

1 IN THE SENATE

BY RULES COMMITTEE
BY REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 220

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 State Constabulary
7 within the Department of Public Safety; and
8 providing for an effective date."

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

10 Section 1. DEFINITION. Where appearing in this Act:

11 "Commissioner" means the Commissioner of the Department
12 of Public Safety.

13 Sec. 2. INTENT. It is the intent of the legislature that
14 the provisions of this Act be construed to make available to small
15 cities, villages and unorganized communities throughout the state,
16 police protection not heretofore available in such areas. It is
17 the intent of the legislature to establish an organization com-
18 posed primarily of persons who are resident in such communities.

19 Sec. 3. STATE CONSTABULARY; CREATION. There is hereby
20 created in the Department of Public Safety a Constabulary which
21 shall be known as the Alaska State Constabulary, hereinafter re-
22 ferred to as the Constabulary. The Constabulary shall be composed
23 of such members, who shall be termed Constables and Special Con-
24 stables, as may be appointed by the Commissioner.

25 Sec. 4. TENURE OF CONSTABLES. Members of the Constabulary
26 shall be entitled to retain their ranks and positions until reach-
27 ing the maximum age set by the Commissioner or until resignation,
28 suspension, demotion, or discharge in the manner hereinafter pro-
29 vided.

1 Sec. 5. DISCHARGE FOR INSUFFICIENT FUNDS. Members of the
2 Constabulary may be discharged when insufficient funds require a
3 reduction in expenditures, in which case the order of dismissal
4 shall be in the Commissioner's discretion and shall be based on
5 the best interests of the Constabulary.

6 Sec. 6. SUSPENSION. The Commissioner may discipline any
7 member of the Constabulary by suspending him without pay for a
8 period of not more than thirty days, and may discharge any member
9 holding probationary status and demote any member holding pro-
10 bationary rank without a hearing and without preferring written
11 charges against him.

12 Sec. 7. COMPLAINT; HEARING ON NONPROBATIONARY MEMBERS. Dis-
13 charge or demotion of any member holding nonprobationary rank, or
14 suspension for more than 30 days of any member, shall be only for
15 cause, which shall be clearly stated in a written complaint sworn
16 to by the person preferring the charges and served upon the member
17 complained of.

18 Upon being so served any such member shall, upon application
19 to the Commissioner, be entitled to a hearing within 30 days of
20 the date of service before a trial board consisting of three
21 officers of the Division of State Police who shall be selected by
22 the Commissioner. In case of complaint by an officer of the Div-
23 ision of the State Police, such officer shall not be a member of
24 the trial board. The hearing shall be at a place designated by
25 the Commissioner within the Judicial District wherein the Con-
26 stable resides.

27 The Commissioner may suspend the member complained of at
28 once pending a hearing.

29 Sec. 8. PROCEDURAL HEARING. At the hearing the Senior

1 Officer shall be the presiding officer and shall make all necessary
2 rulings in the course of the hearing and shall be entitled to vote

3 The complainant shall submit evidence to substantiate the
4 charge and the member complained of may submit evidence and be
5 represented by counsel, and the full and complete record of the
6 proceedings, and all testimony, shall be taken by a stenographer
7 or electric recording device.

8 Within 10 days after the hearing, the findings of the trial
9 board shall be submitted to the Commissioner. Such findings shall
10 be final in the case of acquittal. In the event of conviction,
11 the Commissioner may determine the proper disciplinary action,
12 including discharge, and declare it by written order served on the
13 member complained of.

14 Sec. 9. REVIEW OF ORDER. Any member subjected to disciplin-
15 ary action may, within 10 days after the service of the order upon
16 him, apply to the Superior Court for a writ of review to have the
17 reasonableness and lawfulness of the order inquired into and de-
18 termined. The Superior Court shall review the determination of the
19 Commissioner in a summary manner based only upon the record of the
20 hearing before the trial board and shall render its decision within
21 90 days, of the allowance of the writ, either affirming or re-
22 versing the order of the Commissioner or remanding the matter to
23 him for further action. The preparation of the record shall be
24 made by the trial board at the expense of the member of the Con-
25 stabulary who makes application for the writ of review.

26 Sec. 10. REINSTATEMENT ON ACQUITTAL. If, as a result of any
27 trial board hearing, or appeal to the Superior Court, a member
28 complained of is found not guilty of the charges against him he
29 shall be immediately reinstated to his former position and be re-

1 imbursed for any loss of salary suffered by reason of such dis-
2 ciplinary action.

3 Sec. 11. QUALIFICATIONS, OATH OF MEMBERS. The Constabulary
4 shall consist of persons who shall be at the time of their appoint-
5 ment not less than twenty-one years of age, the maximum age limit
6 to be fixed by the Commissioner from time to time; all members
7 shall be of sound mind and body, of good moral character, citizens
8 of the United States, and residents of this state; the members
9 shall possess such educational qualifications as the Commissioner
10 may from time to time prescribe. All persons appointed as mem-
11 bers, before entering upon the duties of the office, shall take
12 and subscribe the constitutional oath of office and execute a
13 bond to the State of Alaska in such penal sum as the Commissioner
14 may direct in conformance with the provisions of Title 11,
15 Chapter 2, ACLA 1949.

16 Sec. 12. SPECIAL CONSTABLES. The Commissioner shall appoint
17 when he deems necessary, persons to be known as Special Constables
18 who shall have the qualifications and the authority of Constables
19 in respect to the enforcement of the criminal statutes of this
20 state, except that the territorial jurisdiction of Special Con-
21 stables shall not be subject to the limitations in Section 16 of
22 this Act. The Commissioner shall designate the territorial juris-
23 diction of each Special Constable, and shall file such designation
24 in the office of the Secretary of State. Such Special Constables
25 shall serve with or without pay in the discretion of the Commis-
26 sioner.

27 Sec. 13. POWERS AND DUTIES. The Constabulary, and each of
28 the members thereof, shall be charged with the enforcement of all
29 criminal statutes effective within the State of Alaska, and shall

1 have the authority now had by the members of the Division of State
2 Police and such power and authority as is usual and customary with
3 peace officers. They are authorized and empowered to preserve the
4 peace; make arrests without a warrant for violation of law in the
5 same manner as the members of the Division of State Police; pursue
6 and apprehend offenders; institute criminal proceedings; execute
7 any lawful warrants or orders of arrest and/or search, or other
8 criminal process issuing from any court of the State.

9 They shall have the duty to assist other departments of the
10 state, municipal and federal governments in the enforcement of
11 the criminal laws of their jurisdictions.

12 A Constable may carry arms openly or concealed; he shall dis-
13 play on his uniform a badge of office; he shall be subject to
14 orders of the Commissioner, executive officers and members of the
15 Division of State Police.

16 He may act as bailiff of the District Magistrate Courts and
17 have such authority and duties as are customary with bailiffs.

18 Sec. 14. DUTY HOURS; OTHER EMPLOYMENT. Constables and
19 Special Constables shall be deemed to be on duty at all times for
20 the purpose of preserving law and order. They may be assigned
21 specific duties by the Commissioner. They may hold other employ-
22 ment, public or otherwise.

23 Sec. 15. SERVICE OF CIVIL PROCESS. When designated by the
24 Commissioner, Constables and Special Constables shall serve and
25 execute any and all lawful summons, writs, orders, subpoenas and
26 civil process directed to the Commissioner by a Court of the state

27 Sec. 16. TERRITORIAL JURISDICTION. Every Constable shall
28 exercise such authority as conferred upon him by this Act through-
29 out the Judicial District in which he is stationed.

1 Sec. 17. IMMUNITIES. Each Constable and Special Constable
2 is granted all immunities and matters of defense made available to
3 a member of the Division of State Police, or any peace officer, in
4 any suit brought against him by virtue of acts done by him in the
5 course of his employment.

6 Sec. 18. DUTIES OF COMMISSIONER. The ranks, grades and
7 specific duties of the members of the Constabulary shall be es-
8 tablished by the Commissioner. The Commissioner shall prescribe
9 and provide each of them with such uniform, arms, equipment, iden-
10 tification, badge, and other articles as are necessary to the proper
11 execution of their duties. He shall provide whatever transpor-
12 tation is necessary to the proper execution of their duties. He
13 shall prescribe the rates of pay and increase thereof, the
14 character and duration of the training, the discipline, and the
15 general policy in respect to the use and employment of all members
16 of the Constabulary.

17 The Commissioner shall make and adopt rules and regulations
18 necessary for the direction, control, discipline and conduct of
19 the members of the Constabulary. He shall establish headquarters
20 and stations, and locate Constables at such places and localities
21 within the state as may be necessary to effectuate the purposes of
22 this Act. He shall coordinate the functions of the Constabulary
23 with those of the Division of State Police, and formulate and put
24 into effect plans and means of cooperating with local police and
25 peace officers throughout the state for the purpose of the preven-
26 tion and detection of crime and the apprehension of offenders.

27 Sec. 19. TIME OF TAKING EFFECT. This Act shall take effect
28 on the day after its passage and approval or on the day it becomes
29 law without approval.