

Introduced: 2/18/65
Referred: Local Govern-
ment

ALASKA
STATE
LEGISLATURE

BY MESSRS. LEFEVRE, MCCOMBE,
MOSELEY, ORBECK, PINKERTON,
PLOTNICK, RAY, SHELDON,
TAYLOR AND GRAVEL

1 IN THE HOUSE

2 HOUSE BILL NO. 146

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTH LEGISLATURE - FIRST 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."

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

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

12 CHAPTER 37. CIVIL SERVICE SYSTEM

13 Sec. 29.37.010. APPLICATION OF CHAPTER. This chapter
14 applies to every fire department or police department of
15 local government that

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

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

21 Sec. 29.37.020. DEPARTMENT EMPLOYEES OPTION TO DECLINE
22 TO PARTICIPATE. (a) On or before June 1 of each calendar
23 year a petition may be filed with the employing authority of
24 a police or fire department, signed by no less than 25 per
25 cent of the members of that department, requesting the
26 employing authority to hold an election by secret ballot of
27 all members of the department to determine whether or not
28 the members of that department desire to continue to have
29 this chapter apply to that department. When the petition is

HB 146

1 filed the appointing authority shall hold an election be-
2 tween June 1 and June 15 under written rules promulgated by
3 the appointing authority which preserve the secrecy of the
4 ballot. If a majority of all employees of the department
5 vote against continuing under this chapter, this chapter
6 shall not apply to that department from and after September
7 1 of that year.

8 (b) On or before June 1 of each calendar year a peti-
9 tion may be filed with the employing authority of a police or
10 fire department which has theretofore voted against contin-
11 uing under this chapter, the petition to be signed by no less
12 than 25 per cent of the members of that department and
13 requesting the employing authority to hold an election by
14 secret ballot of all members of the department to determine
15 whether or not the members of the department desire to have
16 this chapter apply to that department. When the petition is
17 filed the appointing authority shall hold an election between
18 June 1 and June 15 under written rules promulgated by the
19 appointing authority which preserve the secrecy of the
20 ballot. If a majority of all employees of the department
21 vote to have this chapter apply to the department, this
22 chapter shall apply to that department from and after
23 September 1 of that year.

24 (c) There may be no more than one election in any
25 department in any calendar year.

26 Sec. 29.37.030. CREATION AND MEMBERSHIP OF COMMISSION.

27 There is created in each local government a three-member
28 Civil Service Commission. The members of the commission are
29 appointed by the local governing body. Members are appointed

1 for staggered terms of six years and shall hold office dur-
2 ing good behavior.

3 Sec. 29.37.040. QUALIFICATIONS. A person is qualified
4 to be a member of the commission who is not employed by the
5 local government and, but for being a member of the commis-
6 sion, is not otherwise in the service of the local government.
7 He must reside within the boundaries of the local government.

8 Sec. 29.37.050. ADMINISTRATIVE SERVICES. The adminis-
9 tration of the local government shall provide the commission
10 with administrative services.

11 Sec. 29.37.060. COMMISSION DUTIES. The commission
12 shall

13 (1) establish a sound employee selection system,
14 including open competitive oral and written examinations, to
15 test the fitness of applicants for positions in the police
16 and fire departments;

17 (2) maintain rosters of applicants for the
18 various local government policeman and fireman positions,
19 listing the most qualified applicants first;

20 (3) adopt rules describing the employee selection
21 system;

22 (4) adopt procedural rules describing or imple-
23 menting the procedure

24 (A) which a person uses to apply for a
25 policeman or fireman position,

26 (B) for giving and grading the competitive
27 examinations,

28 (C) for hearing appeals from a discharge or
29 disciplinary action.

1 Sec. 29.37.070. EMPLOYEE SELECTION SYSTEM. (a) In
2 establishing the employee selection system, the commission
3 shall adopt minimum qualifications a person must have to
4 apply for a position established by an employing authority in
5 the police and fire departments. The commission shall also
6 establish criteria, including scores on examination, for
7 determining which applicants are the most qualified to fill
8 a position. The minimum qualifications and the criteria
9 shall all relate to the position to be filled. In establish-
10 ing minimum qualifications and criteria, the commission shall
11 ask the chief police officer and the chief fire officer for
12 technical assistance.

13 (b) The commission shall disqualify a person who is
14 not morally fit to be a policeman or fireman. There is no
15 review or appeal from a disqualification under this subsec-
16 tion.

17 Sec. 29.37.080. 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. 29.37.090. 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 one
29 of the top three persons on the commission roster for that

1 position;

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

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

9 Sec. 29.37.100. RIGHTS OF APPLICANTS. (a) A person
10 who applies to be a policeman or a fireman is entitled to be
11 examined by the commission as to his qualifications for the
12 position or positions for which he applies. If he meets the
13 minimum qualifications for a position, he is entitled to have
14 his name placed on the roster for that position.

15 (b) If the employing authority refuses to employ a
16 person claiming to be entitled to be employed, the person,
17 within 10 days after he learns that the employing authority
18 has refused to employ him, may appeal the refusal to the
19 magistrate court. If the magistrate court finds that he was
20 entitled to be employed, it shall order the employing
21 authority to employ him.

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

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

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

28 (b) The employing authority may discharge or discipline
29 a policeman or fireman for any reason during his first six

1 months of employment, from which there shall be no appeal.

2 Sec. 29.37.120. GROUNDS FOR DISCHARGE AND DISCIPLINE.

3 (a) An appointing authority may discharge a policeman or
4 fireman who

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

8 (2) intentionally violates a duty imposed by the
9 employing authority;

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

12 (4) is convicted of a felony, or of a misdemeanor
13 involving larceny, fraud, violence, or drunkenness; or

14 (5) is repeatedly disciplined.

15 (b) An appointing authority may discipline a policeman
16 or fireman who

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

19 (2) is insubordinate to a superior police or fire
20 officer;

21 (3) is discourteous to a fellow officer or to a
22 member of the public;

23 (4) unintentionally violates a duty imposed by the
24 employing authority; or

25 (5) engages in conduct unbecoming a policeman or
26 fireman.

27 (c) In disciplining a policeman or fireman the employ-
28 ing authority may

29 (1) suspend him without pay for a period of not

1 more than 30 days;

2 (2) reduce his rank.

3 Sec. 29.37.130. SUSPENSION FROM DUTY. A policeman or
4 fireman may be suspended with pay for a period up to 60 days
5 upon the action of the appointing authority pending any
6 investigation into grounds for discharge or disciplinary
7 action.

8 Sec. 29.37.140. POLITICAL ACTIVITY. A policeman or
9 fireman who runs for public office is entitled to, and shall
10 take, a leave of absence beginning one month before the last
11 day for filing for the office and ending on the day after
12 the results of the election are determined. The appointing
13 authority shall employ a temporary replacement for the
14 policeman or fireman while he is on leave of absence. Except
15 as provided in this section, no political or civil disability
16 may be imposed on any policeman or fireman. This section
17 does not apply to the chief police officer or chief fire
18 officer of the department, who shall not be allowed to run
19 for political office.

20 Sec. 29.37.150. 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
24 action proposed, the conduct the policeman or fireman is
25 alleged to have engaged in to justify the action, and that
26 the 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 in writing of his
4 desire for an appeal 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 author-
26 ity is dissatisfied with the determination of the commission,
27 he may appeal the determination to the superior court.

28 Sec. 29.37.160. PENALTIES. (a) No person to whom
29 this chapter applies may employ, discharge, or discipline a

1 policeman or a fireman except as provided in this chapter.

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

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

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

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

14 (2) political affiliation or lack of it;

15 (3) religious beliefs or affiliations or lack of
16 them;

17 (4) race or color;

18 (5) personal friendship with or animosity against
19 any person or group of persons.

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

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

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

1 Sec. 29.37.170. DEFINITIONS. In this chapter

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

4 (2) "fireman" includes the chief fire officer and
5 a dispatcher;

6 (3) "local government" means a home rule or
7 general law city, a home rule borough, and a first or second
8 class borough;

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

11 * Sec. 2. AS 39.35 is amended by adding new sections to art.
12 7 to read:

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

18 Sec. ~~39.35.652~~. SURVEY TO DETERMINE ESTIMATED COST.
19 The political subdivision shall prepare a preliminary survey
20 to determine the estimated cost of participation, the bene-
21 fits derived, and other information which is appropriate.

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

27 Sec. ~~39.35.654~~. CONTRIBUTIONS. The political subdivi-
28 sion shall make contributions each year which are sufficient
29 to meet the normal cost attributable to inclusion of its

1 policemen and firemen in the system and to amortize the past
2 service cost before the effective date of this section for
3 its policemen and firemen over a period not exceeding 40
4 years.

5 Sec. 39.35.6~~5~~⁵. FAILURE TO MAKE CONTRIBUTIONS. If the
6 political subdivision fails to make contributions for a
7 year, the commissioner of administration shall withhold from
8 state funds due the political subdivision an amount equal to
9 one and one-half times the amount of contributions due, and
10 use the amount withheld in place of the contributions.

11 * Sec. 3. A person employed for more than 6 months by a local
12 government subject to AS 29.37 as a policeman or fireman on the
13 effective date of this Act is covered by the Civil Service System
14 regardless of the length of time he has been and may not be dis-
15 charged or disciplined except for cause.

16 * Sec. 4. Secs. 1 and 3 of this Act take effect on September
17 1, 1966. Sec. 2 of this Act takes effect on January 1, 1967.

18
19
20
21
22
23
24
25
26
27
28
29