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Referred: State Affairs,
Judiciary and Finance

1 IN THE HOUSE

BY CHANCE

2 HOUSE BILL NO. 232

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH 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 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 lieutenant governor.

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 ex-
12 tension of the partially exempt service and the classified service as
13 provided in sec. 130 of this chapter;

14 (3) hear and determine appeals by employees in the classi-
15 fied 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
17 to this chapter;

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

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

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

1 place on a register, nor are they eligible for a hearing by the com-
2 mission [PERSONNEL BOARD] in case of dismissal, demotion, or suspension.
3 Positions in the partially exempt service are specifically exempt
4 from the rule established under sec. 150(3) - (11), (14), (15), (18)
5 of this chapter. They are also specifically exempt from secs. 170 and
6 180 of 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
14 department in the executive branch;

15 (5) all employees of the office of the governor and the
16 lieutenant governor, including the staff of the governor's mansion and
17 the attorney members of the staff of the public defender agency, but
18 not including the nonattorney members of the staff of that agency;

19 (6) law clerks and secretaries to judges [ALL EMPLOYEES OF
20 THE STATE JUDICIAL SYSTEM, INCLUDING EMPLOYEES OF THE JUDICIAL
21 COUNCIL];

22 (7) commissioners of the Alaska Transportation Commission.

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

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

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

3 (2) involves principal responsibility for the way in which
4 policies are carried out; or

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

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

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

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

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

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

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

1 and other necessary position specifications;

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

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

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

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

29 (b) If the commission [BOARD] finds that the action complained of

1 was taken because of race, religion, color, national origin, age, sex
2 [FOR A POLITICAL, RACIAL OR RELIGIOUS REASON], or in violation of this
3 chapter or the rules adopted under this chapter, the officer or
4 employee shall be reinstated to his position without loss of pay or
5 leave benefit for the period of his dismissal, demotion, or suspension.
6 In all other cases, the commission [BOARD] shall report its findings
7 and recommendations to both parties, which will constitute a final
8 administrative order.

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

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

12 Sec. 39.25.215. DEFINITIONS. In this chapter

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

14 (2) "director" means the director of personnel of the Alaska
15 Civil Service Commission.

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

17 (34) Alaska Civil Service Commission

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

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

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