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Referred: State Affairs and Finance

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Original sponsor(s): SEN. ZHAROFF

1 IN THE SENATE

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SENATE BILL NO. 388

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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For an Act entitled: "An Act establishing a commission for equal employment opportunity for the executive branch of state government."

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

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* Section 1. AS 36.10.170(c) is amended to read:

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(c) In this section, a person is considered to be a member of a

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minority if the person is Hispanic, Asian or Pacific Islander, American

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Indian or Alaska Native, or Black as those terms are defined by

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the federal Equal Employment Opportunity Commission.

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* Sec. 2. AS 39.50.200(b) is amended by adding a new paragraph to read:

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(50) Commission for Equal Employment Opportunity (AS 44.-

17

19.441).

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* Sec. 3. AS 44.19.441 is amended to read:

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Sec. 44.19.441. COMMISSION [OFFICE] AND DIRECTOR. The Commis-

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sion for Equal Employment Opportunity [OFFICE OF EQUAL EMPLOYMENT

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OPPORTUNITY] is established in the Office of the Governor. The com-

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mission consists of nine members, appointed by the governor, from the

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public and private sectors. The membership shall represent women,

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minorities, disabled individuals, and other societally or economically

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disadvantaged people. The membership shall as nearly as practicable

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reflect the minority population of the state. The governor, in con-

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sultation with the commission, shall appoint a director to administer

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the commission. The commission may delegate its responsibilities to

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the director [OFFICE].

1 * Sec. 4. AS 44.19.441 is amended by adding new subsections to read:

2 (b) Members of the commission serve staggered terms of five
3 years. The members shall elect a chair annually and may elect other
4 officers as necessary. Members of the commission serve without com-
5 pensation but are entitled to travel and per diem authorized for
6 members of boards and commissions under AS 39.20.180.

7 (c) A majority of the commission constitutes a quorum for the
8 transaction of business. The commission shall meet at the call of the
9 chair or at the request of a majority of the commission.

10 * Sec. 5. AS 44.19.442(a) is amended to read:

11 (a) The commission [OFFICE] shall establish policies for [ADMIN-
12 ISTER] the equal employment opportunity program for the executive
13 branch of state government to ensure compliance with AS 44.19.441 -
14 44.19.449 and shall

15 (1) assist state officials to carry out their equal employ-
16 ment opportunity responsibilities, including promoting the recruit-
17 ment, employment, training, and retention of members of protected
18 classes, and recommend solutions to problems identified;

19 (2) train state managers and supervisors in their equal
20 employment opportunity and affirmative action responsibilities and
21 offer orientation programs to employees to inform them of their rights
22 and responsibilities under AS 44.19.441 - 44.19.449;

23 (3) monitor records of personnel actions, develop auditing
24 and reporting systems to acquire statistical information, and prepare
25 federal and state reports concerning the composition of the work
26 force;

27 (4) prepare and submit the affirmative action plan for
28 employment in the executive branch of state government to the gover-
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24 and reporting systems to acquire statistical information, and prepare
25 federal and state reports concerning the composition of the work
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27 (4) prepare and submit the affirmative action plan for
28 employment in the executive branch of state government to the gover-
29 nor;

1 (5) prepare guidelines for the affirmative action programs
2 of agencies and review, audit and make recommendations concerning the
3 programs;

4 (6) ensure that agencies comply with the affirmative action
5 plan and with the agency affirmative action program;

6 (7) implement standards by which performance evaluations of
7 supervisors reflect compliance with affirmative action plans and
8 objectives, including the granting or denial of merit increases;

9 (8) assist the division of labor relations in collective
10 bargaining negotiations between the state and employee bargaining
11 organizations to ensure that each collective bargaining agreement
12 negotiated by the state ensures equal employment opportunity;

13 (9) file quarterly reports with the governor and the legis-
14 lature concerning agency compliance with and progress in its affirma-
15 tive action program, the affirmative action plan, state and federal
16 equal employment opportunity laws and regulations;

17 (10) accept, investigate, and resolve complaints of discrim-
18 ination from employees, previous employees, or applicants for employ-
19 ment;

20 (11) serve as primary liaison between the executive branch
21 and state and federal agencies, minority and women's organizations,
22 and community groups concerned with equal employment opportunity; and

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

27 * Sec. 6. AS 44.19.442(b) is amended to read:

28 (b) The commission [OFFICE] may

29 (1) recommend legislative or administrative action to the

1 governor relating to equal employment opportunity and affirmative
2 action matters;

3 (2) require the division of personnel in the Department of
4 Administration to purge records of a complaint of unlawful discrimina-
5 tion from the personnel file of an employee who has filed a complaint
6 of unlawful discrimination;

7 (3) forbid an agency to hire or promote employees based on
8 a discriminatory employment practice;

9 (4) require an agency to reverse a personnel action includ-
10 ing a hiring decision if it finds that the action was based on a
11 discriminatory employment practice;

12 (5) require an agency to change its selection procedures if
13 it finds that the procedures violate state or federal laws prohibiting
14 employment discrimination; and

15 (6) when there is reason to believe that an employee has
16 violated this subsection, require the agency to investigate and to
17 impose discipline if the investigation reveals facts warranting it.

18 * Sec. 7. AS 44.19.443 is amended to read:

19 Sec. 44.19.443. ADMINISTRATIVE REGULATIONS. The commission
20 [DIRECTOR] shall adopt regulations under the Administrative Procedure
21 Act (AS 44.62) to carry out the commission's [OFFICE'S] duties.

22 * Sec. 8. AS 44.19.444 is amended to read:

23 Sec. 44.19.444. AFFIRMATIVE ACTION PLAN. The governor shall
24 establish an equal employment opportunity program and adopt annually
25 an affirmative action plan for the executive branch of state govern-
26 ment. The plan remains in effect until the governor adopts a subse-
27 quent plan. The commission [OFFICE] shall work with each agency to
28 enhance equal employment opportunity.

29 * Sec. 9. AS 44.19.445 is amended to read:

1 Sec. 44.19.445. COMPLIANCE WITH AFFIRMATIVE ACTION PLAN. (a)
2 Each agency shall comply with the affirmative action plan. Each com-
3 missioner or executive head of an agency shall adopt an affirmative
4 action program to implement the plan within the agency. At the re-
5 quest of the commission [OFFICE], a state official shall report to the
6 commission [OFFICE] about agency employment practices and activities
7 to implement and comply with the plan or program.

8 (b) When the commission [OFFICE] finds that an agency has vio-
9 lated the affirmative action plan or its affirmative action program,
10 the commission [OFFICE] may

- 11 (1) suspend the hiring authority of the agency; and
12 (2) impose mandatory affirmative action measures on the
13 agency to bring the agency into compliance.

14 * Sec. 10. AS 44.19.446 is amended to read:

15 Sec. 44.19.446. EMPLOYMENT DISCRIMINATION COMPLAINTS. (a) The
16 commission [OFFICE] shall accept complaints of employment discrimina-
17 tion in the executive branch of state government and shall confer with
18 the complainant and the agency involved to bring about an informal
19 resolution of complaint.

20 (b) An agency shall notify the commission [OFFICE] when the
21 agency receives a complaint alleging employment discrimination.

22 (c) The commission [OFFICE] may not make public the records of a
23 complaint or investigation.

24 * Sec. 11. AS 44.19.447(a) is amended to read:

25 (a) An agency, officer, or state employee may not directly or
26 indirectly refuse to hire, transfer or promote, or dismiss, demote,
27 suspend, lay off, or otherwise discipline a person for filing a com-
28 plaint with the commission [OFFICE] for a failure to comply with
29 affirmative action or equal employment opportunity or for assisting

1 the commission [OFFICE] in an investigation of a complaint.

2 * Sec. 12. AS 44.19.448 is amended to read:

3 Sec. 44.19.448. ACCESS TO CONFIDENTIAL RECORDS. The commission
4 [OFFICE] may have access to all data, records, and reports necessary
5 to carry out its functions under AS 44.19.441 - 44.19.449. The com-
6 mission [OFFICE] may not make public information designated as confi-
7 dential by AS 39.25.080 or another law. However, the commission
8 [OFFICE] may make public statistical information compiled from confi-
9 dential records.

10 * Sec. 13. AS 44.19.449 is amended by adding a new paragraph to read:

11 (5) "commission" means the Commission for Equal Employment
12 Opportunity in the Office of the Governor.

13 * Sec. 14. AS 44.19.449(4) is repealed.

14 * Sec. 15. Notwithstanding AS 44.19.441(b), enacted by sec. 4 of this
15 Act, in making initial appointments to the Commission for Equal Employment
16 Opportunity, the governor shall appoint two members to terms of five years,
17 two members to terms of four years, two members to terms of three years,
18 two members to terms of two years, and one member to a term of one year.

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