

Introduced: 3/15/79
Referred: Labor & Management

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL (for
the Commission on the State
Personnel Act)

1 IN THE SENATE

2 SENATE BILL NO. 253

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the hiring of non-permanent employ-
7 ees in the state personnel system; and providing for an
8 effective date."

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

10 * Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and
11 declares that certain inconsistencies and abuses in the hiring of employees
12 in the state personnel system have jeopardized the integrity and efficiency
13 of the merit system as well as the morale of employees. The legislature
14 intends to curb the widespread administrative practice of using non-permanent
15 state employment to evade departmental accountability and mask poor planning.
16 The legislature further intends that non-permanent employees be used only to
17 the extent that it is impractical to meet the need with permanent employees
18 and that the burden of proof shall fall upon the department or agency which
19 proposes non-permanent hire.

20 * Sec. 2. AS 39.25.150(9) is amended to read:

21 (9) non-permanent [TEMPORARY] appointments to positions in
22 the state service in accordance with AS 39.25.195 - 39.25.200 [WHICH ARE
23 DETERMINED TO BE OF A SEASONAL OR TEMPORARY NATURE];

24 * Sec. 3. AS 39.35.680(21)(C)(iii) is amended to read:

25 (iii) casual or [,] emergency [OR TEMPORARY]
26 workers or non-permanent employees as defined in AS 39.25.200;

27 * Sec. 4. AS 39.25 is amended by adding new sections to Article 6 to read:

28 Sec. 39.25.195. APPOINTMENT OF NON-PERMANENT EMPLOYEES. (a) An
29 individual may not be appointed as a non-permanent employee in the state

1 service without prior written approval of the director except as pro-
2 vided in this section.

3 (b) Every appointment to state service except an emergency
4 appointment shall be made from the appropriate eligible list or dis-
5 patching register unless in exceptional circumstances the director has
6 waived this requirement.

7 (c) The director may authorize the appointment of a non-permanent
8 employee if the request for authorization is accompanied by evidence of
9 available funds for the anticipated duration of that hire and the direc-
10 tor determines that

11 (1) there is specific legislative authorization that the work
12 in question be performed by non-permanent employees and funds have been
13 made available on that condition;

14 (2) there is an urgent need to fill an authorized, permanent
15 position and it is impractical to establish the position or to make
16 certification within a reasonable time because of a lack of individuals
17 on the eligible lists for that position;

18 (3) an urgent program need exists which the appointing auth-
19 ority could not reasonably have been expected to anticipate and meet
20 through the creation of a permanent position; or

21 (4) a program or project exists and the needs for employees
22 can most appropriately be met through the use of program or project
23 employees.

24 (d) The director may not authorize the appointment of a non-
25 permanent employee if after consideration he determines that

26 (1) the need for the non-permanent employee can reasonably be
27 met through the creation and filling of a permanent position;

28 (2) the need for the non-permanent employee would be more
29 appropriately met through an emergency appointment; or

1 (3) the need for the non-permanent employee is not urgent and
2 could reasonably have been anticipated and met by the appointing autho-
3 rity through the creation and filling of a permanent position.

4 (e) To insure compliance with the intent of this section the
5 director may require a department or agency to obtain prior approval for
6 emergency appointments.

7 (f) The director shall adopt regulations implementing this sec-
8 tion. The regulations shall include consideration of the need for
9 timely substitution for permanent employees on medical or personal leave
10 and other situations in which the appointment of an emergency or perma-
11 nent employee would be inappropriate and when delay in hiring would
12 cause serious disruption.

13 (g) A work assignment may not be performed by a non-permanent em-
14 ployee for more than 120 calendar days in a 12-month period. A non-
15 permanent employee may not be employed by any one department for more
16 than 120 calendar days in a 12-month period. In extraordinary circum-
17 stances the director may authorize an extension of the limit imposed by
18 this subsection if he finds that there is an urgent need for the exten-
19 sion. The limit imposed by this subsection does not apply to program or
20 project employees.

21 (h) The director shall present a report on non-permanent and
22 emergency hire practices in state government to the legislature within
23 the first 10 days of each regular legislative session. The report shall
24 include information on the number of non-permanent employees authorized
25 under this section and the number of emergency employees hired in each
26 department, a description of the procedures used in authorizing the
27 hiring of non-permanent employees, and any recommendations for legisla-
28 tion required to implement the intent of this section.

29 Sec. 39.25.197. TERMINATION OF NON-PERMANENT EMPLOYEES. When the

1 director determines that a non-permanent employee has been appointed in
2 violation of AS 39.25.195, he shall immediately notify the appointing
3 authority in writing and the appointing authority shall immediately
4 terminate the non-permanent employee from state service.

5 Sec. 39.25.198. CIVIL LIABILITY. An appointing authority who
6 violates AS 37.25.195 is liable in a civil action to an individual
7 terminated under AS 37.25.197 as a result of that violation. The
8 damages recoverable under this section are presumed to be three times
9 the gross monthly salary at which the non-permanent employee was hired
10 by the appointing authority.

11 Sec. 39.25.200. DEFINITIONS. In AS 39.25.195 - 39.25.200,

12 (1) "director" means the director of the division of person-
13 nel and labor relations;

14 (2) "emergency employee" means an employee appointed for a
15 period not to exceed 30 calendar days, whose appointment was made under
16 conditions requiring immediate action to carry on work that is required
17 in the public interest;

18 (3) "non-permanent employee" means a person who is employed
19 in state service in a position which is not in the exempt or partially
20 exempt service and who is not a permanent or an emergency employee;

21 (4) "permanent employee" means an employee who has been
22 appointed to an authorized, permanent part-time or permanent seasonal
23 position in the classified service and who is in the process of complet-
24 ing or has successfully completed the required probationary service in
25 that position;

26 (5) "program or project employee" means a non-permanent em-
27 ployee who is employed in state service with prior written understanding
28 that employment in that position will continue for at most the duration
29 of a specified program or project which is not a regular and continuing

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function of a department or agency and which has an established probable date of termination.

* Sec. 5. This Act takes effect September 30, 1979.