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1 IN THE SENATE

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2 SENATE BILL NO. 187

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act amending the State Personnel Act; and creating
7 the Alaska Civil Service Commission."

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

9 * Section 1. AS 39.25.020(2) is amended to read:

10 (2) Except as provided in (5) of this section, the [THE]
11 governor is the appointing authority for all officers and employees of
12 the executive branch. The [, BUT THE] authority to make appointments
13 may be delegated.

14 * Sec. 2. AS 39.25.020 is amended by adding a new paragraph to read:

15 (5) The principal executive officer of each administrative
16 department is the appointing authority for all employees in the classi-
17 fied service in that department. Appointments shall be made in con-
18 formance to the personnel rules promulgated by the commission.

19 * Sec. 3. AS 39.25 is amended by adding new sections to read:

20 Sec. 39.25.031. ALASKA CIVIL SERVICE COMMISSION. There is
21 established the Alaska Civil Service Commission, an independent state
22 commission, consisting of three members.

23 Sec. 39.25.035. APPOINTMENT OF MEMBERS. (a) The members of the
24 commission shall be appointed by the governor, subject to confirmation
25 by a majority of the members of the legislature in joint session.

26 (b) At least one of the members of the commission shall be
27 appointed by the governor from a list of persons recommended by the
28 organization representing state employees.

29 (c) Members of the commission shall be qualified electors of the

1 state who are not employees or officers of the state and who shall have
2 clearly demonstrated an interest and belief in the principle of the
3 merit system.

4 (d) A person who is, or who has been for a period of one year
5 immediately before appointment, an officer of a political party, or a
6 person who is a candidate for a partisan elective public office may
7 not be a member of the commission.

8 Sec. 39.25.039. TERM OF OFFICE. The members of the commission
9 shall be appointed for six-year terms. A member appointed to fill a
10 vacancy serves for the unexpired term of the member he succeeds. A
11 vacancy is filled in the same manner as the original appointment.

12 Sec. 39.25.043. QUORUM AND CHAIRMAN. (a) Two members constitute
13 a quorum for the transaction of business and two affirmative votes are
14 required for final action.

15 (b) The commission shall annually designate a chairman and a
16 vice chairman to serve for one year.

17 Sec. 39.25.047. EXPENSES AND PER DIEM. Members of the commission
18 are entitled to the per diem allowance and transportation expenses
19 allowed other boards and commissions.

20 Sec. 39.25.051. REMOVAL. (a) A member of the commission may be
21 removed by the governor or the legislature only for cause, after being
22 given a copy of the charges against him and an opportunity to be heard
23 publicly before the governor and a legislative committee from both
24 houses. A copy of the charges and a transcript of the record of the
25 hearing shall be filed with the secretary of state.

26 (b) In this section "cause" means

27 (1) incompetency which is the inability or the unintentional
28 or intentional failure to perform the duties of a commissioner; or

29 (2) malfeasance or misfeasance in office.

1 Sec. 39.25.055. RECORDS. A written public record shall be kept
2 ~~by the commission of all its actions.~~

3 Sec. 39.25.059. POWERS AND DUTIES OF THE COMMISSION. The commis-
4 sion shall

5 (1) approve or disapprove the original personnel rules or a
6 part of them within 60 days of their submission by the director to the
7 commission and approve or disapprove amendments to the personnel rules
8 within 30 days of submission by the director to the commission, and in
9 carrying out its duty may, if requested, hold the public hearings it
10 considers necessary;

11 (2) consider and act upon the recommendations for the exten-
12 sion of the partially exempt service and the classified service as pro-
13 vided in sec. 130 of this chapter;

14 (3) hear and determine appeals by employees in the classified
15 service as provided in sec. 170 of this chapter;

16 (4) establish its own rules of procedure;

17 (5) have the power to administer oaths, subpoena witnesses,
18 and compel the production of books and papers pertinent to a hearing
19 authorized by this chapter;

20 (6) initiate amendments to the personnel rules which it
21 considers advisable;

22 (7) administer a statewide personnel program, including
23 central personnel services such as recruitment, examination, position
24 classification, and pay administration.

25 Sec. 39.25.063. DIRECTOR OF PERSONNEL. (a) The commission shall
26 appoint a director of personnel, subject to the approval of the governor.
27 The director shall be the principal executive officer of the commission
28 and shall be responsible to the commission for the execution of the
29 duties imposed by this chapter and the regulations promulgated under it.

1 (b) The director shall have at least three years of practical
2 working experience in the field of personnel administration.

3 (c) The position of director is within the classified service.

4 Sec. 39.25.067. POWERS AND DUTIES OF DIRECTOR. The director
5 shall direct and supervise the administrative and technical activities
6 of the commission. In addition to the other duties imposed on him, he
7 shall

8 (1) administer this chapter and the personnel rules;

9 (2) encourage and exercise leadership in the development of
10 effective personnel administration in the state government;

11 (3) develop, in cooperation with the appointing authorities
12 and others, programs for the improvement of employee effectiveness
13 and morale;

14 (4) attend meetings of the commission and serve as secretary
15 for the commission;

16 (5) establish and maintain a roster of employees subject to
17 this chapter;

18 (6) prepare the regulations, subject to the review and
19 approval of the commission, which are required to implement and adminis-
20 ter this chapter.

21 * Sec. 4. AS 39.25.120 is amended to read:

22 Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. The following positions
23 in the state service constitute the partially exempt service and are
24 subject to this chapter and the rules adopted under it only as specifi-
25 cally provided in this chapter. Positions in the partially exempt ser-
26 vice shall be included in the position classification plan established
27 under this chapter, and these positions shall be compensated according
28 to the pay plan. Persons holding positions in the partially exempt
29 service are not required to take examinations, qualify or earn a place

1 on a register, nor are they eligible for a hearing by the commission
2 [PERSONNEL BOARD] in case of dismissal, demotion, or suspension. Posi-
3 tions in the ~~partially exempt service~~ are specifically exempt from the
4 rule established under sec. 150(3) - (11), (14), (15), (18) of this
5 chapter. They are also specifically exempt from secs. 170 and 180 of
6 this chapter and as stated in sec. 160(a) of this chapter:

7 (1) assistant commissioners of the principal departments of
8 the executive branch;

9 [(2) THOSE DIRECTORS OF THE MAJOR DIVISIONS OF THE PRINCIPAL
10 DEPARTMENTS OF THE EXECUTIVE BRANCH AS ARE SPECIFICALLY DESIGNATED BY
11 THE GOVERNOR:]

12 (3) attorney members of the staff of the Department of Law;

13 (4) one private secretary for each head of a principal depart-
14 ment in the executive branch;

15 (5) all employees of the office of the governor and the
16 secretary of state, including the staff of the governor's mansion;

17 (6) law clerks and secretaries to judges [ALL EMPLOYEES OF
18 THE STATE JUDICIAL SYSTEM, INCLUDING EMPLOYEES OF THE JUDICIAL
19 COUNCIL].

20 * Sec. 5. AS 39.25.130 is amended to read:

21 Sec. 39.25.130. EXTENSION OF PARTIALLY EXEMPT AND CLASSIFIED
22 SERVICES. (a) After June 30, 1961, the director [PERSONNEL BOARD],
23 upon written recommendation of the commission [COMMISSIONER OF ADMINIS-
24 TRATION], may extend the partially exempt service to include any
25 position which was in the classified service on April 19, 1960, which,
26 in the judgment of the board:

27 (1) involves principal responsibility for the determination
28 of policy;

29 (2) involves principal responsibility for the way in which

1 policies are carried out; or

2 (3) involves responsibilities and duties of a type not sus-
3 ceptible to the ordinary recruiting and examining procedures.

4 (b) ~~No positions may be included in the partially exempt service~~
5 under this section if the inclusion is inconsistent with federal
6 requirements for state agencies supported in whole or in part by
7 federal funds.

8 (c) After June 30, 1961, the director [PERSONNEL BOARD], upon
9 written recommendation of the commission [COMMISSIONER OF ADMINISTRA-
10 TION], may extend the classified service to include any position which
11 was in the partially exempt service on April 19, 1960.

12 * Sec. 6. AS 39.25. is amended by adding a new section to read:

13 Sec. 39.25.141. APPLICABILITY OF THE ADMINISTRATIVE PROCEDURE ACT
14 The personnel rules and the regulations adopted under this chapter
15 shall be promulgated and published as provided in the Administrative
16 Procedure Act (AS 44.62).

17 * Sec. 7. AS 39.25.150(1) is amended to read:

18 (1) the preparation, maintenance, and revision by the
19 director [OF PERSONNEL], subject to approval by the commission [COMMIS-
20 SIONER OF ADMINISTRATION AND THE PERSONNEL BOARD], of a position
21 classification plan for all positions in the classified and partially
22 exempt services; in the position classification plan all positions
23 shall be grouped together into classes on the basis of duties and
24 responsibilities; the position classification plan shall include for
25 each class of position an appropriate title, a description of the
26 duties and responsibilities, training and experience qualifications,
27 and other necessary position specifications;

28 * Sec. 8. AS 39.25.150(2) is amended to read:

29 (2) the preparation, maintenance, revision, and administration

1 by the director [OF PERSONNEL], subject to approval by the commission
2 annually [COMMISSIONER OF ADMINISTRATION], of a pay plan for all posi-
3 tions in the classified and partially exempt services; the pay plan
4 shall be prepared after consultation with the appointing authorities
5 or their designee, and with representatives of interested employee
6 groups; the pay plan shall be based upon the position classification
7 plan, shall provide for fair and reasonable compensation for services
8 rendered, and shall be based on the principle of like pay for like work;
9 commissioners' salaries are not the maximum limit for the pay plan and
10 in exceptional circumstances higher salaries may be specified; the pay
11 plan may provide for uniform starting pay, increments, and area and
12 time differentials; the pay plan prepared under this section is subject
13 to approval by the legislature in regular or special session; amendments
14 to the pay plan are also subject to approval by the legislature; after
15 the pay plan is put into effect, no salary or wage payment may be made
16 to a state employee covered by the pay plan unless the payment is in
17 accordance with this chapter and the rules adopted under this chapter;

18 * Sec. 9. AS 39.25.170 is amended to read:

19 Sec. 39.25.170. HEARINGS AND APPEALS. (a) An employee in the
20 classified service who is dismissed, demoted, or suspended for more
21 than 30 working days in a 12-month period shall be notified in writing
22 by his employer of the action and the reason for it and shall [MAY] be
23 heard publicly by the commission within 30 days of a request by an
24 employee [PERSONNEL BOARD] and may be represented by counsel at the
25 hearing. In order to be heard, the complainant shall request a hearing
26 within 15 days of dismissal, demotion or suspension.

27 (b) If the commission [BOARD] finds that the action complained of
28 was taken because of race, religion, color, national origin, age, sex
29 [FOR A POLITICAL, RACIAL OR RELIGIOUS REASON], or in violation of this

1 chapter or the rules adopted under this chapter, the officer or
2 employee shall be reinstated to his position without loss of pay or
3 leave benefit for the period of his dismissal, demotion, or suspension.
4 In all other cases, the commission [BOARD] shall report its [IT]
5 findings and recommendations to both parties, which will constitute a
6 final administrative order.

7 (c) Final administrative orders or decisions of the commission
8 are subject to judicial review under AS 44.62.560 - 44.62.570.

9 * Sec. 10. AS 39.25. is amended by adding a new section to read:

10 Sec. 39.25.215. DEFINITIONS. In this chapter

11 (1) "commission" means the Alaska Civil Service Commission;

12 (2) "director" means the director of personnel of the Alaska
13 Civil Service Commission.

14 * Sec. 11. AS 44.62.330(a) is amended by adding a new paragraph to read:

15 (32) Alaska Civil Service Commission

16 * Sec. 12. AS 39.25.030 - 39.25.070, 39.25.140 and 44.21.020(9) are
17 repealed.

18 * Sec. 13. Upon initial appointment, one member of the commission shall
19 be appointed for one year, one for three years, and one for five years.

20 * Sec. 14. The personnel rules in effect on the effective date of this
21 Act shall continue in force until adopted or modified by the commission.