

1 IN THE HOUSE

BY THE LEGISLATIVE COUNCIL

2

HOUSE BILL NO. 23

3

TO THE LEGISLATURE OF THE TERRITORY OF ALASKA

4

Twenty-third session

5

A BILL

6 For an Act entitled: "An Act to establish a system of personnel  
7 administration on a merit basis, creating a  
8 Merit System Commission and declaring an  
9 effective date."

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

11 Section 1. Definitions.

12 (a) "Commission" means the Merit System Commission estab-  
13 lished pursuant to this Act.

14 (b) "Council" means the Merit System Council heretofore  
15 established under authority of Sections 40-1-6, ACLA 1949, as amend-  
16 ed, Section 51-1-3, ACLA 1949, and Section 314, of Chapter 5, ESLA 1955.

17 (c) "Executive Director" means the chief executive  
18 officer of the Commission appointed pursuant to this Act.

19 (d) "Alaska Merit System" means the merit system of per-  
20 sonnel administration, heretofore established under authority of  
21 Sections 40-1-6, ACLA 1949, as amended, Section 51-1-3, ACLA 1949,  
22 and Section 314 of Chapter 5, ESLA 1955, as administered by the  
23 Merit System Council.

24 Sec. 2. Organization.

25 (a) There is hereby established the Merit System Com-  
26 mission, composed of three members, which is authorized and  
27 directed to administer this Act. The Commission shall succeed  
28 to and be vested with all of the powers and duties heretofore  
29 exercised by and vested in the Merit System Council.

-1-

HB # 23

1 (b) The members of the Commission shall be appointed  
2 by the Governor, on the basis of their known sympathy with merit  
3 principles, for overlapping terms of six years. The members of  
4 the Council, shall serve as the first members of the Commission,  
5 and shall serve for the balance of the terms for which they were  
6 appointed by the Governor. The first member appointed upon  
7 expiration of the term of a present member of the Merit System  
8 Council shall be appointed for a term of four years. The second  
9 member so appointed shall serve for a term of five years.  
10 Thereafter all members shall be appointed for six year terms.

11 (c) No member of the Commission shall hold political  
12 office, or be an officer of a political organization, during his  
13 term, nor shall any member have held such office during the 12  
14 months preceding his appointment. The Commission shall elect  
15 one of the members Chairman, and shall meet at regular inter-  
16 vals, and hold extraordinary sessions as needed, on call of the  
17 Chairman. Two members shall constitute a quorum for the trans-  
18 action of business. Members shall receive no salary but shall  
19 be paid the per diem and allowances as provided by law for  
20 members of boards.

21 (d) This Act shall be administered through an Execu-  
22 tive Director, who shall be the chief executive of the Commission,  
23 and its official agent for all purposes under this Act. The  
24 Merit System Supervisor of the Alaska Merit System shall be the  
25 first Executive Director; thereafter any vacancy in the position  
26 of Executive Director shall be filled by the Commission from a  
27 list established after open competitive examination.

28 **Sec. 3. Applicability.**

29 (a) Upon the effective date of this Act, it shall

1 apply to all positions in the Alaska Department of Health, the  
2 Department of Public Welfare, the Employment Security Commission,  
3 and the Merit System Commission, except as such positions are  
4 specifically exempted by Merit System regulations and by this  
5 Act.

6 (b) The Merit System is divided into the unclassified  
7 and classified service.

8 The unclassified service includes:

9 (1) All heads of principal executive de-  
10 partments, except the Executive Director of the  
11 Merit System Commission.

12 (2) All members of boards or commissions  
13 appointed by the Governor or Legislature.

14 (3) One private secretary for each board,  
15 Commission, or head of a department, other than the  
16 Merit System Commission and the Executive Director  
17 of the Merit System Commission.

18 (4) Attorneys serving as legal counsel.

19 (5) Part-time professional personnel who  
20 are paid for any form of professional service, and  
21 who are not engaged in the performance of adminis-  
22 trative duties.

23 (6) Employees working less than half-time.

24 The classified service includes all other positions  
25 now existing or hereafter created.

26 Sec. 4. Duties of the Merit System Commission. It shall  
27 be the duty of the Commission:

28 (a) To advise the Executive Director with respect to  
29 policies and procedures of the Merit System.

1 (b) To adopt classification and compensation plans.

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

4 (d) To formulate procedures for and to hear and decide  
5 appeals of employees and applicants.

6 (e) To make annual reports to the Governor and to  
7 recommend improvements in the Merit System.

8 All personnel records of the participating agencies  
9 shall be open to the inspection of the Commission.

10 Sec. 5. Duties of the Executive Director. It shall be the  
11 duty of the Executive Director to administer this Act, with the  
12 advice and consent of the Commission, and to that end he shall  
13 have the following duties and powers:

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

16 (b) To develop rules for the establishment and main-  
17 tenance of the Merit System, and submit the same for considera-  
18 tion of the Commission.

19 (c) To develop a classification and compensation plan  
20 for all employees subject to this Act, and submit the same for  
21 the consideration of the Commission.

22 (d) To appoint and to fix the compensation, in accord-  
23 ance with the Merit System rules, of such employees as may be  
24 necessary to carry out the provisions of this Act.

25 (e) To establish and maintain a record of the employ-  
26 ment history and other appropriate information relating to all  
27 employees under the Merit System.

28 (f) To review the payroll of each participating agency  
29 for conformity with the provisions of the Commission's rules and

1 regulations.

2 (g) To perform any other lawful act which may be  
3 necessary to carry into effect the purposes and provisions of  
4 this Act.

5 Sec. 5. Rules of the Merit System Commission. The rules  
6 of the Commission shall include provision for:

7 (a) The establishment and maintenance of a classifi-  
8 cation plan covering all positions subject to this Act, based  
9 upon investigation and analysis of the duties and responsibilities  
10 of positions.

11 (b) The establishment and maintenance of a compensa-  
12 tion plan for all positions subject to this Act based upon the  
13 principle of equal pay for equal work. The compensation plan  
14 will be developed by the Executive Director and approved by the  
15 Commission after consultation with the appointing authorities  
16 of Territorial agencies, and after a public hearing held by the  
17 Commission. Such pay plan shall become effective after approval  
18 by the Governor. Amendments to pay plan shall be made in the  
19 same manner. The compensation plan may contain geographical  
20 differentials.

21 (c) The fair and impartial selection and appointment  
22 of all personnel, on the basis of open competitive merit examina-  
23 tions, to entrance in the service. Applicants admitted to  
24 examinations will meet minimum requirements prescribed in the  
25 rules of the Commission and the class specification for the  
26 position for which they apply. Examinations will include such  
27 parts as are required in order to ascertain the relative fitness  
28 of applicants, such as written tests, oral examinations, and  
29 investigations of training and experience. Employment lists will

1 be established in order of final score and certification to  
2 vacancies made in accordance with a formula which limits selec-  
3 tion to the top three available eligibles.

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

6 (e) The promotion and advancement of personnel on  
7 the basis of qualifications and of performance and service rat-  
8 ings which measure actual performance on the job. Promotion shall  
9 be on a competitive basis except that where there are not more  
10 than three persons eligible for promotion to a given vacancy a  
11 non-competitive promotion may be made, subject to the approval of  
12 the Executive Director.

13 (f) A system of service ratings and the use of such  
14 ratings in connection with promotion, salary advancement, salary  
15 decrease, and reduction in staff, including written notice to  
16 the employee and an opportunity for the employee to be heard on  
17 his own behalf.

18 (g) The prohibition of disqualification of any person  
19 from taking an examination, from appointment to a position, from  
20 promotion, or from holding a position, because of political,  
21 racial or religious opinions or affiliations.

22 (h) The prohibition of political activity by any  
23 agency personnel employed under the Merit System.

24 (i) Cooperation with other public personnel agencies  
25 whose Merit Systems operate in accordance with standards com-  
26 parable to those provided in this Act and in the rules of the  
27 Commission.

28 (j) The adoption of such other rules, not inconsistent  
29 with the foregoing provisions of this section and section 7 of

1 this Act, as may be necessary and proper for the enforcement  
2 of this Act.

3       Sec. 7. Appeal. Any employee who is dismissed or demoted  
4 or who is suspended for more than thirty days in any one year,  
5 may, within fifteen days after such dismissal, demotion, or  
6 suspension, appeal to the Commission for review thereof. Upon  
7 such review, both the appealing employee and the appointing  
8 authority whose action is reviewed shall have the right to be  
9 heard publicly. At the hearing of such appeals, the Commission  
10 may establish such reasonable rules of procedure and for the  
11 admission of evidence as it deems advisable. If the Commission  
12 finds that the action complained of was taken by the appointing  
13 authority for any political, religious or racial reason, the  
14 employee shall be reinstated to his former position or a position  
15 of like seniority, status and pay, without loss of pay for the  
16 period of his suspension. In all other cases, the Commission  
17 may reinstate an employee or otherwise change or modify any order  
18 of the appointing authority, or make such other order as it may  
19 deem just.

20       Sec. 8. Present Merit System.

21       (a) Any examination held under the Alaska Merit  
22 System but not completed on the effective date of this Act shall  
23 be completed by the Commission, and employment lists established,  
24 and appointments made in the same manner as had been provided  
25 under such previously existing Merit System. Employment lists  
26 established and in effect on the effective date of this Act  
27 shall be used by the Commission in the same manner as lists  
28 established under the provisions of the Act.

29       (b) All employment registers, papers, books and other

1 documents relating to the Alaska Merit System, and all registers,  
2 papers, books, and other documents in the possession of the  
3 Council shall be transferred to the Commission.

4 (c) On the effective date of this Act, the Alaska  
5 Merit System shall cease to be operative and all functions,  
6 powers and duties carried on by it shall be continued under and  
7 in accordance with the provisions of this Act.

8 Sec. 9. Employees Appointed Prior to Enactment of This Act.

9 (a) Employees of the Alaska Department of Health, De-  
10 partment of Public Welfare, and the Employment Security Com-  
11 mission and the Alaska Merit System Council, appointed under the  
12 rules of the Alaska Merit System shall retain without impairment,  
13 their status acquired under the Alaska Merit System.

14 Sec. 10. Veterans' Preference. Persons who have engaged  
15 in any war, campaign, or expedition as a member of the Armed  
16 Forces of the United States, and who were separated from the  
17 Armed Forces under conditions other than dishonorable, shall be  
18 given veterans' preference as here described. The final score  
19 of eligible persons entitled to such preference, who have passed  
20 an examination held in accordance with the provisions of Section  
21 6, shall be increased by five points on the basis of 100 as a  
22 maximum score. Additional preference of five points shall be  
23 given to those persons who have established a compensable  
24 disability rating of 10 per cent or more with the United States  
25 Veterans Administration. As used in this section, the terms  
26 "Armed Forces" and "war," "campaign," or "expedition" shall have  
27 the same meaning as that given the same terms by the United States  
28 Civil Service Commission for similar purposes.

29 Sec. 11. Disbursing Officer. No treasurer or other public

1 disbursing officer shall pay any salary or compensation for ser-  
2 vice to any employee in the classified service unless the pay-  
3 roll or account for such salary or compensation shall bear the  
4 certificate of the Executive Director that the persons named  
5 therein have been appointed or employed and are performing ser-  
6 vice in accordance with the provisions of this Act and of the  
7 rules established thereunder. Any taxpayer may maintain an  
8 action in any civil court of record to recover for the Territorial  
9 treasury any sums paid contrary to the provisions of this section  
10 from the person or persons authorizing such payment or to enjoin  
11 the Executive Director from attaching his certificate to a pay-  
12 roll or account for services rendered in violation of the pro-  
13 visions of this Act or of the rules established thereunder, or  
14 to restrain the payment of salary to any person employed in  
15 violation of law.

16       Sec. 12. Political Assessments Prohibited. No officer or  
17 employee of Alaska shall, directly or indirectly, solicit or  
18 receive, or be in any manner concerned in soliciting or receiv-  
19 ing, any assessment, subscription or contribution for any  
20 political party or political purpose whatever. No person shall,  
21 orally or by letter, solicit or be in any manner concerned in  
22 soliciting any assessment, subscription or contribution for any  
23 political party or purpose whatever from any person holding a  
24 position in the classified service.

25       Sec. 13. Limitation of Political Activity. No person hold-  
26 ing a position in the classified service shall take any part in  
27 political management or affairs or in political campaigns fur-  
28 ther than to cast his vote and to express privately his opinion,

29       Sec. 14. Morib System for Agencies Receiving Federal Funds.

1 Nothing in this Act shall be interpreted so as to interfere  
2 with, limit, or affect in any way the method of employing or  
3 advancing any employee by any agency, or division thereof, re-  
4 ceiving funds from the Government of the United States under  
5 laws or regulations of the United States which require the  
6 maintenance of a merit system or personnel plan by such agency  
7 or division as a condition for receiving funds from the Govern-  
8 ment of the United States, and where the provisions of this Act  
9 are found to be inconsistent with the laws and regulations of  
10 the United States regarding such agencies.

11       Sec. 15. Joint Merit System Revolving Fund. In order to  
12 provide the necessary funds for the agencies or divisions of  
13 the Territory, which receive funds from the Government of the  
14 United States under laws or regulations of the United States  
15 requiring the maintenance of a merit system or personnel plan  
16 for such agencies, to maintain a merit system or personnel plan  
17 as a condition for receiving federal funds, there is hereby es-  
18 tablished the Joint Merit System Revolving Fund. There is here-  
19 by appropriated from the General Fund of the Territory, not  
20 otherwise appropriated, the sum of Ten Thousand Dollars, and the  
21 same shall be credited to such revolving fund. Disbursements  
22 from such fund shall be made upon vouchers approved by the  
23 Executive Director, and warrants issued thereon as provided by  
24 law. At the end of each three months' period or other period  
25 arrived at by agreement, the fund shall be reimbursed by each of  
26 the participating agencies of the Territory for its share of the  
27 expenses of administration of the Merit System. The funds when  
28 collected, shall be remitted to the Territorial Treasurer to  
29 reimburse and replenish the Joint Merit System Revolving Fund.

1 Such agencies of the Territory that are required to use a merit  
2 system as a condition to receiving federal funds are hereby  
3 authorized to pay such expense out of such funds as are appro-  
4 priated for their maintenance. A formula for determining the  
5 share of each agency of the Territory shall be prepared by the  
6 participating agencies of the Territory.

7       Sec. 16. Violations. Any person wilfully violating any  
8 of the provisions of this Act, or of the rules established there-  
9 under, shall be guilty of a misdemeanor, punishable by a fine of  
10 not to exceed \$1,000.00.

11       Sec. 17. Effective Date. This Act shall become effective  
12 immediately, and be in force from and after its passage and  
13 approval or upon its becoming law without such approval, and it  
14 is so enacted.

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