

SENATE BILL NO. 305
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR ZHAROFF

Introduced: 5/18/91
Referred: STA, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing a commission for equal employment opportunity for the executive
 2 branch of state government."

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

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

5 (c) In this section, a person is considered to be a member of a minority if the person is
 6 Hispanic, Asian or Pacific Islander, American Indian or Alaska Native, or Black as those terms
 7 are defined by the federal Equal Employment Opportunity Commission.

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

9 (52) Commission for Equal Employment Opportunity (AS 44.19.441).

10 * **Sec. 3.** AS 44.19 is amended by adding new sections to article 14 to read:

11 **Sec. 44.19.450. COMMISSION AND DIRECTOR.** (a) The Commission for Equal
 12 Employment Opportunity is established in the Office of the Governor. The commission consists
 13 of nine members, appointed by the governor, from the public and private sectors. The
 14 membership shall represent women, minorities, disabled individuals, and other societally or

1 economically disadvantaged people. The membership shall as nearly as practicable reflect the
2 minority population of the state. The governor, in consultation with the commission, shall
3 appoint a director to administer the commission. The commission may delegate its
4 responsibilities to the director.

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

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

12 Sec. 44.19.451. POWERS AND DUTIES OF THE COMMISSION. (a) The commission
13 shall establish policies for the equal employment opportunity program for the executive branch
14 of state government to ensure compliance with AS 44.19.450 - 44.19.458 and shall

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

18 (2) train state managers and supervisors in their equal employment opportunity
19 and affirmative action responsibilities and offer orientation programs to employees to inform
20 them of their rights and responsibilities under AS 44.19.450 - 44.19.458;

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

24 (4) prepare and submit the affirmative action plan for employment in the
25 executive branch of state government to the governor;

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

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

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

1 increases;

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

5 (9) file quarterly reports with the governor and the legislature concerning agency
6 compliance with and progress in its affirmative action program, the affirmative action plan, state
7 and federal equal employment opportunity laws and regulations;

8 (10) accept, investigate, and resolve complaints of discrimination from employees,
9 previous employees, or applicants for employment;

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

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

16 (b) The commission may

17 (1) recommend legislative or administrative action to the governor relating to
18 equal employment opportunity and affirmative action matters;

19 (2) require the division of personnel in the Department of Administration to purge
20 records of a complaint of unlawful discrimination from the personnel file of an employee who
21 has filed a complaint of unlawful discrimination;

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

24 (4) require an agency to reverse a personnel action including a hiring decision if
25 it finds that the action was based on a discriminatory employment practice;

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

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

31 (c) A collective bargaining agreement adopted under AS 23.40.070 - 23.40.260 (Public

1 Employment Relations Act) must be consistent with principles of equal employment opportunity
2 and affirmative action. AS 44.19.450 - 44.19.458 supersede the provisions of AS 39.25 (State
3 Personnel Act).

4 Sec. 44.19.452. ADMINISTRATIVE REGULATIONS. The commission shall adopt
5 regulations under the Administrative Procedure Act (AS 44.62) to carry out the commission's
6 duties.

7 Sec. 44.19.453. AFFIRMATIVE ACTION PLAN. The governor shall establish an equal
8 employment opportunity program and adopt annually an affirmative action plan for the executive
9 branch of state government. The plan remains in effect until the governor adopts a subsequent
10 plan. The commission shall work with each agency to enhance equal employment opportunity.

11 Sec. 44.19.454. COMPLIANCE WITH AFFIRMATIVE ACTION PLAN. (a) Each
12 agency shall comply with the affirmative action plan. Each commissioner or executive head of
13 an agency shall adopt an affirmative action program to implement the plan within the agency.
14 At the request of the commission, a state official shall report to the commission about agency
15 employment practices and activities to implement and comply with the plan or program.

16 (b) When the commission finds that an agency has violated the affirmative action plan
17 or its affirmative action program, the commission may

18 (1) suspend the hiring authority of the agency; and

19 (2) impose mandatory affirmative action measures on the agency to bring the
20 agency into compliance.

21 Sec. 44.19.455. EMPLOYMENT DISCRIMINATION COMPLAINTS. (a) The
22 commission shall accept complaints of employment discrimination in the executive branch of
23 state government and shall confer with the complainant and the agency involved to bring about
24 an informal resolution of complaint.

25 (b) An agency shall notify the commission when the agency receives a complaint alleging
26 employment discrimination.

27 (c) The commission may not make public the records of a complaint or investigation.

28 Sec. 44.19.456. RETALIATION PROHIBITED. (a) An agency, officer, or state
29 employee may not directly or indirectly refuse to hire, transfer or promote, or dismiss, demote,
30 suspend, lay off, or otherwise discipline a person for filing a complaint with the commission for
31 a failure to comply with affirmative action or equal employment opportunity or for assisting the

1 commission in an investigation of a complaint.

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

4 Sec. 44.19.457. ACCESS TO CONFIDENTIAL RECORDS. The commission may have
5 access to all data, records, and reports necessary to carry out its functions under AS 44.19.450 -
6 44.19.458. The commission may not make public information designated as confidential by
7 AS 39.25.080 or another law. However, the commission may make public statistical information
8 compiled from confidential records.

9 Sec. 44.19.458. DEFINITIONS. In AS 44.19.450 - 44.19.458,

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

12 (2) "commission" means the commission for equal employment opportunity in the
13 Office of the Governor;

14 (3) "employment in the executive branch of state government" includes
15 employment as a permanent, probationary, provisional, nonpermanent, or temporary employee
16 in the classified, partially exempt, or exempt services in the executive branch of state
17 government;

18 (4) "member of a protected class" means a person protected by federal or state
19 laws that prohibit discrimination in employment or a person who experiences or has experienced
20 difficulty in obtaining employment or advancement in employment because of another factor not
21 related to merit.

22 * Sec. 4. Notwithstanding AS 44.19.450(b), enacted by sec. 3 of this Act, in making initial
23 appointments to the Commission for Equal Employment Opportunity, the governor shall appoint two
24 members to terms of five years, two members to terms of four years, two members to terms of three
25 years, two members to terms of two years, and one member to a term of one year.