

1 IN THE HOUSE

BY COMMITTEE ON STATE AFFAIRS

2 CS FOR HOUSE BILL NO. 188

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a system of personnel
7 administration for state employees based on
8 the merit principle; repealing certain con-
9 flicting acts; and providing for an effective
10 date."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 Section 1. PURPOSE. It is the purpose of this Act to
13 establish a system of personnel administration based upon the merit
14 principle and adapted to the requirements of the State of Alaska
15 to the end that persons best qualified to perform the functions
16 of the state will be employed, and that an effective career
17 service will be encouraged, developed and maintained.

18 Sec. 2. SHORT TITLE. This Act, and all amendments to this
19 Act, shall be known and may be cited as the "State Personnel Act
20 of 1960."

21 Sec. 3. COVERAGE OF ACT. This Act and the rules adopted
22 pursuant to this Act apply to all positions in the classified
23 service. This Act and the rules adopted pursuant to this Act
24 apply to all positions in the partially exempt service as speci-
25 fically provided.

26 Sec. 4. CLASSIFIED SERVICE. The classified service consists
27 of all positions in the state service not included in the exempt
28 service or in the partially exempt service.

29 Sec. 5. EXEMPT SERVICE. The following positions in the
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1 state service constitute the exempt service and are exempt from
2 the provisions of this Act and the rules adopted pursuant to this
3 Act:

4 (1) Persons elected to public office by popular vote
5 or appointed to fill vacancies in elected offices;

6 (2) Justices of the supreme court, judges of the
7 superior court, judges, magistrates and deputy magistrates of
8 other state courts established by law;

9 (3) The administrative director of the state court
10 system;

11 (4) The chief administrative officer of each house of
12 the legislature;

13 (5) The executive director of the Legislative Council;
14 the legislative auditor; and the head of any other legislative
15 agency established by law;

16 (6) The head of each principal department in the
17 executive branch;

18 (7) Officers, members of the teaching staff, and
19 student employees of the University of Alaska;

20 (8) Certificated teachers employed by the state to
21 teach in schools operated by the Department of Education;

22 (9) Patients and inmates employed in state institutions;

23 (10) Persons employed in a professional capacity to
24 make a temporary and special inquiry, study, or examination as
25 authorized by the governor, the legislature or a legislative
26 committee;

27 (11) Members of boards, commissions or authorities.

28 Sec. 6. PARTIALLY EXEMPT SERVICE. The following positions
29 in the state service constitute the partially exempt service and

1 are subject to the provisions of this Act and the rules adopted
2 pursuant to this Act only as specifically provided in this Act:

3 (1) All employees of the state legislature and the
4 employees of any legislative agency;

5 (2) Assistant commissioners of the principal depart-
6 ments of the executive branch, except the director of personnel;

7 (3) Attorney members on the staff of the Department
8 of Law;

9 (4) One private secretary for each head of a principal
10 department in the executive branch;

11 (5) All employees of the office of the governor,
12 including the staff of the governor's mansion;

13 (6) All employees of the state judicial system,
14 including employees of the Judicial Council;

15 (7) All employees of the University of Alaska not
16 included in the exempt service.

17 Sec. 7. EXTENSION OF PARTIALLY EXEMPT SERVICE. After June
18 30, 1961, the personnel board, upon written recommendation of the
19 director of personnel and the commissioner of administration, may
20 extend the partially exempt service to include any position (in
21 the classified service on the effective date of this Act) which,
22 in the judgment of the board:

23 (1) Involves principal responsibility for the deter-
24 mination of policy; or

25 (2) Involves principal responsibility for the way in
26 which policies are carried out.

27 No positions may be included in the partially exempt service
28 pursuant to the provisions of this section if the inclusion is
29 inconsistent with federal requirements for state agencies

1 supported in whole or in part by federal funds.

2 Sec. 8. APPOINTING AUTHORITY. The authority to appoint to
3 positions in the state service is as follows:

4 (1) The legislature is the appointing authority for
5 all officers and employees of the legislature and the legislative
6 agencies, but the authority to make appointments may be delegated.

7 (2) The governor is the appointing authority for all
8 officers and employees of the executive branch, but the authority
9 to make appointments may be delegated.

10 (3) The chief justice of the Supreme Court is the
11 appointing authority for all administrative and clerical personnel
12 of the state judicial system, but the authority to make appoint-
13 ments may be delegated.

14 (4) The Judicial Council is the appointing authority
15 for administrative and clerical personnel of the Judicial Council,
16 but the authority to make appointments may be delegated.

17 Sec. 9. ORGANIZATION FOR PERSONNEL ADMINISTRATION: DIVISION
18 BOARD. There is established within the Department of Administra-
19 tion a division of personnel. There is established within the
20 division of personnel a personnel board.

21 Sec. 10. DIRECTOR OF PERSONNEL: APPOINTMENT: QUALIFICATIONS.
22 The head of the division of personnel is the director of personnel
23 appointed by the commissioner of administration and responsible
24 to the commissioner of administration for the execution of the
25 duties and responsibilities imposed by this Act and the rules
26 adopted pursuant to this Act. The director of personnel must have
27 had at least three years of practical working experience in the
28 field of personnel administration. This position shall be within
29 the classified service.

1 Sec. 11. PERSONNEL BOARD: APPOINTMENT: QUALIFICATIONS:
2 REMOVAL. The personnel board is composed of three members
3 appointed by the governor and confirmed by the legislature meeting
4 in joint session. The governor shall appoint the first board
5 within 30 days of the effective date of this Act. Initial appoint-
6 ments to the board are for terms of two, four, and six years.
7 Subsequent appointments will be for six-year terms. Vacancies in
8 unexpired terms will be filled by appointment by the governor for
9 the remainder of the terms and are subject to confirmation in the
10 same manner as full term appointments. Members of the board shall
11 be qualified electors of the state who are not employees or
12 officers of the state. Not more than two members of the board
13 may be members of the same political party. A member of the board
14 may be removed for cause by the governor. Members of the board
15 may receive a per diem allowance and be paid transportation
16 expenses incurred in carrying out the duties set out in this Act.

17 Sec. 12. PERSONNEL RULES: PREPARATION: ADOPTION: AMENDMENT.

18 a. The director of personnel shall prepare and submit to the
19 commissioner of administration within 60 days after the effective
20 date of this Act, proposed personnel rules for all positions and
21 employees subject to this Act.

22 b. The commissioner of administration shall review the
23 rules and submit them to the personnel board within 70 days after
24 the effective date of this Act.

25 c. The rules, or any part of the rules, will have the force
26 and effect of law 60 days after they have been submitted to the
27 personnel board if not disapproved by the personnel board. Amend-
28 ments to the rules shall be prepared and submitted in the same
29 manner, and will have the force and effect of law 30 days after

1 they have been submitted to the personnel board, if not disapproved
2 by the personnel board. The personnel board, if requested, shall
3 hold public hearings on the rules or on amendments to the rules.

4 d. The rules may provide for such exemptions and modifica-
5 tions as may be necessary to assure the continuity of federal
6 grants to those agencies supported in whole or in part by federal
7 contributions.

8 e. The rules adopted pursuant to this Act relate to the
9 internal management of state agencies and their adoption is not
10 subject to the provisions of the Administrative Procedure Act.
11 This paragraph does not preclude the publication of the rules in
12 the Alaska Administrative Register and Code for informational
13 purposes.

14 f. The time limits named in paragraphs a, b, and c of this
15 section do not apply to the pay plan prepared pursuant to Sec.
16 13(2).

17 Sec. 13. JURISDICTION OF RULES. The personnel rules shall
18 provide:

19 (1) For the preparation, maintenance, and revision by
20 the director of personnel, subject to approval by the commissioner
21 of administration and the personnel board of a position classi-
22 fication plan for all positions in the classified and partially
23 exempt services. In the position classification plan all
24 positions will be grouped together into classes on the basis of
25 duties and responsibilities. The position classification plan
26 will include for each class of position an appropriate title, a
27 description of the duties and responsibilities, training and
28 experience qualifications, and other necessary position specifica-
29 tions.

1 (2) For the preparation, maintenance, revision, and
2 administration by the director of personnel, subject to approval
3 by the commissioner of administration, of a pay plan for all
4 positions in the classified and partially exempt services. The
5 pay plan shall be prepared after consultation with the appointing
6 authorities or their designees, and with representatives of
7 interested employee groups. The pay plan shall be based upon the
8 position classification plan, shall provide for fair and reasonable
9 compensation for services rendered and shall be based on the
10 principle of like pay for like work. The pay plan may provide
11 for uniform starting pay, increments, and area and time differ-
12 entials. The pay plan prepared pursuant to this section is
13 subject to approval by the legislature in regular or special
14 session. Amendments to the pay plan are also subject to approval
15 by the legislature. After the adoption of the pay plan, no salary
16 or wage payment may be made to any state employee covered by the
17 pay plan unless the payment is in accordance with this Act and the
18 rules adopted pursuant to this Act.

19 (3) For the use of sound employee selection methods,
20 including open competitive examinations to test the fitness of
21 applicants for positions in the state service.

22 (4) For promotions from within the state service when
23 there are qualified candidates in the state service. Vacancies
24 shall be filled by promotion whenever practicable and in the best
25 interest of the state service, and promotion shall be by competi-
26 tive examination whenever possible. In considering promotions,
27 applicants' qualifications, performance record, seniority, and
28 conduct shall be evaluated.

29 (5) For the establishment and maintenance of eligible
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1 lists for appointment and promotion. The names of successful
2 candidates shall be placed on such lists in order of their relative
3 performance in the examinations.

4 (6) For the procedure for certifying eligibles.

5 (7) For a period of probation not to exceed one year
6 before appointment or promotion is permanent.

7 (8) For emergency appointments to positions in the
8 state service. Emergency appointments may not exceed 60 days and
9 may be made without regard to eligibility lists; they may not be
10 renewed; and such appointments shall be reported to the director
11 of personnel.

12 (9) For temporary appointments to positions in the
13 state service which are determined to be of a seasonal or temporary
14 nature. The determination shall be made by the director of
15 personnel in consultation with the appointing authority or designee.
16 Temporary appointments may be made for not more than a 12-month
17 period and may be made from the eligible lists when possible.

18 (10) For provisional appointment without competitive
19 examination when appropriate eligible lists are not available. No
20 position in the classified service may be filled by provisional
21 appointment for longer than three months out of any 12-month period.

22 (11) For transfers from one department to another and
23 from another merit system jurisdiction to the state service.

24 (12) For transfers from one area of the state to
25 another.

26 (13) For the payment of transportation costs when an
27 employee transfers from one area to another at the request of the
28 employer.

29 (14) For the reinstatement of persons who resign in
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1 good standing.

2 (15) For layoffs for reasons of lack of funds or work,
3 abolition of positions or material changes in duties or organiza-
4 tion. Both performance and seniority records shall be considered
5 in the development of layoff orders.

6 (16) For the development, maintenance, and utilization
7 of employee performance records.

8 (17) For the imposition of disciplinary suspension
9 without pay for not longer than 30 days in any 12-month period.

10 (18) For the procedures for review of disputed personnel
11 actions and for resolving employee and inter-agency grievances.

12 (19) For standard hours of work for all employees in
13 the state service.

14 (20) For methods and procedures covering overtime work
15 and pay.

16 (21) For the delegation, where feasible, of personnel
17 responsibilities and duties to the principal departments of the
18 executive branch.

19 (22) For other rules and administrative regulations,
20 not inconsistent with this Act, as may be necessary for its
21 enforcement.

22 Sec. 14. DIRECTOR: POWERS AND DUTIES. The director of
23 personnel shall direct and supervise all the administrative and
24 technical activities of the division of personnel. In addition
25 to the other duties imposed on him by this Act, he shall:

26 (1) Administer this Act and the personnel rules;

27 (2) Encourage and exercise leadership in the develop-
28 ment of effective personnel administration in the state government.

29 (3) Develop, in cooperation with appointing authorities

1 and others, programs for the improvement of employee effectiveness
2 and morale;

3 (4) Attend all meetings of the personnel board and
4 serve as secretary for the board;

5 (5) Establish and maintain a roster of all employees
6 subject to this Act;

7 (6) Prepare such rules, not inconsistent with this Act,
8 as may be required to implement and administer this Act;

9 (7) Perform any other lawful acts which he may consider
10 necessary or desirable to carry out the purposes of this Act.

11 Sec. 15. PERSONNEL BOARD: POWERS AND DUTIES. In addition
12 to the other duties imposed by this Act, the personnel board
13 shall:

14 (1) Approve or disapprove the original rules or any
15 part of them within 60 days of their submission to the board and
16 approve or disapprove any amendment to the rules within 30 days
17 of their submission to the board. In carrying out this duty,
18 the board, if requested, shall hold such public hearings as it
19 may deem necessary.

20 (2) Consider and act upon recommendations for the
21 extension of the partially exempt service as provided in Sec. 7
22 of this Act.

23 (3) Hear and determine appeals by employees in the
24 classified service as provided in Sec. 16 of this Act.

25 (4) Establish its own rules of procedure, provided that
26 two members shall constitute a quorum for the transaction of
27 business and that two affirmative votes are required for final
28 action on matters acted upon by the board.

29 (5) Elect a chairman from its membership.

1 (6) Have the power to administer oaths, subpoena
2 witnesses, and compel the production of books and papers pertinent
3 to any hearing authorized by this Act.

4 Sec. 16. HEARINGS: APPEALS. Any employee in the classified
5 service who has been dismissed, demoted, or suspended for more
6 than 30 working days in a 12-month period, must be notified in
7 writing by his employer of the action and the reason therefor, and
8 has the right to be heard publicly by the personnel board. In
9 order to be heard, the complainant must request a hearing within
10 15 days of such dismissal, demotion or suspension. If the board
11 finds that the action complained of was taken for any political,
12 racial or religious reason, the officer or employee shall be
13 reinstated to his position without loss of pay or leave benefit
14 for the period of his dismissal, demotion or suspension. In all
15 other cases, the board shall report its findings and recommenda-
16 tions to both parties.

17 Sec. 17. STATUS OF PRESENT EMPLOYEES. a. State employees
18 with permanent status on the effective date of this Act under
19 the merit system applying to the agencies receiving federal grants-
20 in-aid will be continued without examination and are not required
21 to serve a new probationary period.

22 b. State employees with probationary status on the effective
23 date of this Act under the merit system applying to the agencies
24 receiving federal grants-in-aid, will be continued without
25 examination, but must satisfactorily complete their probationary
26 period in order to achieve permanent status.

27 c. All other employees coming under the jurisdiction of
28 this Act and holding positions in the state service on the
29 effective date of this Act may be continued in their respective

1 positions without examination if they meet the minimum qualifica-
2 tions for their respective positions and if they have been in the
3 state service for at least six months. Employees who do not meet
4 the minimum qualifications for positions are subject to examina-
5 tion pursuant to the provisions of this Act and the personnel
6 rules.

7 d. Federal civil service employees may transfer to positions
8 in the state service without examination, providing they meet
9 the minimum qualifications for their respective positions and
10 have been on permanent status under federal civil service for not
11 less than six months immediately preceding their transfer. Such
12 employees may be required to serve a probationary period of
13 employment.

14 e. Nothing in this section shall preclude the reclassifica-
15 tion or reallocation of any position held by any incumbent as
16 provided in this Act and the rules adopted pursuant to this Act.

17 Sec. 18. PUBLIC RECORDS. The state personnel records,
18 except such records as the rules may properly require to be held
19 confidential for reasons of public policy, shall be public records
20 and shall be open to public inspection, subject to reasonable
21 regulations as to the time and manner of inspection.

22 Sec. 19. PROHIBITIONS. a. No employee in the classified
23 service may be a member of any national, state, or local committee
24 of a political party, or take part in the management of any
25 political party or in any political campaign, except to exercise
26 his right as a citizen to express his opinion, register his party
27 preference, if any, and cast his vote. This section does not
28 prohibit appointment, nomination, or election to nonpartisan
29 public office in any local government unit.

1 b. No person may give, render, pay, offer, solicit, or
2 accept any money, service, or other valuable thing in connection
3 with any appointment, any promotion, or any advantage in a position
4 in the classified service.

5 c. No person may require any assessment, subscription,
6 contribution, or service for any political party from any employee
7 in the classified service.

8 d. No person may seek or attempt to use any political party
9 endorsement in connection with any appointment or promotion in
10 the classified service.

11 e. Any employee in the classified service who seeks nomina-
12 tion or becomes a candidate for any state or national elective
13 political office shall immediately resign his position in the
14 state service.

15 f. No action affecting the employment status of any employe
16 in the classified service or applicant for a position in the
17 classified service, including appointment, promotion, demotion,
18 suspension, or removal may be taken or withheld for racial,
19 political, or religious reasons.

20 g. No person may make any false statement, certificate,
21 mark, rating, or report with regard to any test, certification,
22 or appointment made under any provision of this Act or in any
23 manner commit any fraud preventing the impartial execution of
24 this Act and the personnel rules adopted pursuant to this Act.

25 h. No state employee or other person may defeat, deceive,
26 or obstruct any person in his right to examination, eligibility,
27 certification, appointment, or promotion under this Act.

28 Sec. 20. PENALTIES. a. Any person who wilfully violates
29 any provision of this Act or of the personnel rules adopted

1 pursuant to this Act is guilty of a misdemeanor.

2 b. Any state employee who is convicted of a misdemeanor
3 under this Act or the personnel rules adopted pursuant to this
4 Act shall immediately forfeit his office or position.

5 Sec. 21. TRANSITION. The merit system in effect and applying
6 to the agencies receiving federal grants-in-aid shall continue
7 in effect until the commissioner of administration certifies to
8 the governor that the division of personnel is organized to
9 administer the system as required for eligibility for federal
10 grants.

11 Sec. 22. CONFLICT WITH FEDERAL REQUIREMENTS. If any part
12 of this Act is found to be in conflict with federal requirements
13 which are a condition precedent to the allocation of federal funds
14 to the state, the conflicting part of this Act is hereby declared
15 to be inoperative solely to the extent of the conflict and with
16 respect to the agencies directly affected, and such findings shall
17 not affect the operation of the remainder of this Act in its
18 application to the agencies concerned.

19 Sec. 23. REPEALS OF EXISTING LEGISLATION. a. On the date
20 that the initial rules prepared pursuant to Secs. 12 and 13,
21 except subsection 2, of this Act are in full force and effect the
22 following are repealed:

23 (1) Sec. 11-5-3, ACLA 1949 as repealed and re-enacted
24 by Ch. 88, SLA 1955;

25 (2) Secs. 11-5-4 and 11-5-5, ACLA 1949;

26 (3) Secs. 3 and 4, SLA 1953.

27 b. On the date that the commissioner of administration
28 certifies to the governor as required by Sec. 21 of this Act,
29 Sec. 314, Ch. 5, ESLA 1955 is repealed.

1 c. On the date that the pay plan prepared according to the
2 provisions of this Act is approved by the legislature the following
3 are repealed:

4 (1) Sec. 11-3-7, ACLA 1949 as repealed and re-enacted
5 by Ch. 82, SLA 1957;

6 (2) Sec. 2, Ch. 105, SLA 1959.

7 Sec. 24. DATE OF EFFECT OF PAY PLAN. Notwithstanding any
8 other provisions of this Act, the pay plan prepared according
9 to the provisions of Sec. 13 (2) will not take effect until
10 approved by the legislature.

11 Sec. 25. EFFECTIVE DATE OF ACT. This Act shall be in effect
12 as of July 1, 1960.