HB
697

MAR 6 1981

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

SUBPORT BUILDING
JUNEAU, ALASKA 99801

March 6, 1981

Senator Bill Ray, Chairman
Blue Ribbon Commission on the
State Personnel Act
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811

Dear Senator Ray:

I appreciated being copied on your February 6, 1981, letter to Governor Hammond regarding permanent seasonal positions within the Department of Fish and Game, located in rural areas, and the difficulties experienced by local residents in filling these positions. I would like to take this opportunity to make a few comments on this subject.

The Legislature in 1979 found that the use of temporary employees had created certain inconsistencies and abuses in the hiring of nonpermanent personnel and that it jeopardized the integrity and efficiency of the merit system. In addition, the Legislature stated it intended to curb the widespread administrative practice of using nonpermanent state employment to evade departmental accountability and mask poor planning. Furthermore, the Legislature stated it intended that nonpermanent employees be used only to the extent that it is impractical to meet the need with permanent employees. To insure their wishes were followed Chapter 67 SLA 1979 became law in the form of AS 39.25.195-200.

This statutory change had a significant impact on the operations of the Department of Fish and Game. Prior to the passage of the act, Fish and Game had used temporary employees to meet its reoccurring field season needs. Many of these jobs were for periods of four to nine months. Now under provisions of the law, nonpermanent employment is limited to not more than 120 calendar days in a 12 month period. In addition, if the appointing authority can reasonably anticipate the need it must attempt to fill it through creation of permanent positions. As previously stated, many of Fish and Game's field positions could be anticipated to reoccur annually and were for periods in excess of 120 days each. This required the creation of numerous permanent seasonal positions, so that we could go forward to constructively implement the law.

In any event, the use of registers to fill all nonpermanent, permanent seasonal, or permanent full-time positions is now required except for emergency hire, and has created some difficulties for local residents in rural locations. Recognizing this problem more than a year ago in a memorandum to Commissioner Hudson, I attempted to minimize any adverse impacts the changes might have on the general public. Precisely those items pointed out in the second paragraph of your letter were what we wanted to avoid. Unfortunately, this was not entirely possible due to any combination of the following reasons:

1. Local residents were not aware of the register requirement in order to be employed.

2. There is a general lack of knowledge regarding when registers are open and closed for recruitment.

3. Applicants are ranked on registers and employment is to be from the top five available candidates.

4. The highly ranked applicant currently can not be eliminated from consideration for a position just because he/she lives in some location other than where the job is offered.

In almost all cases these items are outside the control of the Department of Fish and Game and in some cases are limited by personnel rules, labor contract agreement, or statute.

The Department is doing everything in its power to overcome the types of problems pointed out in your letter. Wherever possible, and within the rules, we are attempting to hire from communities with close proximity to the work locations. Even with the best of administrative efforts, however, some of the problems discussed here may continue due to administrative limitations. As an alternative, I suggest the Blue Ribon Commission investigate slight modification to AS 39.25.195(a), (b), (c) and (d) to allow the appointing authority of each department to establish nonpermanent positions and appoint applicants from any location on an applicable eligible list. If the Commission is interested in such an approach, members of my staff are available to work with them to resolve a mutual problem.

I look forward to hearing from you.

Sincerely,

Ronald O. Skoog
Commissioner
(907) 465-4140

cc: Commissioner Hudson
Office of the Governor

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
January 8, 1981

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MINUTES

Senator Bill Ray, Chairman, called the meeting to order at 10:05 a.m. The commission began consideration of the draft bill on nepotism. Senator Ray asked for objections to the commission sponsoring the bill. It was noted that APEA had registered its objections to the bill at a previous commission meeting. Bill Huston pointed out that nepotism laws will prevent a child pursuing the same choice of career with the state as his or her parent. Sandra Withers suggested that the disadvantage of that limitation should be weighed against the alternative, which is the appearance of favoritism given whenever a close family member is employed in an office headed by another family member. Frank Flavin added that he would prefer to see the statute focus on the basis of the hire rather than on the existence of a relationship. Many of the complaints which the Ombudsman receives are based on relationships which are as close as marriage without there being any formal legal tie, rather than on a relationship which the draft bill would address. Senator Ray called for objections to the commission pursuing this bill. Doryce Eggleston, Frank Flavin and Bob Mourant objected.

The commission next considered the draft bill amending the State Personnel Act and discussed the bill section by section.

In Section 4, page 2, line 2, the amendment to existing law was deleted, leaving the line reading "authorized by this chapter".

In Section 7, page 3, line 21, the word "and" was changed to "or", to make the phrase read "temporary or special inquiry".

The commission discussed the section concerning procedures for amending the Personnel Rules, Section 11, which begins on page 7, line 9, and decided to delete the material on page 8, lines 15-28 and to amend the preceding paragraph by adding eligible lists, hours of work, and merit increases to the topics which are included within "matters of public policy".

AS 39.25.150(17). In Section 12, page 11, line 7, procedures for resolving citizen grievances were added to the topics which the rules should address by adding the word "citizen" between the words "employee" and "and".

In discussion of AS 39.25.150(21), Representative Fuller raised a problem which has occurred in the conversion of Fish and Game temporary positions to permanent seasonal positions. He provided commission members with background material and explained that for positions in the bush which used to be classified as temporary positions, the change to permanent seasonal has meant that many fewer local residents are qualifying for the jobs. Permanent seasonal positions must be hired from the

registers, and many residents of the villages in question (Gambell, Savoonga, Diomede, and Shishmaref, for example) either are reluctant to apply at all, or else, because they do not have much formal education, do not score as well as college students when their applications are evaluated. As a result the Fish and Game Technicians I and III who are hired for monitoring marine mammal harvest and collecting biological specimens are more likely to be from Anchorage and Fairbanks than from the local area. This costs the state more because of transportation costs and the technicians spend a substantial period of time initially becoming familiar with the area, rather than being able to begin their substantive work immediately.

Mike McMullen pointed out that the requirement that employees be hired from the register cannot be waived for permanent seasonal positions, while it could be waived by the Division of Personnel if the positions were classified as nonpermanent. Frank Flavin added that block scoring would be appropriate, since to do the job well does not require technical knowledge. This kind of job classification would benefit from essentially a pass/fail application evalution system.

Senator Ray suggested that the commission authorize him to send a letter to the Governor, perhaps with copies to the Department of Fish and Game and to the Division of Personnel explaining the situation and encouraging the hiring of local residents for these positions. The letter might also be directed to Jerry Reinwand, the Governor's special assistant who had addressed the commission on personnel matters at an earlier commission meeting. There was no objection.

The commission continued review of the bill. In Section 14, AS 39.25.160(i), the word "unlawfully", page 14, line 25, was deleted.

In discussion of Section 15, beginning on page 14, line 28, questions were raised about whether employees who were hired in positions in the classified service only to have those positions transferred into the partially exempt or exempt service have any recourse. Members also asked whether the more routine positions which are presently in the exempt service or the partially exempt service are being transferred into the classified service. Senator Ray suggested that the commission write to Jerry Reinwand asking for a response to the latter question.

Frank Flavin noted that the present draft of the State Personnel Act does not set out a penalty clause. The present statute provides that violation of the Rules is a misdemeanor, but that is not an effective deterrent, since it is rarely enforced. Senator Ray suggested that discussion of the penalty clause should be reserved for future meetings of the commission.

In Section 18, AS 39.25.192, Senator Ray suggested that a state employee's right to make contributions to political candidates and campaigns be listed, since many state employees believe that they are denied this right under the present State Personnel Act. There was no objection. This ended discussion on the State Personnel Act amendments.

Senator Ray brought up recent correspondence to the commission from Donald E. Buehler, Chief of Police in Kotzebue. Chief Buehler has submitted his name for consideration for appointment to the Blue Ribbon Commission. However, since the membership on the commission is full, the commission decided that Chief Buehler should be invited to the next meeting as an observer.

The commission reviewed the draft bill on membership of the Public Employees Retirement Board. The draft dated December 30, 1980 was approved without objection.

The draft bill limiting the adjustment of retirement benefits was under consideration.

The commission considered the draft bill limiting the adjustment of retirement benefits. Lois Jund pointed out that the present draft would not significantly help in the cases about which the commission had initially been concerned. In those cases, the amount of overpayments had exceeded 10 per cent of the amount to which the retired person was actually entitled. Discussion followed. The commission agreed to delete AS 14.25.173(b)(3) page 1, lines 17-18, and AS 39.35.520(b)(4), page 1, lines 28-29.

The commission also decided to eliminate the phrase "which reduces benefits or" from page 1, lines 10 and 20 so that for future payments, retired persons will only be entitled to the correct amount of their payments. A question was raised concerning whether the phrase "credited service with the state" includes territorial service as well as employment after statehood. The commission decided that in order to benefit from the limitation on adjusting retirement benefits, retired people will have to meet all the requirements listed, and therefore decided to add the word "and" between paragraphs (1) and (2) of Section 1, page 1, line 14, and between paragraphs (2) and (3) of Section 2, page 1, line 25.

Paul Arnoldt, Director of the Division of Retirement and Benefits addressed the commission on the retirement bills. He began with a presentation on the bill requiring that the Public Employees Retirement Board comply with the Administrative Procedures Act in adopting future regulations. He pointed out that the intent of the APA is to insure that there is an opportunity for public comment before regulations are promulgated, to provide the Department of Law with an opportunity for review, and to insure that the Governor has input into regulations which are adopted. He indicated that these goals are met by the present system for adoption of regulations. The process of adopting regulations through the APA is involved and if those goals are met now, then it does not seem appropriate to change the system.

Mr. Arnoldt also pointed out that there is a nationwide trend for holding retirement board members personally responsible for their actions which began with the 1974 ARISA Act. It is appropriate therefore

to provide the PERS board members with the tools which they will need to carry out their responsibilities. For example, last session, 10 retirement bills were combined and passed by the Legislature in the closing days of the session. These measures had to be implemented expeditiously. If the board had had to comply with the APA in adopting regulations to put the new laws into effect, then considerable time would have been lost. Lois Jund agreed that many agencies find the APA procedures cumbersome. Frank Flavin pointed out that the APA does provide for the adoption of emergency regulations for that situation.

Mr. Arnoldt continued with discussion of the bill affecting membership of the retirement board. He stated that the provisions of the bill were appropriate and he had no objection to the proposal.

On the adjustment of retirement benefits bill, Mr. Arnoldt stated that he agreed that any errors in retirement benefit payments should be found and corrected quickly, but that the two-year limit imposed by the bill was not really necessary. The appeals procedures presently in the law provide the retirement boards with an opportunity to act in consideration of the circumstances of the retired person and to provide an equitable solution to the error. Since the ARISA Act is imposing personal accountability on private sector retirement boards and since the federal government is expected to impose similar provisions on public sector retirement boards, the authority of the PERS board should not be decreased.

Senator Ray pointed out that while the retirement board has the authority to waive collection of overpayments, they can be quite slow to act. The retired person, who often has only the retirement income to live on, is put through considerable grief and uncertainty. Other procedures which do not put the retired person through that sort of experience should be developed to provide the retirement board with the information and control which it requires. Senator Ray was called away from the meeting and Don Fisher, Vice Chairman of the Commission, chaired the meeting.

Bill Huston suggested that in order to keep the retirement fund solvent, errors should be paid for out of the general fund rather than from the retirement contributions of members and employers. Frank Flavin pointed out that the ARISA provisions are aimed at penalizing board members for improper investments rather than for improper payment of benefits. Greg O'Claray replied that nonetheless, the board cannot sit as a fiduciary and condone improper payment of benefits. They would have to correct the payment and collect the improper back payment unless there were provisions to the contrary in the law. Mr. Arnoldt repeated that he felt that this bill would be taking a wrong turn in the direction of retirement legislation. The national trend is in the other direction. Frank Flavin pointed out that the bill does not take away any present powers, it just states that after two years, the board's power

to act is limited. Mr. Fisher thanked Mr. Arnoldt for coming to the commission meeting and expressing his views.

Mr. Fisher asked the commission to consider when to schedule the next meeting. Wednesday, February 11 at 1:30 p.m. was selected. He adjourned the meeting at 3:40 p.m.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Mike McMullen
Frank Flavin
Representative Jack Fuller
Lois Jund
Roger Thayer
Greg O'Claray
Robert Mourant
Doryce Eggleston
Sandra Withers
Bill Huston

OTHERS IN ATTENDANCE

Paddy Moriarty
Paul Arnoldt
John Logan
Ann Wolden

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Temporary State Employees (hiring of)

HOUSE BILL NO. 697, by Rep. Bylsma. Would allow the state to hire temporary employees if the hiring of permanent employees for a work assignment of 120 days or less would result in "additional costs or the hiring of inappropriate individuals." Adds new section to AS 39.25 entitled "Procedure for Certain Nonpermanent Employees" which allows above exception to current prohibition on the hiring of temporaries contained in AS 39.25.195. Directs the Commissioner of a department that hires temporaries under provisions of bill to adopt regulations "to ensure that employees are appointed in the most efficient manner possible so that the needs of the department regarding these work assignments of 120 days or less are met. The regulations shall require that each employee meet the minimum qualifications established by regulation for a particular work assignment." Effective immediately.

Introduced January 27 and referred to Labor & Commerce and State Affairs.

Temp. State Employees (hiring of)

HOUSE BILL NO. 697, (see page 107). Reported back to the House on February 11 by Labor & Commerce with a majority of the committee recommending it be replaced with SUBSTITUTE and that it do pass. Rep. Rogers had no recommendation. To State Affairs.

Major difference between SUBSTITUTE and original is the addition of a new subsection to read: "Nothing in this section authorizes a commissioner or a department to use a nonpermanent employee to perform a given work assignment for more than 120 calendar days in a 12-month period or to employ any individual as a nonpermanent employee for more than 120 calendar days in a 12-month period."

Temp. State Employees (hiring of)

HOUSE BILL NO. 697, (see page 107;228). Reported back to the House March 19 by State Affairs as follows: Reps. Abood, Fanning and Metcalfe (Chairman) had no recommendation. To Rules.

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Temporary State Employees (hiring of)

HOUSE BILL NO. 697, (see pages 107;228;502). On March 22, at the request of Rep. Fuller, the bill was taken from Rules and returned to Finance.

Temp. State Employees (hiring of)

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 697 (L&C), (see pp. 107;228;502;551). Reported back to the House on April 14 by Finance with the committee recommending it be replaced with the Labor & Commerce SUBSTITUTE and a majority recommending it do pass. Signing do pass: Adams (Chmn.), Haugen, Bettisworth, Hurlbert, Carney, Chuckwuk, Fuller and Montgomery. To Rules.

April 15 the bill was before the House. The Labor & Commerce CS was adopted and the bill failed to advance to third reading, 25-12-2-1 (lacked the necessary 30 votes). Nays: Brown, Buchholdt, Clocksin, Cotten, Duncan, Freeman, Grussendorf, Malone, Miller, Moss, Rogers, Zharoff. Excused: Smith, Vaska. Absent: Gardiner.

April 15 the bill was automatically before the House in third reading. Rep. Rogers moved that it be returned to second reading for specific amendment, Am. No. 1. It adds to new 39.25.199, p. 3: "(d) The governor shall annually provide the legislature with a list of the positions filled under this section." The motion failed, 19-14-4-3. The bill then passed, 29-4-4-3. Nays: Brown, Duncan, Malone, Miller. Excused: Freeman, Haugen, Randolph, Smith. Absent: Gardiner, Metcalfe, Zharoff. The effective date was adopted. Rep. Duncan gave notice of reconsideration of his vote, but it was not taken up the next day.

Temporary State Employees

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 697 (L&C), (see pages 107;228;502;551;718). Received in the Senate April 19 and referred to Labor and Commerce.

Local Hire (temporary state jobs)

SCS FOR CS FOR HOUSE BILL NO. 697 (L&C), (see pages 107; 228;502;551;718;731). Reported back to the Senate May 7 by Labor & Commerce with a majority recommending it be replaced with a Senate substitute and that it do pass. The report was signed by Senator Mulcahy, Chairman and concurred in by Senators Fahrenkamp, Ziegler and Anderson.

Adds a new section to the State Personnel Act providing a hiring department or agency shall grant a preference to local residents in the appointment of temporary employees. If there are no residents on the eligible list or if residents are unavailable, referrals of qualified applicants may be obtained from the Job Service Office of the Dept. of Labor and from those applicants a qualified person who is a local resident may be selected for the temporary position. Provides that appointment of local hire temporaries does not require prior written approval.

On May 8 the Senate adopted the L&C substitute and the bill passed, 15-0-5. Excused: Bennett, Fischer, Gilman, Rodey, Sturgulewski. The effective date clause was adopted.

REP. JOHN G. (JACK) FULLER

Alaska House of Representatives

Chairman
Special Committee on Subsistance
Vice-Chairman
State Affairs Committee
Member Legislative Council
Member Resources Committee

DISTRICT 22

Brevig Mission
Buckland
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Koyuk
Nome
Savoonga
Selawik
Shaktoolik
Shishmaref
Stebbins
St. Michael
Teller
Unalakleet
Wales
White Mountain

Home
P.O. Box 689
Nome, Alaska 99762
(907) 443-2968

While in Juneau
Pouch V
Juneau, Alaska
99811

(907) 465-3729

January 14, 1981

Bob Pegau
ADF&G
P. O. Box 862
Nome, Alaska 99762

Dear Bob:

I got this by the Blue Ribbon Commission. They are going to recommend a change to the Governor and the Department of Fish & Game. I'll keep you posted on what happens.

Sincerely,

Jack Fuller

Rep. John G. (Jack) Fuller

Enclosure

STATE OF ALASKA
DEPARTMENT OF FISH AND GAME

JAY S. HAMMOND, GOVERNOR

P.O. BOX 862 – NOME 99762

January 5, 1981

Representative Jack Fuller
Box 689
Nome, Alaska 99762

Dear Jack:

As you requested at your and Senator Ferguson's meeting with the Fish and Game staff, the following are some of the problems we are experiencing hiring local residents for Fish and Game technican jobs.

Since the conversion of our temporary help to permanent seasonal positions, we must now hire from a list of eligible applicants on a statewide register, rather than through local Employment Offices. The net result is that normally we must hire someone from outside of the area, as they will be on the top of the list of available applicants. As a result, we usually end up having to pay the individual travel from and back to Fairbanks or Anchorage and often have to provide a subsistence or per diem payment while on the job.

Some of the reasons this happens include:

1) Registers are usually open for recruitment for limited periods of the year.
2) The time an individual must apply to get on a register is often months away from the time the job will be available.
3) Most people indicate they will work anywhere in the State because they know most Technician jobs are of short duration during the summer, and it is an adventurous experience for them. They don't expect to take the same job more than once or twice.
4) College students are looking for these type jobs for the experience and money and they will almost always rate higher on the register than someone living say at Gambell, with limited education and work experience.

Some possible solutions include:

1) Some preference for hiring local residents.
2) More flexability in getting applicants rated and on registers, by allowing local Employment Offices to examine and rate applicants at the time jobs are actually being filled.
3) When it can be demonstrated that hiring a local resident will save the State money, measurably contribute to the success of the program, or provide a more efficient employee, that latitude be granted the employing agency.

Maybe an example will illustrate the problem. If we intended to place observers in Gambell, Savoonga Diomede, and Shishmaref to monitor marine mammal harvest and collect biological specimens this summer, here is what we would have to do. The positions would be Fish and Game Technicians I and III's and the registers are only open during December. So, during December we would have to try and contact individuals in those villages telling them to fill out State of Alaska employment applications, and be sure and turn them in for a job that won't start til May. As you know it is most likely that only a limited number of individuals in each village will actually fill them out and send in the application form. Also, anyone who happens to not get the word for whatever reason, but who would be available to work in the summer, obviously will not be on the register.

In April we ask for registers for the positions and find that there are over 100 names on the register, almost all from somewhere other than the four villages that we intend to station the positions. Even if there are individuals from the four villages, they will probably be rated much lower that several of the college students on the register, many of whom will take jobs if they are offered. So instead of hiring someone from the village, we have to hire someone out of Anchorage or Fairbanks, pay their travel to the job site and assist in locating housing for them. For the first two weeks they must spend most of their time getting to know the local hunters.

I should make it clear that I don't have anything against college students working for the Department as seasonal technicians, as they have proven to be exceptional employees, and they need the experience, not to mention money, to round out their education. There are simply some situations where local residents could be a decided advantage to the overall program.

In the past I've recommended hiring individuals in various villages, as part time Department employees to perform a variety of tasks such as, sealing furs, issuing harvest tickets, conducting subsistence surveys, recording harvest by village residents, be a contact person that residents of a village could go to for an explanation of regulations, or to voice their concerns about the effects of various Fish and Game regulations. However, I've backed off pushing the idea the last two budget submissions, because it is essential, for such a program to work, that I be able to hire residents of the individual villages.

There are several advantages to the individuals hired as permanent seasonal as opposed to the old temporaries, but the net result is that Fish and Game is less likely to hire someone from the local area now than we used to two years ago.

Regards,

Bob

Robert E. Pegau
Regional Supervisor
Division of Game
Nome