

Original sponsor: Rules/Legislative Council

Offered: 4/7/82
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 193 (Judiciary) am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending state personnel laws; and providing
7 for an effective date."

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

9 * Section 1. AS 39.25.040 is amended to read:

10 Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division
11 of personnel is the director of personnel appointed by the commissioner
12 of administration and responsible to the commissioner of administration
13 for the execution of the duties and responsibilities imposed by this
14 chapter and the rules adopted under this chapter. The director of
15 personnel shall [MUST] have at least three years of practical working
16 experience in the field of personnel administration.

17 * Sec. 2. AS 39.25.060(b) is amended to read:

18 (b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS
19 OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not
20 more than two members of the board may be members of the same political
21 party.

22 * Sec. 3. AS 39.25.070(1) is amended to read:

23 (1) approve or disapprove amendments to the personnel rules
24 in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM
25 WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DIS-
26 APPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE
27 BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD
28 THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

29 * Sec. 4. AS 39.25.070(3) is amended to read:

1 (3) hear and determine appeals by employees [IN THE CLASSI-
2 FIED SERVICE] as provided in AS 39.25.170;

3 * Sec. 5. AS 39.25.070 is amended by adding a new paragraph to read:

4 (7) employ staff members, who shall be in the classified
5 service.

6 * Sec. 6. AS 39.25.080 is repealed and reenacted to read:

7 Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records,
8 including employment applications and examination materials, are confi-
9 dential and are not open to public inspection except as provided in
10 this section.

11 (b) The following information is available for public inspection,
12 subject to reasonable regulations on the time and manner of inspection:

13 (1) the names and position titles of all state employees;

14 (2) the position held by a state employee;

15 (3) prior positions held by a state employee;

16 (4) whether a state employee is in the classified, partially
17 exempt, or exempt service;

18 (5) the dates of appointment and separation of a state em-
19 ployee; and

20 (6) the compensation authorized for a state employee.

21 (c) A state employee has the right to examine his own personnel
22 files and may authorize others to examine his files.

23 (d) An applicant for state employment who appeals an examination
24 score may review written examination questions relating to the examina-
25 tion unless the questions are to be used in future examinations.

26 * Sec. 7. AS 39.25.090 is amended to read:

27 Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules
28 adopted under it apply to all positions in (1) the classified service,
29 and (2) the exempt and partially exempt service as specifically pro-

1 vided.

2 * Sec. 8. AS 39.25.110 is repealed and reenacted to read:

3 Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by
4 law, the following positions in the state service constitute the exempt
5 service and are exempt from the provisions of this chapter and the
6 rules adopted under it:

7 (1) persons elected to public office by popular vote or
8 appointed to fill vacancies in elected offices;

9 (2) justices, judges, magistrates, and employees of the
10 judicial branch including employees of the Judicial Council;

11 (3) employees of the state legislature and its agencies;

12 (4) the head of each principal department in the executive
13 branch;

14 (5) officers and employees of the University of Alaska;

15 (6) certificated teachers and noncertificated employees
16 employed by a regional educational attendance area established and
17 organized under AS 14.08.031 - 14.08.041 to teach in, administer, or
18 operate schools under the control of a regional educational attendance
19 area school board;

20 (7) certificated teachers employed by the Department of
21 Education as correspondence teachers or teachers in skill centers
22 operated by the Department of Education;

23 (8) patients and inmates employed in state institutions;

24 (9) persons employed in a professional capacity to make a
25 temporary or special inquiry, study or examination as authorized by the
26 governor;

27 (10) members of boards, commissions, or authorities;

28 (11) the officers and employees of the following boards,
29 commissions and authorities:

1 (A) Alaska Gas Pipeline Financing Authority;
2 (B) Alaska Permanent Fund Corporation;
3 (C) Alaska Energy Center;
4 (D) Alaska Industrial Development Authority;
5 (E) Alaska Commercial Fisheries Entry Commission;
6 (F) Alaska Commission on Postsecondary Education;
7 (G) Employes of the Citizens' Advisory Commission
8 on Federal Areas in Alaska (AS 41.37.010);

9 (12) the executive secretary and legal counsel of the Alaska
10 Municipal Bond Bank Authority;

11 (13) licensed physicians, as defined in AS 47.30.340(9)
12 employed by the state;

13 (14) petroleum engineers and petroleum geologists employed in
14 a professional capacity by the Department of Natural Resources and by
15 the Oil and Gas Conservation Commission; except for those employed in
16 the division of geological and geophysical surveys in the Department of
17 Natural Resources;

18 (15) officers, agents, and employees of the Alcoholic Beverage
19 Control Board granted limited peace officer powers by the Alcoholic
20 Beverage Control Board under AS 04.06.110;

21 (16) persons employed by the division of marine transporta-
22 tion as masters and members of the crews of vessels who operate the
23 state ferry system and who are covered by a collective bargaining
24 agreement provided in AS 23.40.040;

25 (17) officers and employees of the state who reside in
26 foreign countries;

27 (18) employees of the Alaska Seafood Marketing Insti-
28 tute;

29 (19) firefighters employed by the Department of Natural

1 Resources for a fire emergency.

2 * Sec. 9. AS 39.25.120 is repealed and reenacted to read:

3 Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the
4 partially exempt service are included in the position classification
5 plan established under this chapter and are compensated according to
6 the pay plan (AS 39.27.011).

7 (b) A person holding a position in the partially exempt service
8 is not required to take an examination or qualify or earn a place on a
9 register, and is not eligible for a hearing by the personnel board in
10 case of dismissal, demotion, or suspension, except as provided in
11 AS 39.25.170. Positions in the partially exempt service are specifi-
12 cally exempt from the rules established under AS 39.25.150(3) - (10),
13 (13), (14), and (17).

14 (c) The following positions in the state service constitute the
15 partially exempt service:

16 (1) deputy and assistant commissioners of the principal
17 departments of the executive branch, including the assistant adjutant
18 general of the Department of Military Affairs;

19 (2) the directors of the major divisions of the principal
20 departments of the executive branch and the regional directors of the
21 Department of Transportation and Public Facilities;

22 (3) attorney members of the staff of the Department of Law
23 and of the public defender agency;

24 (4) one private secretary for each head of a principal de-
25 partment in the executive branch;

26 (5) employees of the Office of the Governor and the office of
27 the lieutenant governor, including the staff of the governor's mansion;

28 (6) the executive director and deputy director of the Alaska
29 Public Utilities Commission;

1 (7) the director, deputy director, staff legal counsel, and
2 hearing officers of the Alaska Transportation Commission;

3 (8) not more than two special assistants to the commissioner
4 of each of the principal departments of the executive branch, but the
5 number may be increased if the partially exempt service is extended
6 under AS 39.25.130 to include the additional special assistants;

7 (9) the principal executive officer of the following boards,
8 councils, or commissions:

9 (A) Alaska Public Broadcasting Commission;

10 (B) Professional Teaching Practices Commission;

11 (C) Parole Board;

12 (D) Board of Nursing;

13 (E) Real Estate Commission;

14 (F) Alaska Royalty Oil and Gas Development Advisory

15 Board;

16 (G) Alaska Historical Commission;

17 (H) Alaska State Council on the Arts;

18 (I) Alaska Police Standards Council;

19 (J) Council on Science and Technology;

20 (K) Older Alaskans Commission;

21 (10) Alaska Pioneers' Home managers;

22 (11) hearing examiners in the Department of Revenue;

23 (12) the comptroller in the division of treasury, Department
24 of Revenue;

25 (13) investment officers in the Department of Revenue;

26 (14) airport managers in the Department of Transportation and
27 Public Facilities employed at the Anchorage and Fairbanks International
28 Airports;

29 (15) the deputy director of the division of tourism and the

1 deputy director of the division of insurance in the Department of Com-
2 merce and Economic Development;

3 (16) the executive director and staff of the Alaska Public
4 Offices Commission;

5 (17) the director, deputy director, personnel analysts II,
6 labor relations analysts I, labor relations analysts II, senior nego-
7 tiators, and research directors of the division of labor relations
8 in the Department of Administration.

9 * Sec. 10. AS 39.25.130(a) is amended to read:

10 (a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
11 recommendation of the commissioner of administration, may extend the
12 partially exempt service to include any position [WHICH WAS] in the
13 classified service [ON APRIL 19, 1960,] which, in the judgment of the
14 board:

15 (1) involves principal responsibility for the determination
16 of policy;

17 (2) involves principal responsibility for the way in which
18 policies are carried out; or

19 (3) involves responsibilities and duties of a type not sus-
20 ceptible to the ordinary recruiting and examining procedures.

21 * Sec. 11. AS 39.25.130(c) is amended to read:

22 (c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
23 recommendation of the commissioner of administration, may extend the
24 classified service to include any position [WHICH WAS] in the partially
25 exempt service [ON APRIL 19, 1960].

26 * Sec. 12. AS 39.25.140 is repealed and reenacted to read:

27 Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director
28 of personnel shall prepare and submit proposed amendments of the per-
29 sonnel rules to the commissioner of administration for review and

1 approval.

2 (b) The commissioner of administration shall review the proposed
3 amendments and if he approves them, he shall submit them to the person-
4 nel board.

5 (c) If the proposed amendments concern matters of public policy,
6 the personnel board shall adopt them in accordance with the Administra-
7 tive Procedure Act (AS 44.62).

8 (d) If the proposed amendments relate only to internal management
9 of a state agency, the commissioner of administration shall post notice
10 in public buildings throughout the state that the personnel board has
11 the proposed amendments under consideration. The notice required by
12 this subsection shall be posted at least 30 days before any decision is
13 made to amend the personnel rules and shall include an address for the
14 receipt of written comments.

15 (e) If requested by the commissioner of administration or by a
16 person receiving notice of the proposed amendments, the personnel board
17 may hold public hearings on the proposed amendments and may appoint a
18 hearing officer to conduct the hearings.

19 (f) The personnel board may amend the proposed amendments.

20 (g) The proposed amendments become effective 45 days after they
21 are submitted to the personnel board unless the board has disapproved
22 them.

23 (h) The amended rules shall be published in the Alaska Administra-
24 tive Register and Code for informational purposes.

25 * Sec. 13. AS 39.25.150 is repealed and reenacted to read:

26 Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall
27 provide for

28 (1) the preparation, maintenance, and revision by the direc-
29 tor of personnel, subject to approval of the commissioner of adminis-

1 tration and the personnel board, of a position classification plan for
2 all positions in the classified and partially exempt services; the
3 position classification plan shall include

4 (A) a grouping together of all positions into classes
5 on the basis of duties and responsibilities;

6 (B) an appropriate title, a description of the duties
7 and responsibilities, training and experience qualifications, and
8 other necessary specifications for each class of positions;

9 (2) the preparation, maintenance, revision and administra-
10 tion by the director of personnel of a pay plan for all positions in
11 the classified and partially exempt services; the pay plan (A) shall be
12 based upon the position classification plan; (B) shall provide for fair
13 and reasonable compensation for services rendered, and reflect the
14 principle of like pay for like work; (C) may be amended, approved, or
15 disapproved by the legislature in regular or special session; after the
16 pay plan is in effect, a salary or wage payment may not be made to a
17 state employee covered by the plan unless the payment is in accordance
18 with this chapter and the rules adopted under this chapter or unless
19 the payment is in accordance with a valid agreement entered into in
20 accordance with AS 23.40;

21 (3) the use of employee selection methods which will fairly
22 test the capacity and fitness of the person examined to discharge the
23 duties of the class in which employment is sought;

24 (4) the establishment and maintenance of eligible lists for
25 appointment and promotion providing the names of eligible candidates in
26 order of their relative performance in the examinations;

27 (5) the procedure for certifying eligible candidates;

28 (6) promotions from within the state service when there are
29 qualified candidates in the state service; vacancies shall be filled by

1 promotion whenever practicable and in the best interest of the state
2 service and promotion shall be by competitive examination whenever
3 possible; in considering promotions, applicants' qualifications, per-
4 formance record, seniority, and conduct shall be evaluated;

5 (7) a period of probation not to exceed one year before an
6 appointment to a position becomes permanent, except that a permanent
7 employee receiving a promotional appointment retains permanent status
8 in the service and job class from which appointed for the duration of
9 the probationary period and may be demoted to a former class without
10 right of appeal, notwithstanding AS 39.25.170, but if the employee is
11 dismissed from the service the appeal rights under AS 39.25.170 apply;

12 (8) nonpermanent and emergency appointments to positions in
13 the state service in accordance with AS 39.25.195 - 39.25.200;

14 (9) provisional appointment without competitive examination
15 when appropriate eligible lists are not available;

16 (10) transfers from one department to another and from an-
17 other merit system jurisdiction to the state service;

18 (11) transfers from one area of the state to another;

19 (12) the reinstatement of a person who resigns in good stand-
20 ing;

21 (13) layoffs for reason of lack of money or work, abolition
22 of positions, or material changes in duties or organization; both
23 performance and seniority records shall be considered in the develop-
24 ment of layoff orders;

25 (14) the development, maintenance, and use of employee perfor-
26 mance records;

27 (15) the establishment of disciplinary measures which may
28 include disciplinary suspension without pay;

29 (16) the procedures for review of disputed personnel actions,

1 for resolving employee and interagency grievances, and for resolving
2 grievances of the general public concerning the operation of the state
3 personnel system;

4 (17) hours of work for all employees in the state service;

5 (18) methods and procedures covering overtime work and pay;

6 (19) the granting of employment preference rights to a veteran
7 not within the area of promotion, when the veteran possesses the neces-
8 sary qualifications in the job classification applied for under this
9 chapter; in an examination to determine the qualification of applicants
10 for entrance into the classified service under merit system examination,
11 five additional points shall be added to the passing grade of a veteran
12 and ten additional points shall be added to the passing grade of a
13 disabled veteran, but the additional points may be used only the first
14 time the veteran obtains a position in the classified service; if a
15 position in the classified service is eliminated, employees shall be
16 released in accordance with rules which give due effect to all factors;
17 if all job qualifications are equal, the veteran shall be given pref-
18 erence over the nonveteran and the veteran shall be kept on the job;
19 this paragraph may not be interpreted to amend the terms of a collective
20 bargaining agreement; in this paragraph

21 (A) "veteran" means a person with 181 days or more
22 active service in the armed forces of the United States who has
23 been honorably discharged after having served during any period
24 between April 6, 1917, and December 1, 1919, between September 16,
25 1940, and December 31, 1947, or between June 27, 1950, and
26 November 7, 1975;

27 (B) "disabled veteran" means a veteran who is entitled
28 to compensation under laws administered by the United States
29 Veterans' Administration, or a person who was honorably discharged

1 or released from active duty because of a service-connected dis-
2 ability;

3 (20) the employment of persons in permanent positions on a
4 part-time basis of 15 hours or more a week, including the employment of
5 two persons to fill one permanent full-time position; these employees
6 shall be designated as permanent part-time employees;

7 (21) the granting of employment preference to severely handi-
8 capped persons; this includes the right to provisional appointment
9 without competitive examination for periods up to four months and the
10 granting of eligibility to a severely handicapped person provisionally
11 appointed under the rules who demonstrates ability to perform the job
12 for permanent appointment without competitive examination; provisional
13 employment under this paragraph may not exceed four months during a
14 12-month period; "severely handicapped" as used in this paragraph means
15 persons certified by the director of the division of vocational reha-
16 bilitation to be severely handicapped;

17 (22) the establishment of programs facilitating the employ-
18 ment of disadvantaged persons, including limitation of competition for
19 appointment and promotion to individuals who meet the program require-
20 ments;

21 (23) the delegation, when feasible, of personnel responsibil-
22 ities and duties to the principal departments of the executive branch;

23 (24) the establishment of a transition period of up to 12
24 months for an employee to be reappointed to a classified position if
25 the employee's position is withdrawn from the partially exempt or
26 exempt service and placed in the classified service;

27 (25) other rules and administrative regulations, not incon-
28 sistent with this chapter, which are necessary for its enforcement.

29 * Sec. 14. AS 39.25.153 is repealed and reenacted to read:

1 Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal depart-
2 ment of the executive branch has a personnel officer, the personnel
3 officer shall be employed by and located within that department.

4 (b) Subject to the provisions of (d) of this section, the per-
5 sonnel officers for the Departments of Transportation and Public Facili-
6 ties, Fish and Game, Education, Labor, and Health and Social Services,
7 have the following powers with respect to the classes of positions
8 unique to their departments:

9 (1) to assign positions to an existing class in the state
10 classification plan and to the salary range for that class as estab-
11 lished by the state pay plan or by a valid agreement entered into in
12 accordance with AS 23.40;

13 (2) to administer and score examinations and to place suc-
14 cessful applicants on departmental eligible lists;

15 (3) to certify those eligible to the appointing authorities.

16 (c) The initial determination of classes of positions unique to
17 the departments listed in (b) of this section shall be made by the
18 personnel officer of the department in consultation with the commis-
19 sioner of his department subject to the approval of the director of
20 personnel in the Department of Administration.

21 (d) The assumption of a power set out in (b) of this section must
22 be approved by the commissioner of administration and must be in harmony
23 with the merit principle of personnel administration (AS 39.25.010).

24 * Sec. 15. AS 39.25.160 is repealed and reenacted to read:

25 Sec. 39.25.160. GENERALLY. (a) A classified employee may not
26 take an active part in the management of a political party above the
27 precinct level.

28 (b) A person may not give, render, pay, offer, solicit, or accept
29 money, services, or other valuable thing in connection with securing or

1 making an appointment, promotion, or advantage in a position in the
2 classified service.

3 (c) A person may not require an assessment, subscription, contri-
4 bution, or service for a political party from a state employee.

5 (d) A person may not seek or attempt to use a political party
6 endorsement in connection with an appointment or promotion in the
7 classified service.

8 (e) An employee in the classified or partially exempt service who
9 seeks nomination or becomes a candidate for state or national elective
10 political office shall immediately resign any position held in the
11 state service. The employee's position becomes vacant on the date the
12 employee files a declaration of candidacy for state or national elective
13 office.

14 (f) Action affecting the employment status of a state employee or
15 an applicant for state service, including appointment, promotion, demo-
16 tion, suspension, or removal, may not be taken or withheld on the basis
17 of unlawful discrimination due to race, religion, color, or national
18 origin, age, handicap, sex, marital status, change in marital status,
19 pregnancy, or parenthood. In addition, action affecting the employment
20 status of an employee in the classified service, including appointment,
21 promotion, demotion, suspension, or removal, may not be taken or with-
22 held for a reason not related to merit.

23 (g) Action affecting the employment status of an employee in the
24 classified service or an applicant for a position in the classified
25 service, including appointment, promotion, demotion, suspension, or
26 removal, may not be taken or withheld on the basis of unlawful discrim-
27 ination due to political beliefs.

28 (h) A person may not knowingly make a false statement, certifi-
29 cate, mark, rating, or report with regard to a test, certification, or

1 appointment made under this chapter or in any manner commit a fraud
2 preventing the impartial execution of this chapter and the personnel
3 rules adopted under this chapter.

4 (i) A person may not obstruct the right of another person to
5 examination, eligibility, certification, appointment, or promotion
6 under this chapter.

7 * Sec. 16. AS 39.25.170 is repealed and reenacted to read:

8 Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR
9 SUSPENSION. (a) An employee in the executive branch of state govern-
10 ment may be dismissed, demoted, or suspended by delivery of written
11 notice of the proposed action and the reason for it from the appointing
12 authority to the employee.

13 (b) A permanent employee in the classified service who has been
14 dismissed, demoted, or suspended may appeal the action to the personnel
15 board.

16 (c) An employee in the executive branch of state government who
17 has been dismissed, demoted, or suspended due to unlawful discrimination
18 based on race, religion, color, or national origin, or because of age,
19 handicap, sex, marital status, change in marital status, pregnancy, or
20 parenthood may appeal the action to the personnel board.

21 (d) An employee in the classified service who has been dismissed,
22 demoted, or suspended due to unlawful discrimination based on political
23 beliefs may appeal the action to the personnel board.

24 (e) A permanent employee in the classified service who holds
25 probationary status in his present position may appeal a dismissal
26 from the classified service to the personnel board.

27 (f) An employee who is on leave without pay from a position
28 in the classified service and who is employed by the state in an-
29 other capacity, either in the exempt or partially exempt service,

1 may appeal a dismissal from the classified service to the personnel
2 board.

3 (g) An employee begins an appeal by filing a written request
4 for review of the action with the personnel board within 15 days of
5 receiving written notice of the action from the appointing authority.

6 (h) If requested by the employee at the time of filing an appeal,
7 the personnel board shall hold a hearing to determine the reasonable-
8 ness of the the action taken by the appointing authority. If the
9 employee requests it, the hearing shall be open to the public. The
10 employee may be represented by another person and has the right to
11 present evidence, and to confront and cross-examine witnesses. Techni-
12 cal rules of evidence do not apply to the hearing, but all testimony
13 shall be taken under oath.

14 (i) If the personnel board finds that the action complained of
15 was due to unlawful discrimination based on race, sex, color, religion,
16 national origin, age, handicap, marital status, change in marital
17 status, pregnancy, or parenthood, or in violation of the provisions of
18 this chapter or the personnel rules, the employee shall be reinstated
19 to the position without loss of pay or leave benefit for the period of
20 dismissal, demotion, or suspension. In addition, if the personnel
21 board finds that the action complained of by an employee in the classi-
22 fied service was due to unlawful discrimination based on a political
23 belief or any other reason related to merit the employee shall be
24 reinstated to the position without loss of pay or leave benefit for the
25 period of dismissal, demotion, or suspension. In all other cases, the
26 board shall report its findings and recommendations in writing, to both
27 parties within 30 days of a hearing conducted under (h) of this section,
28 and the decision of the board may be appealed to the superior court.

29
* Sec. 17. AS 39.25 is amended by adding a new section to read:

1 Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at
2 the request of a party to a proceeding begun under AS 39.25.170.

3 (b) If a person refuses to respond to a subpoena issued under
4 this section, or refuses to testify at a hearing authorized by AS 39.-
5 25.170, the personnel board may apply to the superior court for an
6 order requiring the person to respond to the subpoena or to testify.

7 (c) Failure to obey the order of the superior court requiring
8 response to a subpoena or testimony at a hearing may be punished as
9 contempt of court.

10 * Sec. 18. AS 39.25 is amended by adding a new section to read:

11 Sec. 39.25.181. DEFINITIONS. In this chapter,

12 (1) "fraud" means for a person to knowingly

13 (A) create or confirm another's false impression which
14 the person does not believe to be true, including false impres-
15 sions as to law or value and false impressions as to intention or
16 other state of mind;

17 (B) fail to correct another's false impression which
18 the person previously has created or confirmed;

19 (C) prevent another from acquiring pertinent informa-
20 tion;

21 (2) "knowingly" means for a person to be aware with respect
22 to conduct or to a circumstance described by a provision of law that
23 his conduct is of that nature or that the circumstance exists; when
24 knowledge of the existence of a particular fact is required, that know-
25 ledge is established if a person is aware of a substantial probability
26 of its existence, unless he actually believes it does not exist;

27 (3) "precinct" means the territory within which resident
28 voters may cast votes at one polling place;

29 (4) "state employee" means a person employed by the state

1 who is paid a wage or salary, but does not include a person hired by
2 the state to work as an independent contractor or a person who is in
3 the custody of the state.

4 * Sec. 19. AS 39.25 is amended by adding a new section to article 6 to
5 read:

6 Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

7 (1) be a member of a national, state, or local political
8 party;

9 (2) take part in a political campaign;

10 (3) express political opinions except while performing
11 official duties;

12 (4) register party preference;

13 (5) serve as a voting or nonvoting delegate to a party con-
14 vention;

15 (6) be appointed, nominated, or elected to nonpartisan
16 public office in a local government unit; and

17 (7) make contributions to a political party or a candidate
18 for public office.

19 * Sec. 20. AS 39.25.180 is repealed.

20 * Sec. 21. This Act takes effect July 1, 1982.
21
22
23
24
25
26
27
28
29

COMMITTEE REPORT

HOUSE

FURTHER:

(11)

5/17/82

Date:

5/19/82

Mr. Speaker:

The Committee on Finance has had CSSB 193 (Jud) am

"An Act amending state personnel laws; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with ^HCS for CSSB 193 (Jud) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note (FY) 8
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House CS for CS for Senate Bill No. 193 (Judiciary)
Title An Act amending state personnel laws; effective date
Requested by _____ Date 5/18/82

II. FISCAL DETAIL

Agency Affected Administration
Program Category Affected Personnel
BRU, Program, Or Subprogram(s) Affected Personnel, Personnel Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		42.2	22.6	24.2	25.8	27.7
200 TRAVEL		2.8	1.6	1.8	1.9	2.1
300 CONTRACTUAL		26.2				
400 COMMODITIES		.6	.6	.7	.8	.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		71.8	24.8	26.7	28.5	30.6

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		71.8	24.8	26.7	28.5	30.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		1	0	0	0	0
PART TIME		0	1	1	1	1
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Sections 11, 12 and 13 of HCS CSSB 913 (Jud) provides the procedures for adoption of amendments to the Personnel Rules. New publication requirements, mandatory publication in the Alaska Administrative Register and Code, and optional public hearings are provided. HCS CSSB 193 (Jud) makes several minor changes to the Personnel Act that will require amending the Personnel Rules. The major costs for FY 83 are:

- 1) contracting with the Department of Law for an attorney for four months to:

- rewrite the current Personnel Rules to AAC standards
- draft amendments incorporating changes in the Personnel Act

IV. DATE 5/18/82

PREPARED BY

Michael P. McMullen
Michael P. McMullen

AGENCY Administration - Division of Personnel

PHONE 465-4430

Original: Legislative Finance
cc: Budget and Management

Prime Sponsor (First Legislator Named) Senator Ray

33-001 (Rev. 12/81) Office of the Governor: Keith Specking

FICAL NOTE continued

- modify amendments based on hearings
- file the amended rules with the Lt. Governor
- compile a Personnel Act - Personnel Rules cross-reference
- identify forms needing revision to reference the appropriate AAC provisions instead of the former rule
- Revise Administrative Manual and Operating Procedures to properly reference revised Personnel rules

(\$19.2 Thous.)

- 2) Personal Services to employ Regulations Specialist to revise existing procedures, manuals, forms and letters to properly cite revised Personnel rules. Position would be half-time after first year.

(\$42.2 Thous.)

- 3) travel and per diem for attorney and the Personnel Board for two hearings to adopt the rules and amendments under AAC standards.

(\$2.8 Thous.)

- 4) public notice of the hearings and proposed amendments.

(\$.6 Thous.)

- 5) typing of drafts, revision and filing version.

(\$2.0 Thous.)

- 6) printing of forms incorporating AAC references.

(\$1.0 Thous.)

In subsequent years, one two-day hearing by the Personnel Board to adopt amendments is budgeted. Travel is inflated 10% annually and public notice costs at 8%. Personal Services inflated at 7% per year.

Section 14 of HCS CSSB 193 (Jud) contains a significant change in the definition and preference accorded to veterans. In addition to the need to amend the Personnel Rules accordingly, there is a need to incorporate the new provision in the automated Applicant Tracking System. This one time contractual service cost is estimated at \$4 thousand.

1 (7) employ staff members, who shall be in the classified
2 service.

3 * Sec. 5. AS 39.25.080 is repealed and reenacted to read:

4 Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records,
5 including employment applications and examination materials, are confi-
6 dential and are not open to public inspection except as provided in
7 this section.

8 (b) The following information is available for public inspection,
9 subject to reasonable regulations on the time and manner of inspection:

10 (1) the names and position titles of all state employees;

11 (2) the position held by a state employee;

12 (3) prior positions held by a state employee;

13 (4) whether a state employee is in the classified, partially
14 exempt, or exempt service;

15 (5) the dates of appointment and separation of a state em-
16 ployee; and

17 (6) the compensation authorized for a state employee.

18 (c) A state employee has the right to examine his own personnel
19 files and may authorize others to examine his files.

20 (d) An applicant for state employment who appeals an examination
21 score may review written examination questions relating to the examina-
22 tion unless the questions are to be used in future examinations.

23 * Sec. 6. AS 39.25.090 is amended to read:

24 Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules
25 adopted under it apply to all positions in (1) the classified service,
26 and (2) the exempt and partially exempt service as specifically pro-
27 vided.

28 * Sec. 7. AS 39.25.110 is repealed and reenacted to read:

29 Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by

Original sponsor: Rules/Legislative Council

Offered: 5/17 /82
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 193 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending state personnel laws; and providing
7 for an effective date."

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

9 * Section 1. AS 39.25.040 is amended to read:

10 Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division
11 of personnel is the director of personnel appointed by the commissioner
12 of administration and responsible to the commissioner of administration
13 for the execution of the duties and responsibilities imposed by this
14 chapter and the rules adopted under this chapter. The director of
15 personnel shall [MUST] have at least three years of practical working
16 experience in the field of personnel administration.

17 * Sec. 2. AS 39.25.060(b) is amended to read:

18 (b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS
19 OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not
20 more than two members of the board may be members of the same political
21 party.

22 * Sec. 3. AS 39.25.070(1) is amended to read:

23 (1) approve or disapprove amendments to the personnel rules
24 in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM
25 WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DIS-
26 APPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE
27 BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD
28 THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

29 * Sec. 4. AS 39.25.070 is amended by adding a new paragraph to read:

1 (D) Alaska Industrial Development Authority;
2 (E) Alaska Commercial Fisheries Entry Commission;
3 (F) Alaska Commission on Postsecondary Education;
4 (G) Employees of the Citizens' Advisory Commission
5 on Federal Areas in Alaska (AS 41.37.010);

6 (12) the executive secretary and legal counsel of the Alaska
7 Municipal Bond Bank Authority;

8 (13) licensed physicians, as defined in AS 47.30.340(9)
9 employed by the state;

10 (14) petroleum engineers and petroleum geologists employed in
11 a professional capacity by the Department of Natural Resources and by
12 the Oil and Gas Conservation Commission; except for those employed in
13 the division of geological and geophysical surveys in the Department of
14 Natural Resources;

15 (15) officers, agents, and employees of the Alcoholic Beverage
16 Control Board granted limited peace officer powers by the Alcoholic
17 Beverage Control Board under AS 04.06.110;

18 (16) persons employed by the division of marine transporta-
19 tion as masters and members of the crews of vessels who operate the
20 state ferry system and who are covered by a collective bargaining
21 agreement provided in AS 23.40.040;

22 (17) officers and employees of the state who reside in
23 foreign countries;

24 (18) employees of the Alaska Seafood Marketing Insti-
25 tute;

26 (19) firefighters employed by the Department of Natural
27 Resources for a fire emergency;

28 (20) employees of the Office of the Governor and the office
29 of the lieutenant governor, including the staff of the governor's

1 law, the following positions in the state service constitute the exempt
2 service and are exempt from the provisions of this chapter and the
3 rules adopted under it:

4 (1) persons elected to public office by popular vote or
5 appointed to fill vacancies in elected offices;

6 (2) justices, judges, magistrates, and employees of the
7 judicial branch including employees of the Judicial Council;

8 (3) employees of the state legislature and its agencies;

9 (4) the head of each principal department in the executive
10 branch;

11 (5) officers and employees of the University of Alaska;

12 (6) certificated teachers and noncertificated employees
13 employed by a regional educational attendance area established and
14 organized under AS 14.08.031 - 14.08.041 to teach in, administer, or
15 operate schools under the control of a regional educational attendance
16 area school board;

17 (7) certificated teachers employed by the Department of
18 Education as correspondence teachers or teachers in skill centers
19 operated by the Department of Education;

20 (8) patients and inmates employed in state institutions;

21 (9) persons employed in a professional capacity to make a
22 temporary or special inquiry, study or examination as authorized by the
23 governor;

24 (10) members of boards, commissions, or authorities;

25 (11) the officers and employees of the following boards,
26 commissions and authorities:

27 (A) Alaska Gas Pipeline Financing Authority;

28 (B) Alaska Permanent Fund Corporation;

29 (C) Alaska Energy Center;

1 (7) the director, deputy director, staff legal counsel, and
2 hearing officers of the Alaska Transportation Commission;

3 (8) not more than two special assistants to the commissioner
4 of each of the principal departments of the executive branch, but the
5 number may be increased if the partially exempt service is extended
6 under AS 39.25.130 to include the additional special assistants;

7 (9) the principal executive officer of the following boards,
8 councils, or commissions:

9 (A) Alaska Public Broadcasting Commission;

10 (B) Professional Teaching Practices Commission;

11 (C) Parole Board;

12 (D) Board of Nursing;

13 (E) Real Estate Commission;

14 (F) Alaska Royalty Oil and Gas Development Advisory

15 Board;

16 (G) Alaska Historical Commission;

17 (H) Alaska State Council on the Arts;

18 (I) Alaska Police Standards Council;

19 (J) Council on Science and Technology;

20 (K) Older Alaskans Commission;

21 (10) Alaska Pioneers' Home managers;

22 (11) hearing examiners in the Department of Revenue;

23 (12) the comptroller in the division of treasury, Department
24 of Revenue;

25 (13) investment officers in the Department of Revenue;

26 (14) airport managers in the Department of Transportation and
27 Public Facilities employed at the Anchorage and Fairbanks International
28 Airports;

29 (15) the deputy director of the division of tourism and the

1 mansion.

2 * Sec. 8. AS 39.25.120 is repealed and reenacted to read:

3 Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the
4 partially exempt service are included in the position classification
5 plan established under this chapter and are compensated according to
6 the pay plan (AS 39.27.011).

7 (b) A person holding a position in the partially exempt service
8 is not required to take an examination or qualify or earn a place on a
9 register, and is not eligible for a hearing by the personnel board in
10 case of dismissal, demotion, or suspension. Positions in the partially
11 exempt service are specifically exempt from the rules established under
12 AS 39.25.150(3) - (10), (13), (14), and (17).

13 (c) The following positions in the state service constitute the
14 partially exempt service:

15 (1) deputy and assistant commissioners of the principal
16 departments of the executive branch, including the assistant adjutant
17 general of the Department of Military Affairs;

18 (2) the directors of the major divisions of the principal
19 departments of the executive branch and the regional directors of the
20 Department of Transportation and Public Facilities;

21 (3) attorney members of the staff of the Department of Law
22 and of the public defender agency;

23 (4) one private secretary for each head of a principal de-
24 partment in the executive branch;

25 (5) employees of councils, boards, or commissions established
26 by statute in the Office of the Governor or the office of the lieutenant
27 governor, unless a different classification is provided by statute;

28 (6) the executive director and deputy director of the Alaska
29 Public Utilities Commission;

1 (3) mailed to each person or group that filed a request for
2 notice of proposed action with the secretary to the personnel board;

3 (4) furnished to each member of the legislature and to the
4 Legislative Affairs Agency.

5 * Sec. 12. AS 39.25.140(e) is amended to read:

6 (e) The rules adopted under this chapter relate to the internal
7 management of state agencies and their adoption is not subject to the
8 Administrative Procedure Act. The rules shall [MAY] be published in the
9 Alaska Administrative Register and Code for informational purposes.

10 * Sec. 13. AS 39.25.140 is amended by adding new subsections to read:

11 (f) Failure to mail notice to a person as required in this section
12 does not invalidate an action taken by the personnel board.

13 (g) An amendment to the personnel rules takes effect 30 days after
14 it is approved by the personnel board. The board, if requested to do
15 so, may hold a public hearing on a proposed amendment.

16 * Sec. 14. AS 39.25.150 is repealed and reenacted to read:

17 Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall
18 provide for

19 (1) the preparation, maintenance, and revision by the direc-
20 tor of personnel, subject to approval of the commissioner of adminis-
21 tration and the personnel board, of a position classification plan for
22 all positions in the classified and partially exempt services; the
23 position classification plan shall include

24 (A) a grouping together of all positions into classes on
25 the basis of duties and responsibilities;

26 (B) an appropriate title, a description of the duties
27 and responsibilities, training and experience qualifications, and
28 other necessary specifications for each class of positions;

29 (2) the preparation, maintenance, revision and administration

1 deputy director of the division of insurance in the Department of Com-
2 merce and Economic Development;

3 (16) the executive director and staff of the Alaska Public
4 Offices Commission.

5 * Sec. 9. AS 39.25.130(a) is amended to read:

6 (a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
7 recommendation of the commissioner of administration, may extend the
8 partially exempt service to include any position [WHICH WAS] in the
9 classified service [ON APRIL 19, 1960,] which, in the judgment of the
10 board:

11 (1) involves principal responsibility for the determination
12 of policy;

13 (2) involves principal responsibility for the way in which
14 policies are carried out; or

15 (3) involves responsibilities and duties of a type not sus-
16 ceptible to the ordinary recruiting and examining procedures.

17 * Sec. 10. AS 39.25.130(c) is amended to read:

18 (c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
19 recommendation of the commissioner of administration, may extend the
20 classified service to include any position [WHICH WAS] in the partially
21 exempt service [ON APRIL 19, 1960].

22 * Sec. 11. AS 39.25.140(c) is repealed and reenacted to read:

23 (c) At least 30 days before the adoption, amendment, or repeal of
24 a personnel rule, the secretary to the personnel board shall provide
25 notice that the personnel board has the proposed action under considera-
26 tion. The notice shall be

27 (1) posted in public buildings throughout the state;

28 (2) published in one or more newspapers of general circulation
29 throughout the state;

1 employee receiving a promotional appointment retains permanent status in
2 the service and job class from which appointed for the duration of the
3 probationary period and may be demoted to a former class without right
4 of appeal, notwithstanding AS 39.25.170, but if the employee is dismissed
5 from the service the appeal rights under AS 39.25.170 apply;

6 (8) nonpermanent and emergency appointments to positions in
7 the state service in accordance with AS 39.25.195 - 39.25.200;

8 (9) provisional appointment without competitive examination
9 when appropriate eligible lists are not available;

10 (10) transfers from one department to another and from another
11 merit system jurisdiction to the state service;

12 (11) transfers from one area of the state to another;

13 (12) the reinstatement of a person who resigns in good stand-
14 ing;

15 (13) layoffs for reason of lack of money or work, abolition
16 of positions, or material changes in duties or organization; both
17 performance and seniority records shall be considered in the develop-
18 ment of layoff orders;

19 (14) the development, maintenance, and use of employee perfor-
20 mance records;

21 (15) the establishment of disciplinary measures which may
22 include disciplinary suspension without pay;

23 (16) the procedures for review of disputed personnel actions,
24 for resolving employee and interagency grievances, and for resolving
25 grievances of the general public concerning the operation of the state
26 personnel system;

27 (17) hours of work for all employees in the state service;

28 (18) methods and procedures covering overtime work and
29 pay;

1 by the director of personnel of a pay plan for all positions in the
2 classified and partially exempt services; the pay plan (A) shall be
3 based upon the position classification plan; (B) shall provide for fair
4 and reasonable compensation for services rendered, and reflect the
5 principle of like pay for like work; (C) may be amended, approved, or
6 disapproved by the legislature in regular or special session; after the
7 pay plan is in effect, a salary or wage payment may not be made to a
8 state employee covered by the plan unless the payment is in accordance
9 with this chapter and the rules adopted under this chapter or unless the
10 payment is in accordance with a valid agreement entered into in accor-
11 dance with AS 23.40;

12 (3) the use of employee selection methods, including open
13 competitive examinations, when appropriate, that will fairly test the
14 capacity and fitness of the person examined to discharge the duties of
15 the class in which employment is sought;

16 (4) the establishment and maintenance of eligible lists for
17 appointment and promotion providing the names of eligible candidates in
18 order of their relative performance in the examinations;

19 (5) the procedure for certifying eligible candidates; the
20 rule adopted under this paragraph may include procedures providing a
21 preference for certifying local residents when appropriate;

22 (6) promotions from within the state service when there are
23 qualified candidates in the state service; vacancies shall be filled by
24 promotion whenever practicable and in the best interest of the state
25 service and promotion shall be by competitive examination whenever
26 possible; in considering promotions, applicants' qualifications, per-
27 formance record, seniority, and conduct shall be evaluated;

28 (7) a period of probation not to exceed one year before an
29 appointment to a position becomes permanent, except that a permanent

1 shall be designated as permanent part-time employees;

2 (21) the granting of employment preference to severely handi-
3 capped persons; this includes the right to provisional appointment
4 without competitive examination for periods up to four months and the
5 granting of eligibility to a severely handicapped person provisionally
6 appointed under the rules who demonstrates ability to perform the job
7 for permanent appointment without competitive examination; provisional
8 employment under this paragraph may not exceed four months during a
9 12-month period; "severely handicapped" as used in this paragraph means
10 persons certified by the director of the division of vocational reha-
11 bilitation to be severely handicapped;

12 (22) the establishment of programs facilitating the employment
13 of disadvantaged persons;

14 (23) the delegation, when feasible, of personnel responsibil-
15 ities and duties to the principal departments of the executive branch;

16 (24) the establishment of a transition period of up to 12
17 months for an employee to be reappointed to a classified position if the
18 employee's position is withdrawn from the partially exempt or
19 exempt service and placed in the classified service;

20 (25) other rules and administrative regulations, not incon-
21 sistent with this chapter, which are necessary for its enforcement.

22 * Sec. 15. AS 39.25.153 is repealed and reenacted to read:

23 Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal depart-
24 ment of the executive branch has a personnel officer, the personnel
25 officer shall be employed by and located within that department.

26 (b) Subject to the provisions of (a) of this section, the per-
27 sonnel officers for the Departments of Transportation and Public Facili-
28 ties, Fish and Game, Education, Labor, and Health and Social Services,
29 have the following powers with respect to the classes of positions

1 (19) the granting of employment preference rights to a veteran
2 not within the area of promotion, when the veteran possesses the neces-
3 sary qualifications in the job classification applied for under this
4 chapter; in an examination to determine the qualification of applicants
5 for entrance into the classified service under merit system examination,
6 five additional points shall be added to the passing grade of a veteran
7 and ten additional points shall be added to the passing grade of a
8 disabled veteran, but the additional points may be used only the first
9 time the veteran obtains a position in the classified service; if a
10 position in the classified service is eliminated, employees shall be
11 released in accordance with rules which give due effect to all factors;
12 if all job qualifications are equal, the veteran shall be given pref-
13 erence over the nonveteran and the veteran shall be kept on the job;
14 this paragraph may not be interpreted to amend the terms of a collective
15 bargaining agreement; in this paragraph

16 (A) "veteran" means a person with 181 days or more
17 active service in the armed forces of the United States who has
18 been honorably discharged after having served during any period
19 between April 6, 1917, and December 1, 1919, between September 16,
20 1940, and December 31, 1947, or between June 27, 1950, and
21 November 7, 1975;

22 (B) "disabled veteran" means a veteran who is entitled
23 to compensation under laws administered by the United States
24 Veterans' Administration, or a person who was honorably discharged
25 or released from active duty because of a service-connected dis-
26 ability;

27 (20) the employment of persons in permanent positions on a
28 part-time basis of 15 hours or more a week, including the employment of
29 two persons to fill one permanent full-time position; these employees

1 (e) An employee in the classified or partially exempt service who
2 seeks nomination or becomes a candidate for state or national elective
3 political office shall immediately resign any position held in the
4 state service. The employee's position becomes vacant on the date the
5 employee files a declaration of candidacy for state or national elective
6 office.

7 (f) Action affecting the employment status of a state employee or
8 an applicant for state service, including appointment, promotion, demo-
9 tion, suspension, or removal, may not be taken or withheld on the basis
10 of unlawful discrimination due to race, religion, color, or national
11 origin, age, handicap, sex, marital status, change in marital status,
12 pregnancy, or parenthood. In addition, action affecting the employment
13 status of an employee in the classified service, including appointment,
14 promotion, demotion, suspension, or removal, may not be taken or with-
15 held for a reason not related to merit.

16 (g) Action affecting the employment status of an employee in the
17 classified service or an applicant for a position in the classified
18 service, including appointment, promotion, demotion, suspension, or
19 removal, may not be taken or withheld on the basis of unlawful discrim-
20 ination due to political beliefs.

21 (h) A person may not knowingly make a false statement, certifi-
22 cate, mark, rating, or report with regard to a test, certification, or
23 appointment made under this chapter or in any manner commit a fraud
24 preventing the impartial execution of this chapter and the personnel
25 rules adopted under this chapter.

26 (i) A person may not obstruct the right of another person to
27 examination, eligibility, certification, appointment, or promotion
28 under this chapter.

29 * Sec. 17. AS 39.25 is amended by adding a new section to read:

1 unique to their departments:

2 (1) to assign positions to an existing class in the state
3 classification plan and to the salary range for that class as estab-
4 lished by the state pay plan or by a valid agreement entered into in
5 accordance with AS 23.40;

6 (2) to administer and score examinations and to place suc-
7 cessful applicants on departmental eligible lists;

8 (3) to certify those eligible to the appointing authorities.

9 (c) The initial determination of classes of positions unique to
10 the departments listed in (b) of this section shall be made by the
11 personnel officer of the department in consultation with the commis-
12 sioner of his department subject to the approval of the director of
13 personnel in the Department of Administration.

14 (d) The assumption of a power set out in (b) of this section must
15 be approved by the commissioner of administration and must be in harmony
16 with the merit principle of personnel administration (AS 39.25.010).

17 * Sec. 16. AS 39.25.160 is repealed and reenacted to read:

18 Sec. 39.25.160. GENERALLY. (a) A classified employee may not
19 take an active part in the management of a political party above the
20 precinct level.

21 (b) A person may not give, render, pay, offer, solicit, or accept
22 money, services, or other valuable thing in connection with securing or
23 making an appointment, promotion, or advantage in a position in the
24 classified service.

25 (c) A person may not require an assessment, subscription, contri-
26 bution, or service for a political party from a state employee.

27 (d) A person may not seek or attempt to use a political party
28 endorsement in connection with an appointment or promotion in the
29 classified service.

1 the state to work as an independent contractor or a person who is in
2 the custody of the state.

3 * Sec. 19. AS 39.25 is amended by adding a new section to article 6 to

4 read:

5 Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

6 (1) be a member of a national, state, or local political
7 party;

8 (2) take part in a political campaign;

9 (3) express political opinions; however, while engaged on
10 official business, a state employee may not display or distribute
11 partisan political material;

12 (4) register party preference;

13 (5) serve as a voting or nonvoting delegate to a party con-
14 vention;

15 (6) be appointed, nominated, or elected to nonpartisan
16 public office in a local government unit; and

17 (7) make contributions to a political party or a candidate
18 for public office.

19 * Sec. 20. AS 39.25.180 is repealed.

20 * Sec. 21. This Act takes effect July 1, 1982.

1 Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at
2 the request of a party to a proceeding begun under AS 39.25.170.

3 (b) If a person refuses to respond to a subpoena issued under
4 this section, or refuses to testify at a hearing authorized by AS 39.-
5 25.170, the personnel board may apply to the superior court for an
6 order requiring the person to respond to the subpoena or to testify.

7 (c) Failure to obey the order of the superior court requiring
8 response to a subpoena or testimony at a hearing may be punished as
9 contempt of court.

10 * Sec. 18. AS 39.25 is amended by adding a new section to read:

11 Sec. 39.25.181. DEFINITIONS. In this chapter,

12 (1) "fraud" means for a person to knowingly

13 (A) create or confirm another's false impression which
14 the person does not believe to be true, including false impres-
15 sions as to law or value and false impressions as to intention or
16 other state of mind;

17 (B) fail to correct another's false impression which
18 the person previously has created or confirmed;

19 (C) prevent another from acquiring pertinent information;

20 (2) "knowingly" means for a person to be aware with respect
21 to conduct or to a circumstance described by a provision of law that
22 his conduct is of that nature or that the circumstance exists; when
23 knowledge of the existence of a particular fact is required, that know-
24 ledge is established if a person is aware of a substantial probability
25 of its existence, unless he actually believes it does not exist;

26 (3) "precinct" means the territory within which resident
27 voters may cast votes at one polling place;

28 (4) "state employee" means a person employed by the state
29 who is paid a wage or salary, but does not include a person hired by

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House CS for CS for Senate Bill No. 193 (Judiciary)
Title An Act amending state personnel laws; effective date
Requested by _____ Date 5/18/82

II. FISCAL DETAIL

Agency Affected Administration
Program Category Affected Personnel
BRU, Program, Or Subprogram(s) Affected Personnel, Personnel Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		42.2	22.6	24.2	25.8	27.7
200 TRAVEL		2.8	1.6	1.8	1.9	2.1
300 CONTRACTUAL		26.2				
400 COMMODITIES		.6	.6	.7	.8	.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		71.8	24.8	26.7	28.5	30.6

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		71.8	24.8	26.7	28.5	30.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		1	0	0	0	0
PART TIME		0	1	1	1	1
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Sections 11, 12 and 13 of HCS CSSB 913 (Jud) provides the procedures for adoption of amendments to the Personnel Rules. New publication requirements, mandatory publication in the Alaska Administrative Register and Code, and optional public hearings are provided. HCS CSSB 193 (Jud) makes several minor changes to the Personnel Act that will require amending the Personnel Rules. The major costs for FY 83 are:

- 1) contracting with the Department of Law for an attorney for four months to:
 - rewrite the current Personnel Rules to AAC standards
 - draft amendments incorporating changes in the Personnel Act

IV. DATE 5/18/82

PREPARED BY Michael P. McMullen
AGENCY Administration - Division of Personnel
PHONE 465-4430

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) Senator Ray
33-001 (Rev. 12/81) Office of the Governor: Keith Specking

FICAL NOTE continued

- modify amendments based on hearings
- file the amended rules with the Lt. Governor
- compile a Personnel Act - Personnel Rules cross-reference
- identify forms needing revision to reference the appropriate AAC provisions instead of the former rule
- Revise Administrative Manual and Operating Procedures to properly reference revised Personnel rules

(\$19.2 Thous.)

- 2) Personal Services to employ Regulations Specialist to revise existing procedures, manuals, forms and letters to properly cite revised Personnel rules. Position would be half-time after first year.

(\$42.2 Thous.)

- 3) travel and per diem for attorney and the Personnel Board for two hearings to adopt the rules and amendments under AAC standards.

(\$2.8 Thous.)

- 4) public notice of the hearings and proposed amendments.

(\$.6 Thous.)

- 5) typing of drafts, revision and filing version.

(\$2.0 Thous.)

- 6) printing of forms incorporating AAC references.

(\$1.0 Thous.)

In subsequent years, one two-day hearing by the Personnel Board to adopt amendments is budgeted. Travel is inflated 10% annually and public notice costs at 8%. Personal Services inflated at 7% per year.

Section 14 of HCS CSSB 193 (Jud) contains a significant change in the definition and preference accorded to veterans. In addition to the need to amend the Personnel Rules accordingly, there is a need to incorporate the new provision in the automated Applicant Tracking System. This one time contractual service cost is estimated at \$4 thousand.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS SB 193 (Jud)
Title An Act amending state personnel laws; and an effective date
Requested by _____ Date 04-16-82

II. FISCAL DETAIL

Agency Affected Administration
Program Category Affected Personnel
BRU, Program, Or Subprogram(s) Affected Personnel, Personnel Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		42.2	22.6	24.2	25.8	27.7
200 TRAVEL		7.6	6.9	7.5	8.3	9.1
300 CONTRACTUAL		26.2				
400 COMMODITIES		.6	.6	.7	.8	.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		76.6	30.1	32.4	35.7	37.6

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		76.6	30.1	32.4	35.7	37.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		1	0	0	0	0
PART TIME		0	1	1	1	1
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Section 12 of CS SB 913 (Jud) am provides for adoption of amendments to the Personnel Rules that concern public policy under the Administrative Procedures Act, and for amended Rules (including those not concerning public policy) to be published in the Alaska Administrative Register and Code. CS SB 193 (Jud) am makes several minor changes to the Personnel Act that will require amending the Personnel Rules. The major costs for FY 83 are:

- 1) contracting with the Department of Law for an attorney for four months to:
 - rewrite the current Personnel Rules to AAC standards
 - draft amendments incorporating changes in the Personnel Act

IV. DATE 04-16-82 PREPARED BY Michael P. McMullen
AGENCY Administration - Division of Personnel
Original: Legislative Finance PHONE 465-4430
cc: Budget and Management
Prime Sponsor (First Legislator Named) Sn. Ray
33-001 (Rev. 12/81) Office of the Governor: Keith Specking

FICAL NOTE continued

- modify amendments based on hearings
 - file the amended rules with the Lt. Governor
 - compile a Personnel Act - Personnel Rules cross-reference
 - identify forms needing revision to reference the appropriate AAC provisions instead of the former rule
 - Revise Administrative Manual and Operating Procedures to properly reference revised Personnel rules
- (\$19.2 Thous.)
- 2) Personal Services to employ Regulations Specialist to revise existing procedures, manuals, forms and letters to properly cite revised Personnel rules. Position would be half-time after first year. (\$42.2 Thous.)
- 3) travel and per diem for attorney and the Personnel Board for two hearings to adopt the rules and amendments as Code. (\$2.8 Thous.)
- 4) public notice of the hearings and proposed amendments. (\$.6 Thous.)
- 5) typing of drafts, revision and filing version. (\$2.0 Thous.)
- 6) printing of forms incorporating AAC references. (\$1.0 Thous.)

In subsequent years, one two-day hearings by the Personnel Board to adopt amendments is budgeted. Travel is inflated 10% annually and public notice costs at 8%. Personal Services inflated at 7% per year.

Section 13 of CS SB 193 (Jud) am contains a significant change in the definition and preference accorded to veterans. In addition to the need to amend the Personnel Rules accordingly, there is a need to incorporate the new provision in the automated Applicant Tracking System. This one time contractual service cost is estimated at \$4 thousand.

Section 16 of CS SB 193 (Jud) am duplicates AS 18.80 providing hearing and appeal rights to partially exempt and exempt employees of the Executive Branch for actions allegedly in violation of the employees' Civil Rights. It is assumed that these employees will file appeals in the same proportion to their numbers as other executive branch employees file complaints under AS 18.80 for the same actions. Each will require a two day hearing before the Personnel Board. Travel and per diem costs for FY 83 are \$4.8 thousand. They are inflated 10% annually. On this basis, four complaints per year are projected. Each complaint will require two days of Personnel Board business.