

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; providing penalties;
9 repealing certain conflicting acts; and pro-
10 viding for an effective 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 service
17 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
CS for HB #188 as amended by
the Senate

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 Positions in the partially exempt service shall be included
4 in the position classification plan established pursuant to this
5 Act, and said positions shall be compensated according to the pay
6 plan established pursuant to this Act. Persons holding positions
7 in the partially exempt service are not required to take examin-
8 ations, to qualify or earn a place on any register, nor are they
9 eligible for a hearing by the personnel board in case of dismissal,
10 demotion, or suspension. Positions in the partially exempt service
11 are specifically exempt from the rules established under Sec. 13,
12 (3), (4), (5), (6), (7), (8), (9), (10), (11), (14), (15), and (18)
13 of this Act. They are also specifically exempt from the provisions
14 of Secs. 16 and 17 and as stated in Sec. 19a of this Act.

15 (1) All employees of the state legislature and the
16 employees of any legislative agency;

17 (2) Assistant commissioners of the principal depart-
18 ments of the executive branch;

19 (3) Those directors of the major divisions of the
20 principal departments of the executive branch as are specifically
21 designated by the governor; provided, that the director of
22 personnel shall be in the classified service;

23 (4) Attorney members of the staff of the Department of
24 Law;

25 (5) One private secretary for each head of a principal
26 department in the executive branch;

27 (6) All employees of the office of the governor and the
28 secretary of state, including the staff of the governor's mansion;

29 (7) All employees of the state judicial system, inclu-

1 ing employees of the Judicial Council;

2 (8) All employees of the University of Alaska not
3 included in the exempt service.

4 Sec. 7. EXTENSION OF PARTIALLY EXEMPT AND CLASSIFIED SERVICES.

5 After June 30, 1961, the personnel board, upon written recom-
6 mendation of the commissioner of administration, may extend the
7 partially exempt service to include any position (in the classified
8 service on the effective date of this Act) which, in the judgment
9 of the board:

10 (1) Involves principal responsibility for the deter-
11 mination of policy; or

12 (2) Involves principal responsibility for the way in
13 which policies are carried out or;

14 (3) Involves responsibilities and duties of a type not
15 susceptible to the ordinary recruiting and examining procedures.

16 No positions may be included in the partially exempt service
17 pursuant to the provisions of this section if the inclusion is
18 inconsistent with federal requirements for state agencies supported
19 in whole or in part by federal funds.

20 After June 30, 1961, the personnel board, upon written recom-
21 mendation of the commissioner of administration, may extend the
22 classified service to include any position in the partially exempt
23 service on the effective date of this Act.

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

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

29 (2) The governor is the appointing authority for all

1 officers and employees of the executive branch, but the authority
2 to make appointments may be delegated.

3 (3) The chief justice of the Supreme Court is the
4 appointing authority for all administrative and clerical personnel
5 of the state judicial system, but the authority to make appointments
6 may be delegated.

7 (4) The Board of Regents is the appointing authority
8 for all employees of the University of Alaska, but the authority
9 to make appointments may be delegated.

10 Sec. 9. ORGANIZATION FOR PERSONNEL ADMINISTRATION: DIVISION
11 BOARD. There is established within the Department of Administra-
12 tion a division of personnel. There is established within the
13 division of personnel a personnel board.

14 Sec. 10. DIRECTOR OF PERSONNEL: APPOINTMENT: QUALIFICATIONS.
15 The head of the division of personnel is the director of personnel
16 appointed by the commissioner of administration and responsible
17 to the commissioner of administration for the execution of the
18 duties and responsibilities imposed by this Act and the rules
19 adopted pursuant to this Act. The director of personnel must have
20 had at least three years of practical working experience in the
21 field of personnel administration. This position shall be within
22 the classified service.

23 Sec. 11. PERSONNEL BOARD: APPOINTMENT: QUALIFICATIONS:
24 REMOVAL. The personnel board is composed of three members appointed
25 by the governor and confirmed by the legislature meeting in joint
26 session. The governor shall appoint the first board within 30 days
27 of the effective date of this Act. Initial appointments to the
28 board are for terms of two, four, and six years. Subsequent
29 appointments will be for six-year terms. Vacancies in unexpired

1 terms will be filled by appointment by the governor for the
2 remainder of the terms and are subject to confirmation in the same
3 manner as full term appointments. Members of the board shall be
4 qualified electors of the state who are not employees or officers
5 of the state. Not more than two members of the board may be
6 members of the same political party. Board members shall hold
7 office at the pleasure of the governor notwithstanding their
8 respective terms. Members of the board may receive a per diem
9 allowance and be paid transportation expenses incurred in carrying
10 out the duties set out in this Act.

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

12 a. The director of personnel shall prepare and submit to the
13 commissioner of administration within 60 days after the effective
14 date of this Act, proposed personnel rules for all positions and
15 employees subject to this Act.

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

19 c. At the time he submits the initial rules to the personnel
20 board, the commissioner of administration shall, by posting in
21 public buildings throughout the state, give notice that the
22 personnel board has the rules under consideration. The initial
23 rules, or any part of the rules will have the force and effect of
24 law sixty days after they have been submitted to the personnel
25 board if not disapproved by the personnel board. The personnel
26 board, if requested, may hold public hearings on the initial rules.

27 d. Amendments to the rules shall be prepared, submitted and
28 publicized in the same manner as the initial rules, and will have
29 the force and effect of law 30 days after they have been submitted

1 to the personnel board, if not disapproved by the personnel board.
2 The personnel board, if requested, may hold public hearings on
3 amendments to the rules.

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

8 f. 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 Administrative Procedure Act. This paragraph does
11 not preclude the publication of the rules in the Alaska Adminis-
12 trative Register and Code for informational purposes.

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

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

25 (2) For the preparation, maintenance, revision, and
26 administration by the director of personnel, subject to approval
27 by the commissioner of administration, of a pay plan for all
28 positions in the classified and partially exempt services. The
29 pay plan shall be prepared after consultation with the appointing

1 authorities or their designees, and with representatives of
2 interested employee groups. The pay plan shall be based upon the
3 position classification plan, shall provide for fair and reasonable
4 compensation for services rendered and shall be based on the
5 principle of like pay for like work. The pay plan may provide
6 for uniform starting pay, increments, and area and time differ-
7 entials. The pay plan prepared pursuant to this section is
8 subject to approval by the legislature in regular or special
9 session. Amendments to the pay plan are also subject to approval
10 by the legislature. After the pay plan is put into effect, no
11 salary or wage payment may be made to any state employee covered by
12 the pay plan unless the payment is in accordance with this Act and
13 the rules adopted pursuant to this Act.

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

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

24 (5) For the establishment and maintenance of eligible
25 lists for appointment and promotion. The names of eligible
26 candidates shall be placed on such lists in order of their relative
27 performance in the examinations.

28 (6) For the procedure for certifying eligibles.

29 (7) For a period of probation not to exceed one year

1 before appointment or promotion is permanent.

2 (8) For emergency appointments to positions in the
3 state service.

4 (9) For temporary appointments to positions in the
5 state service which are determined to be of a seasonal or temporary
6 nature.

7 (10) For provisional appointment without competitive
8 examination when appropriate eligible lists are not available.

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

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

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

15 (14) For the reinstatement of persons who resign in
16 good standing.

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

21 (16) For the development, maintenance, and utilization
22 of employee performance records.

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

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

27 (19) For hours of work for all employees in the state
28 service.

29 (20) For methods and procedures covering overtime work

1 and pay.

2 (21) For the delegation, where feasible, of personnel
3 responsibilities and duties to the principal departments of the
4 executive branch.

5 (22) For other rules and administrative regulations,
6 not inconsistent with this Act, as may be necessary for its
7 enforcement.

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

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

13 (2) Encourage and exercise leadership in the develop-
14 ment of effective personnel administration in the state government;

15 (3) Develop, in cooperation with appointing authorities
16 and others, programs for the improvement of employee effectiveness
17 and morale;

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

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

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

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

26 Sec. 15. PERSONNEL BOARD: POWERS AND DUTIES. In addition
27 to the other duties imposed by this Act, the personnel board
28 shall:

29 (1) Approve or disapprove the original rules or any

1 part of them within 60 days of their submission to the board and
2 approve or disapprove any amendment to the rules within 30 days
3 of their submission to the board. In carrying out this duty,
4 the board, if requested, may hold such public hearings as it may
5 deem necessary.

6 (2) Consider and act upon recommendations for the
7 extension of the partially exempt service and the classified
8 service as provided in Sec. 7 of this Act.

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

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

15 (5) Elect a chairman from its membership.

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

19 Sec. 16. HEARINGS: APPEALS. Any employee in the classified
20 service who has been dismissed, demoted, or suspended for more
21 than 30 working days in a 12-month period, must be notified in
22 writing by his employer of the action and the reason therefor, and
23 has the right to be heard publicly by the personnel board and to be
24 represented by counsel at such hearing. In order to be heard, the
25 complainant must request a hearing within 15 days of such dismissal
26 demotion or suspension. If the board finds that the action com-
27 plained of was taken for any political, racial or religious reason,
28 or in violation of the provisions of this Act or the rules pro-
29 mulgated pursuant to this Act, the officer or employee shall be

1 reinstated to his position without loss of pay or leave benefit
2 for the period of his dismissal, demotion or suspension. In all
3 other cases, the board shall report its findings and recommenda-
4 tions to both parties.

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

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

15 c. All other employees coming under the jurisdiction of
16 this Act and holding positions in the state service on the
17 effective date of this Act may be continued in their respective
18 positions without examination if they meet the minimum qualifications
19 for their respective positions and if they have been in the state
20 service for at least six months. Employees who do not meet the
21 minimum qualifications for positions are subject to examination
22 pursuant to the provisions of this Act and the personnel rules.

23 d. Federal civil service employees may transfer to positions
24 in the state service without examination, providing they meet
25 the minimum qualifications for their respective positions and
26 have been on permanent status under federal civil service for not
27 less than six months immediately preceding their transfer. Such
28 employees may be required to serve a probationary period of
29 employment.

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

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

9 Sec. 19. PROHIBITIONS. a. No employee in the classified
10 service or in those partially exempt positions named in Subsecs.
11 (7) and (8) of Sec. 6 of this Act may be a member of any national,
12 state, or local committee of a political party, or take part in
13 the management of any political party or in any political campaign,
14 except to exercise his right as a citizen to express his opinion,
15 register his party preference, if any, and cast his vote. This
16 section does not prohibit appointment, nomination, or election to
17 nonpartisan public office in any local government unit.

18 b. No person may give, render, pay, offer, solicit, or
19 accept any money, service, or other valuable thing in connection
20 with any appointment, any promotion, or any advantage in a position
21 in the classified service.

22 c. No person may require any assessment, subscription,
23 contribution, or service for any political party from any employee
24 in the classified service.

25 d. No person may seek or attempt to use any political party
26 endorsement in connection with any appointment or promotion in
27 the classified service.

28 e. Any employee in the classified service who seeks nomina-
29 tion or becomes a candidate for any state or national elective

1 political office shall immediately resign his position in the
2 state service.

3 f. No action affecting the employment status of any employee
4 in the classified service or applicant for a position in the
5 classified service, including appointment, promotion, demotion,
6 suspension, or removal may be taken or withheld for racial,
7 political, or religious reasons.

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

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

16 Sec. 20. PENALTIES. a. Any person who wilfully violates
17 any provision of this Act or of the personnel rules adopted
18 pursuant to this Act is guilty of a misdemeanor.

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

22 Sec. 21. TRANSITION. The merit system in effect and applying
23 to the agencies receiving federal grants-in-aid shall continue
24 in effect until the commissioner of administration certifies to
25 the governor that the division of personnel is organized to
26 administer the system as required for eligibility for federal
27 grants.

28 Sec. 22. CONFLICT WITH FEDERAL REQUIREMENTS. If any part
29 of this Act is found to be in conflict with federal requirements

1 which are a condition precedent to the allocation of federal funds
2 to the state, the conflicting part of this Act is hereby declared
3 to be inoperative solely to the extent of the conflict and with
4 respect to the agencies directly affected, and such findings shall
5 not affect the operation of the remainder of this Act in its
6 application to the agencies concerned.

7 Sec. 23. REPEALS OF EXISTING LEGISLATION. a. On the date
8 that the initial rules prepared pursuant to Secs. 12 and 13 of this
9 Act are in full force and effect the following are repealed:

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

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

13 (3) Secs. 3 and 4, Ch. 144, SLA 1953.

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

17 c. On the date that the pay plan prepared according to the
18 provisions of this Act is put into effect the following are
19 repealed:

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

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

23 Sec. 24. DATE OF EFFECT OF PAY PLAN. Notwithstanding any
24 other provisions of this Act, the pay plan prepared according
25 to the provisions of Sec. 13 (2) will not take effect until
26 approved by the legislature; provided, however, that during the
27 interim between the approval by the personnel board of the initial
28 pay plan and its approval by the legislature, said pay plan may be
29 put into effect in all affected agencies by executive order signed

1 by the governor. This pay plan shall be valid under such executive
2 order until such time as it is altered or approved in full by the
3 legislature.

4 Sec. 25. EFFECTIVE DATE OF ACT. This Act takes effect on
5 the day after its passage and approval or on the day it becomes
6 law without such approval.

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