

Introduced: 4/15/85
Referred: Labor & Commerce
and Finance

1 IN THE HOUSE

BY SZYMANSKI

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 318
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to rights of injured state employ-
7 ees."

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

9 * Section 1. AS 39.25 is amended by adding new sections to read:

10 Sec. 39.25.157. POSITION DESCRIPTIONS. The division of person-
11 nel, in consultation with the appropriate department or agency, shall
12 prepare and maintain a position description for each position in the
13 classified and partially exempt services. The position description
14 shall describe the essential functions of the position and the actual
15 skills and abilities required to perform the tasks assigned to the
16 position. A general requirement for physical abilities may not be
17 imposed on a job classification unless each position within the class
18 requires the use of the physical ability.

19 Sec. 39.25.158. REEMPLOYMENT RIGHTS FOR INJURED STATE EMPLOYEES.
20 (a) A state agency shall offer an injured employee the employee's
21 former position if the employee is able to perform the tasks assigned
22 to the position.

23 (b) If the employee is no longer able to perform all of the
24 tasks assigned to the position the employee held when the employee was
25 injured but is able to perform the essential functions of the
26 position, then the agency shall reemploy the employee in the position
27 after making a reasonable accommodation to the physical and mental
28 limitations of the employee.

29 (c) If the employee is unable after reasonable accommodation to

1 perform the essential functions of the employee's former position,
2 then the agency shall offer the employee a position comparable in wage
3 to the position the employee previously held. If the employee is
4 unable to perform the essential functions of a comparable position
5 within the agency, then the employee is entitled to preference for a
6 comparable position with another agency if the employee is able to
7 perform the essential functions of that position.

8 (d) If the agency and the state are unable to reemploy the
9 employee in a position at a wage comparable to the employee's previous
10 wage, the employee may choose to accept retraining under AS 23.30.041.
11 After completing the training the employee may request preference for
12 employment with the agency or with another agency in the state in a
13 position for which the employee has been retrained.

14 (e) Reasonable accommodation may include imposing work restric-
15 tions on the tasks performed by the employee, making job or site
16 modifications necessary to permit the employee to perform the tasks of
17 the position, removing institutional and architectural barriers, and
18 providing additional support services.

19 (f) An agency may refuse to reemploy or continue the employment
20 of a former employee if the accommodation imposes an undue hardship on
21 the operation of the agency's program or if, after reasonable efforts
22 at accommodation, the injured employee cannot perform the essential
23 functions of the position in a manner that would not endanger the
24 health or safety of

25 (1) the employee because the job imposes an imminent and
26 substantial degree of risk to the employee; or

27 (2) others to a greater extent than if a nonhandicapped
28 person performed the job.

29 (g) Factors to consider in determining undue hardship include

1 the current number of employees in the section or office, number and
2 type of facilities, size of budget, nature and cost of the accommoda-
3 tion needed, and the type, composition, and structure of the work
4 force.

5 (h) Notwithstanding any other provision of law, if an injured
6 employee requests reemployment under this section and if the employee
7 is able to perform the essential functions of the position, the state
8 may not certify any other person for that position except an employee
9 in layoff status for that job class.

10 (i) This section applies to a permanent, probationary, or provi-
11 sional employee of an agency who

- 12 (1) was injured on-the-job;
13 (2) was laid off or terminated after the injury; and
14 (3) has requested to return to work for the state.

15 (j) In this section "agency" includes a department, division,
16 office, agency, board, commission, authority, or other organizational
17 unit of the executive, legislative, and judicial branches of state
18 government including the University of Alaska.