established thereunder. Any taxpayer may
23 maintain an action in any civil court of record to recover for the
24 Territorial treasury any sums paid contrary to the provisions of
25 this section from the person or persons authorizing such payment
26 or to enjoin the Executive Director from affixing his certificate
27 to a payroll or account for services rendered in violation of the
28 provisions of this Act, or of the rules established thereunder, or
29 to restrain the payment of salary to any person employed in

1 violation of law.

2 Section 12. POLITICAL ASSESSMENTS PROHIBITED. No officer
3 or employee of Alaska subject to the merit system shall, directly
4 or indirectly, solicit or receive, or be in any manner concerned
5 in soliciting or receiving, any assessment, subscription or contri-
6 bution for any political party or political purpose whatever. No
7 person shall, orally or by letter, solicit or be in any manner
8 concerned in soliciting any assessment, subscription or contribu-
9 tion for any political party or purpose whatever from any person
10 holding a position subject to the merit system.

11 Section 13. LIMITATION OF POLITICAL ACTIVITY. No person
12 holding a position subject to the merit system shall take any part
13 in political management or affairs, or in political campaigns,
14 further than to cast his vote and to express privately his opinion.

15 Section 14. MERIT SYSTEM FOR AGENCIES RECEIVING FEDERAL
16 FUNDS. Nothing in this Act shall be interpreted so as to interfere
17 with, limit, or affect in any way the method of employing or
18 advancing any employee by any agency, or division thereof, receiv-
19 ing funds from the government of the United States under laws or
20 regulations of the United States which require the maintenance of
21 a merit system or personnel plan by such agency or division as a
22 condition for receiving funds from the government of the United
23 States, and where the provisions of this Act are inconsistent with
24 the laws and regulations of the United States regarding such
25 agencies, said provisions shall be without effect.

26 Section 15. CLASSIFICATION PLAN FOR OTHER POSITIONS.

27 (a) Except as exempted under part (b) of this Section,
28 all other positions under the Territory of Alaska which are not
29 subject to the merit system shall be included in the classification

1 plan referred to in Section 4(b) of this Act and the Merit System
2 Commission is hereby authorized to make such reasonable regulations
3 and to employ such help as the Commission deems necessary to pre-
4 pare such classification plan.

5 (b) The following employees or positions, whether found
6 in a Territorial agency subject to the merit system or in a
7 Territorial agency not subject to the merit system, are exempt from
8 all classification plans provided for and required under this Act:

9 (1) All officials elected by the people.

10 (2) All heads of executive agencies appointed by
11 the Governor, the Legislature or any commission, board or
12 other administrative body, except the Executive Director of
13 the Merit System Commission.

14 (3) All members of boards, commissions or other
15 administrative bodies appointed by the Governor or the Legis-
16 lature.

17 (4) One private secretary for each board, commis-
18 sion or other administrative body, or head of a department,
19 commission, board or other agency, except the Merit System
20 Commission and the Executive Director of the Merit System
21 Commission.

22 (5) Superintendents, principals and teachers in
23 the educational institutions and academic and research
24 personnel of the University of Alaska.

25 (6) Officers and employees of the Legislature and
26 of legislative committees, councils and commissions.

27 (7) Members of the military forces.

28 (8) Attorneys serving as legal counsel.

29 (9) Patient or inmate help in eleemosynary

1 institutions.

2 (10) Part-time professional personnel who are paid
3 for medical, nursing or other professional service, and who
4 are not engaged in the performance of administrative duties.

5 (11) Part-time or casual employees exempted by the
6 Commission.

7 (c) All classifications under this Section shall be sub-
8 ject to the appeals procedure required by Section 4(e) of this Act.

9 Section 16. USE OF POSITION TITLES. Effective with the
10 Commission's adoption of a classification plan under this Act, the
11 position titles specified therein shall be utilized in all official
12 documents and in any budget which may be prepared by a budget
13 director or other Territorial budget agency.

14 Section 17. APPROPRIATION - MERIT SYSTEM REVOLVING FUND. In
15 order to provide the necessary funds to administer personnel on a
16 merit basis for those Territorial agencies which receive Federal
17 grants-in-aid under laws of the United States which require that
18 such personnel be administered on a merit basis as a condition pre-
19 cedent to receiving such aid; and in order to provide the funds
20 necessary to classify all positions under the Territory of Alaska
21 not otherwise exempted herein, the Merit System Revolving Fund
22 is hereby established.

23 There is hereby appropriated from funds in the Territorial
24 Treasury, not otherwise appropriated, the sum of \$10,000.00, and
25 the same shall be credited to the Merit System Revolving Fund.
26 Disbursements from this Revolving Fund shall be made upon vouchers
27 approved by the Executive Director and warrants issued thereon as
28 provided by law. At the end of each three months, the Revolving
29 Fund shall be reimbursed by the agencies subject to the merit

1 system for such sums as may have been disbursed from the Revolving
2 Fund for the maintenance of the merit system. Those agencies of
3 the Territory subject to the merit system are hereby authorized to
4 repay such expenses out of the funds that are appropriated for
5 their support and maintenance. A formula for determining the
6 share of such expenses which each agency shall bear shall be de-
7 veloped by the administrative officers of the agencies affected.

8 The expenses incurred in the administration of Section 15
9 herein, which provides for the classification of positions under
10 the Territory of Alaska not subject to the merit system, shall be
11 paid from the appropriation provided by this Section.

12 Section 18. VIOLATIONS. Any person who wilfully violates
13 any of the provisions of this Act which relate to the establishment
14 and maintenance of a merit system, or the regulations adopted here-
15 under for the administration of such merit system, shall be guilty
16 of a misdemeanor, which shall be punishable by a fine of not to
17 exceed \$500.00.

18 Section 19. An emergency is hereby declared to exist and
19 this Act shall be in full force and effect from and after the date
20 of its passage and approval.
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