

1 IN THE HOUSE

BY MR. GRAVEL

2

HOUSE BILL NO. 361

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRD LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to terms and conditions of
7 employment and retirement for local govern-
8 ment policemen and firemen; and providing
9 for an effective date."

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

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* Section 1. AS 29 is amended by adding a new chapter to read:

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CHAPTER 37. CIVIL SERVICE SYSTEM.

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Sec. 29.37.010. APPLICATION OF CHAPTER. This chapter
14 applies to every local government that

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(1) employs more than one full-time policeman or
16 more than one full-time fireman;

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(2) on the effective date of this chapter is not
18 using a civil service system substantially similar to the
19 civil service system established by this chapter.

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Sec. 29.37.020. CREATION AND MEMBERSHIP OF COMMISSION.

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There is created in each local government a three-member
22 Civil Service Commission. The members of the commission are
23 appointed by the local government official who employs the
24 chief police officer. Members are appointed for staggered
25 terms of six years.

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Sec. 29.37.030. QUALIFICATIONS. A person is qualified
27 to be a member of the commission who is not employed by the
28 local government and, but for being a member of the commis-
29 sion, is not otherwise in the service of the local government.

1 Sec. 29.37.040. ADMINISTRATIVE SERVICES. The adminis-
2 tration of the local government shall provide the commission
3 with administrative services.

4 Sec. 29.37.050. COMMISSION DUTIES. The commission
5 shall

6 (1) establish a sound employee selection system,
7 including open competitive oral and written examinations, to
8 test the fitness of applicants for positions in the police
9 and fire departments;

10 (2) maintain a roster of applicants for local
11 government policeman and fireman positions, listing the most
12 qualified applicants first;

13 (3) adopt rules describing the employee selection
14 system;

15 (4) adopt procedural rules describing or imple-
16 menting the procedure

17 (A) which a person uses to apply for a
18 policeman or fireman position,

19 (B) for giving and grading the competitive
20 examinations,

21 (C) for hearing appeals from a discharge or
22 disciplinary action.

23 Sec. 29.37.060. EMPLOYEE SELECTION SYSTEM. (a) In
24 establishing the employee selection system, the commission
25 shall adopt minimum qualifications a person must have to
26 apply for a position established by an employing authority in
27 the police and fire departments. The commission shall also
28 establish criteria, including scores on examination, for
29 determining which applicants are the most qualified to fill a

1 position. The minimum qualifications and the criteria shall
2 all relate to the position to be filled. In establishing
3 minimum qualifications and criteria, the commission may ask
4 the chief police officer and the chief fire officer for
5 technical assistance.

6 (b) The commission shall disqualify a person who is
7 not morally fit to be a policeman or fireman. There is no
8 review or appeal from a disqualification under this subsec-
9 tion.

10 (c) In establishing the roster, the commission shall
11 list the names of applicants who are policemen or firemen at
12 the time they apply higher than the names of applicants who
13 are not policemen or firemen. A person is entitled to the
14 preferred listing so long as he is a policeman or fireman.
15 This subsection does not apply to rosters for chief police
16 officer or for chief fire officer.

17 Sec. 29.37.070. COMMISSION POWERS. The commission may
18 compel the attendance of witnesses and the production of
19 documents in a hearing held under sec. 140 of this chapter.

20 Sec. 29.37.080. DUTIES OF EMPLOYING AUTHORITIES. (a)
21 Each employing authority in the local government who employs
22 a policeman or a fireman shall

23 (1) establish position classifications for the
24 persons he employs and send the classifications, together
25 with a description of each position and the number of persons
26 he is entitled to employ for each position, to the commis-
27 sion;

28 (2) fill a vacancy in a position by employing the
29 first named person on the commission roster for that position;

1 (3) discharge or discipline a person for having
2 engaged in conduct that is a ground for discharge or disci-
3 pline under sec. 120 of this chapter.

4 (b) In filling a vacancy for chief police officer or
5 chief fire officer the employing authority may select any of
6 the highest three names on the roster for chief police officer
7 or chief fire officer.

8 Sec. 29.37.090. RIGHTS OF APPLICANTS. (a) A person
9 who applies to be a policeman or a fireman is entitled to be
10 examined by the commission as to his qualifications for the
11 position or positions for which he applies. If he meets the
12 minimum qualifications for a position, he is entitled to
13 have his name placed on the roster for that position.

14 (b) The applicant is entitled to be employed in the
15 position for which he applies to fill the first vacancy
16 occurring after he is placed on the roster, if his name is
17 first on the roster for that position.

18 (c) If the employing authority refuses to employ a
19 person claiming to be entitled to be employed, the person,
20 within 10 days after he learns that the employing authority
21 has refused to employ him, may appeal the refusal to the
22 magistrate court. If the magistrate court finds that he was
23 entitled to be employed, it shall order the employing author-
24 ity to employ him.

25 Sec. 29.37.100. ANNUAL LEAVE AND SICK LEAVE. State
26 statutes and regulations relating to annual leave and sick
27 leave apply to local government policemen and firemen.

28 Sec. 29.37.110. TENURE. (a) After his first six
29 months of employment a policeman or fireman

1 (1) may not be discharged except for a reason
2 specified in sec. 120(a) of this chapter;

3 (2) may not be disciplined except for a reason
4 specified in sec. 120(b) of this chapter.

5 (b) The employing authority may discharge or discipline
6 a policeman or fireman for any reason during his first six
7 months of employment.

8 Sec. 29.37.120. GROUNDS FOR DISCHARGE AND DISCIPLINE.

9 (a) An appointing authority may discharge a policeman or
10 fireman who

11 (1) engages in conduct indicating that he is in-
12 competent to carry out the duties for which he is employed,
13 that he is dishonest, or that he is immoral;

14 (2) intentionally violates a duty imposed by the
15 employing authority on all employees doing like work;

16 (3) is mentally or physically unfit to carry out
17 the duties for which he is employed;

18 (4) is convicted of a felony or misdemeanor in-
19 volving larceny, fraud, violence, or drunkenness; or

20 (5) is repeatedly disciplined.

21 (b) An appointing authority may discipline a policeman
22 or fireman who

23 (1) is inattentive or inefficient in carrying out
24 the duties he is employed to carry out;

25 (2) is insubordinate to a superior police or fire
26 officer;

27 (3) is discourteous to a fellow officer or to a
28 member of the public;

29 (4) unintentionally violates a duty imposed by

1 the employing authority on all employees doing like work; or
2 (5) engages in conduct unbecoming a policeman or
3 fireman.

4 (c) In disciplining a policeman or fireman the employ-
5 ing authority may

6 (1) suspend him without pay for a period of not
7 more than 180 days;

8 (2) reduce his rank;

9 (3) require him to work during a total of not
10 more than 15 vacation days.

11 Sec. 29.37.130. POLITICAL ACTIVITY. A policeman or
12 fireman who runs for public office is entitled to, and shall
13 take, a leave of absence beginning one month before the last
14 day for filing for the office and ending on the day after the
15 results of the election are determined. The appointing
16 authority shall employ a temporary replacement for the
17 policeman or fireman while he is on leave of absence. Except
18 as provided in this section, no political or civil disability
19 may be imposed on any policeman or fireman.

20 Sec. 29.37.140. PROCEDURE FOR DISCHARGE AND DISCIPLINE.

21 (a) To discharge or discipline a policeman or fireman, the
22 employing authority must serve him with a written notice of
23 the proposed action. The notice must state the kind of ac-
24 tion proposed, the conduct the policeman or fireman is alleg-
25 ed to have engaged in to justify the action, and that the
26 policeman or fireman is entitled to a hearing before the
27 commission.

28 (b) The discharge or disciplinary action is effective
29 on the day notice is served under (a) of this section. If

1 the person against whom the discharge or disciplinary action
2 is taken believes it is not justified, he may appeal to the
3 commission by notifying the commission of his desire for an
4 appeal in writing within five days after he is served with
5 notice.

6 (c) The person against whom the discharge or disciplin-
7 ary action is taken, in his request for appeal, may request
8 the commission to suspend the effectiveness of the discharge
9 or disciplinary action until the conclusion of the appeal
10 hearing. The commission shall grant the request if it
11 appears likely to the commission that the discharge or dis-
12 ciplinary action was not justified.

13 (d) Within 15 days after a policeman or fireman noti-
14 fies the commission that he desires to appeal a discharge or
15 disciplinary action, the commission shall hold a hearing to
16 determine whether or not the discharge or disciplinary action
17 was justified. If the commission determines that the dis-
18 charge or disciplinary action was not justified, it shall
19 annul the discharge or disciplinary action. The commission
20 shall write down its determination, together with the reasons
21 for deciding as it did, and a summary of the factual basis
22 for its determination. The hearing is open to the public.
23 The policeman or fireman is entitled to be represented by
24 counsel.

25 (e) If the policeman or fireman or the employing
26 authority is dissatisfied with the determination of the com-
27 mission, he may appeal the determination to the superior
28 court.

29 Sec. 29.37.150. PENALTIES. (a) No person to whom a

1 provision of this chapter applies may employ, discharge, or
2 discipline a policeman or a fireman except as provided in
3 this chapter.

4 (b) In determining the qualifications of an applicant
5 for a classified position under this chapter, no member of
6 the commission may consider matters unrelated to the appli-
7 cant's fitness to hold the position for which he is applying.

8 (c) No person may persuade or attempt to persuade a
9 member of the commission to place a person's name on the
10 roster or to advance a person's name on the roster for a
11 matter unrelated to the applicant's fitness to hold the
12 position for which he is applying.

13 (d) Matters that do not relate to fitness include

14 (1) kinship with an elected or appointed official
15 of the local, state, or federal government, or lack of it;

16 (2) political affiliation or lack of it;

17 (3) religious beliefs or affiliations or lack of
18 them;

19 (4) race or color;

20 (5) personal friendship with or animosity against
21 any person or group of persons.

22 (e) No person in a position of authority with respect
23 to a policeman or fireman may discharge, discipline, or
24 reward a policeman or fireman for making a contribution of
25 money or services for a political purpose.

26 (f) No person who is elected or appointed to a local
27 government covered by this chapter may expend public money
28 for police or fire protection after the effective date of
29 this chapter unless this chapter has been complied with.

1 (g) A person who violates a provision of this section
2 is guilty of a misdemeanor.

3 Sec. 29.37.160. DEFINITIONS. In this chapter

4 (1) "policeman" includes the chief police officer,
5 a dispatcher, and a jailer;

6 (2) "fireman" includes the chief fire officer and
7 a dispatcher;

8 (3) "local government" means a home rule city, a
9 city of any class, a home rule borough, and a borough of any
10 class;

11 (4) "commission" means the Civil Service Commis-
12 sion of a local government.

13 * Sec. 2. AS 39.35 is amended by adding new sections to
14 article 7 to read:

15 Sec. 39.35.651. POLITICAL SUBDIVISIONS REQUIRED TO
16 PARTICIPATE. A political subdivision that is required to
17 have a civil service system under AS 29.37 is required to be
18 a participating employer in this system insofar as its
19 policemen and firemen are concerned.

20 Sec. 39.35.652. SURVEY TO DETERMINE ESTIMATED COST.
21 The political subdivision shall prepare a preliminary survey
22 to determine the estimated cost of participation, the benefits
23 derived, and other information which is appropriate.

24 Sec. 39.35.653. POLICEMEN AND FIREMEN BOUND TO SYSTEM.
25 The policemen, including the chief police officer, and the
26 firemen, including the chief fire officer, are bound by the
27 provisions of this system and are entitled to the benefits
28 provided under it.

29 Sec. 39.35.654. CONTRIBUTIONS. The political

1 subdivision shall make contributions each year which are
2 sufficient to meet the normal cost attributable to inclusion
3 of its policemen and firemen in the system and to amortize
4 the past service cost for its policemen and firemen over a
5 period not exceeding 40 years.

6 Sec. 39.35.655. FAILURE TO MAKE CONTRIBUTIONS. If the
7 political subdivision fails to make contributions for a
8 year, the commissioner of administration shall withhold from
9 state funds due the political subdivision an amount equal to
10 one and one-half times the amount of contributions due, and
11 use the amount withheld in place of the contributions.

12 * Sec. 3. A person employed by a local government subject to
13 AS 29.37 as a policeman or fireman on the effective date of this
14 Act is covered by the Civil Service System regardless of the
15 length of time he has been and may not be discharged or disciplined
16 except for cause.

17 * Sec. 4. Secs. 1 and 3 of this Act take effect on September
18 1, 1964. Sec. 2 of this Act takes effect on January 1, 1965.

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