

Original sponsor(s): REP. KUBINA, Larson, Finkelstein, Gruenberg

1 IN THE HOUSE BY THE LABOR & COMMERCE COMMITTEE
2 CS FOR HOUSE BILL NO. 493 (L&C)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to reemployment rights for members
7 of the state's organized militia."

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

9 * Section 1. AS 26.05 is amended by adding a new section to read:

10 Sec. 26.05.075. REEMPLOYMENT RIGHTS OF THE ORGANIZED MILITIA.

11 (a) An employer shall grant to an employee who is a member of the
12 organized militia a leave of absence to perform active state service
13 under AS 26.05.070.

14 (b) When an employee is released from a period of active state
15 service under AS 26.05.070 or discharged from hospitalization that
16 arose from active state service, the employee is entitled to return to
17 the employee's former position, or a comparable position, at the pay,
18 seniority, and benefit level the employee would have had if the em-
19 ployee had not been absent as a result of active state service. An
20 employee, other than an employee who has been hospitalized, shall
21 report for work at the beginning of the workday following the last
22 calendar day necessary to travel from the site of active state service
23 to the employee's work site. An employee who has been hospitalized
24 shall report for work at the beginning of the workday following the
25 last calendar day necessary to travel from the hospital or place of
26 recuperation to the employee's work site. If the employee fails to
27 return to work at that time, the employer may impose whatever disci-
28 pline is provided by the employer's rules of conduct for unexcused
29 absence from work.

1 (c) If an employee is not qualified to perform the duties of the
2 employee's position as a result of permanent disability sustained
3 because of the employee's active state service but is qualified to
4 perform the duties of another position with the employer, the employer
5 shall offer an employee who requests reemployment the available,
6 vacant position that most closely approximates the pay and benefits of
7 the employee's previous position and that the employee is qualified
8 for and capable of performing. An employee loses the right to reem-
9 ployment under this subsection unless the employee requests reemploy-
10 ment within 30 days after receiving a statement from the employee's
11 treating physician indicating both that the employee has reached
12 maximum recovery and that the employee is released to return to full-
13 time work.

14 (d) For employees other than state employees, the Department of
15 Labor shall enforce this section by appropriate regulations. For
16 state employees, the division of personnel in the Department of Admin-
17 istration shall enforce this section. Regulations adopted under this
18 section may provide for orders of reinstatement and back pay if appro-
19 priate. For employees other than state employees, contested cases
20 arising under this section are to be handled under AS 44.62.330 -
21 44.62.630. Appeals involving state employees must be made to the
22 personnel board under the procedure set out in the state's personnel
23 rules for grievances.

24 (e) Notwithstanding (f) of this section, a person aggrieved
25 under this section may bring an action in superior court no sooner
26 than 30 days after giving notice to the Department of Labor, or, in
27 the case of a state employee, to the director of the division of
28 personnel. The action must be brought within two years after the
29 claim arose.

1 (f) A collective bargaining agreement entered into in the state
2 after the effective date of this Act may not contain provisions con-
3 trary to this subsection.

4 (g) This section does not affect AS 39.20.340 or 39.20.350
5 governing paid leave and reinstatement of state and local employees
6 for certain military activities.

7 * Sec. 2. AS 23.40.075 is amended to read:

8 Sec. 23.40.075. ITEMS NOT SUBJECT TO BARGAINING. The parties
9 may not negotiate terms contrary to

10 (1) the reemployment rights for injured state employees
11 under AS 39.25.158; or

12 (2) the reemployment rights of the organized militia under
13 AS 26.05.075.

14 * Sec. 3. AS 44.62.330(a) is amended by adding a new paragraph to read:

15 (55) Department of Labor as to functions related to employ-
16 ment rights of the organized militia under AS 26.05.075.