

Offered: 4/ 3/85
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 147 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act establishing an equal employment opportunity
7 program for the executive branch of state government
8 and creating a division of equal employment oppor-
9 tunity in the Department of Administration."
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
11 * Section 1. AS 44.21 is amended by adding new sections to read:
12 ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY.
13 Sec. 44.21.450. AFFIRMATIVE ACTION PLAN. The governor shall
14 establish an equal employment opportunity program and adopt annually
15 an affirmative action plan for the executive branch of state govern-
16 ment. The plan remains in effect until the governor adopts a subse-
17 quent plan.
18 Sec. 44.21.455. DIVISION CREATED. The division of equal employ-
19 ment opportunity is established in the Department of Administration.
20 Sec. 44.21.460. DIRECTOR. The commissioner shall appoint a
21 director to administer the division.
22 Sec. 44.21.465. POWERS AND DUTIES OF THE DIVISION. (a) The
23 division shall administer the equal employment opportunity program for
24 the executive branch of state government to ensure compliance with
25 AS 44.21.450 - 44.21.490 and shall
26 (1) assist state officials to carry out their equal employ-
27 ment opportunity responsibilities, including promoting the recruit-
28 ment, employment, training, and retention of members of protected
29 classes, and recommend solutions to any problems identified;

- 1 (2) train state managers and supervisors in their equal
2 employment opportunity and affirmative action responsibilities and
3 offer orientation programs to employees to inform them of their rights
4 and responsibilities under AS 44.21.450 - 44.21.495;
- 5 (3) monitor records of personnel actions, develop auditing
6 and reporting systems to acquire statistical information, and prepare
7 federal and state reports concerning the composition of the work
8 force;
- 9 (4) prepare and submit the affirmative action plan for
10 employment in the executive branch of state government to the gover-
11 nor;
- 12 (5) prepare guidelines for the affirmative action programs
13 of agencies and review, audit and make recommendations concerning the
14 programs;
- 15 (6) ensure that agencies comply with the affirmative action
16 plan and with the agency affirmative action program;
- 17 (7) implement standards by which performance evaluations of
18 supervisors reflect compliance with affirmative action plans and
19 objectives, including the granting or denial of merit increases;
- 20 (8) enforce equal employment opportunity by filing a legal
21 action against a state officer or employee who violates affirmative
22 action standards and procedures; for purposes of a legal action under
23 this paragraph, the director may employ independent legal counsel not
24 associated with the Department of Law;
- 25 (9) assist the division of labor relations in collective
26 bargaining negotiations between the state and employee bargaining
27 organizations to ensure that each collective bargaining agreement
28 negotiated by the state ensures equal employment opportunity;
- 29 (10) inform the governor when an agency fails to comply with

1 its affirmative action program, the affirmative action plan, or state
2 or federal equal employment opportunity laws or regulations, and
3 recommend action to correct the noncompliance;

4 (11) accept, investigate, and resolve complaints of dis-
5 crimination from employees, previous employees, or applicants for
6 employment;

7 (12) serve as primary liaison between the executive branch
8 and state and federal agencies, minority and women's organizations,
9 and community groups concerned with equal employment opportunity, and
10 work to enhance equal employment opportunity in state employment; and

11 (13) prepare and submit an annual report to the governor and
12 the legislature by February 15 on the progress and problem areas in
13 the equal employment opportunity program and the implementation of the
14 affirmative action plan.

15 (b) The division may recommend legislative or administrative
16 action to the governor and the commissioner relating to equal employ-
17 ment opportunity and affirmative action matters.

18 Sec. 44.21.470. ADMINISTRATIVE REGULATIONS. The commissioner
19 shall adopt regulations under the Administrative Procedure Act
20 (AS 44.62) to carry out the division's duties.

21 Sec. 44.21.475. COMPLIANCE WITH AFFIRMATIVE ACTION PLAN. Each
22 agency shall comply with the affirmative action plan. Each commis-
23 sioner or executive head of an agency shall adopt an affirmative
24 action program to implement the plan within the agency. At the re-
25 quest of the division, a state official shall report to the division
26 about agency employment practices and activities to implement and
27 comply with the plan or program.

28 Sec. 44.21.480. EMPLOYMENT DISCRIMINATION COMPLAINTS. (a) The
29 division shall accept complaints of employment discrimination in the

1 executive branch of state government and shall confer with the com-
2 plainant and the agency involved to bring about an informal resolution
3 of the complaint. If the complainant agrees to comply with the
4 resolution proposed by the division, the agency involved shall imple-
5 ment it.

6 (b) An agency shall notify the division when the agency receives
7 a complaint alleging employment discrimination.

8 (c) The division may not make public the records of an inves-
9 tigation.

10 Sec. 44.21.485. RETALIATION PROHIBITED. (a) An agency, offi-
11 cer, or state employee may not directly or indirectly refuse to hire,
12 transfer or promote, or dismiss, demote, suspend, lay off, or other-
13 wise discipline for filing a complaint with the division for a failure
14 to comply with affirmative action or equal employment opportunity or
15 for assisting the division in an investigation of a complaint.

16 (b) A person who knowingly violates this section is liable for a
17 civil penalty of not more than \$1,000.

18 Sec. 44.21.490. ACCESS TO CONFIDENTIAL RECORDS. The division
19 may have access to all data, records, and reports necessary to carry
20 out its functions under AS 44.21.450 - 44.21.495. The division may
21 not make public information designated as confidential by AS 39.25.-
22 080 or another law. However, the division may make public statistical
23 information compiled from confidential records.

24 Sec. 44.21.495. DEFINITIONS. In AS 44.21.450 - 44.21.495,

25 (1) "agency" means a department, office, agency, public
26 corporation, board, commission, authority, or other organizational
27 unit of the executive branch;

28 (2) "commissioner" means the commissioner of administra-
29 tion;

1 (3) "division" means the division of equal employment
2 opportunity in the Department of Administration;

3 (4) "employment in the executive branch of state govern-
4 ment" includes employment as a permanent, probationary, provisional,
5 nonpermanent, or temporary employee in the classified, partially
6 exempt, or exempt services in the executive branch of state govern-
7 ment;

8 (5) "member of a protected class" means a person protected
9 by federal or state laws that prohibit discrimination in employment or
10 a person who experiences or has experienced difficulty in obtaining
11 employment or advancement in employment because of another factor not
12 related to merit.

13 * Sec. 2. This Act may not be applied to limit the right of a person to
14 file a complaint with the State Commission for Human Rights under AS 18.-
15 80.100.