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Official Business

# Alaska State Legislature

Senate

Labor & Commerce Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

CS HB 697:

Allows 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 a new section which grants an exception to the prohibition on the hiring of temporaries.

Directs the commissioner of a department which hires temporaries to adopt regulations to ensure that employees are appointed in the most efficient manner possible so that the needs of the department regarding work assignments of 120 days or less are met. The regulations shall require that each employee meets the minimum qualification established for a work assignment.

Nothing in this section authorizes a commissioner or a department to use a non permanent employee to perform a given work assignment for more than 120 days in a 12 month period, or to employ any individual as a non permanent employee for more than 120 calendar days in a 12 month period.

SUPPORT OF REGULATION OF SEC 39.25. 49  
J. Neeshat

The Department of Fish and Game currently has 712 permanent seasonal positions that were created in response to Alaska Statute 39.25.195. These seasonal positions range in time from two weeks to ten months each year. The regulations required us to create seasonal positions because our activities are both planned and reoccurring each year. For positions that last more than four months in a year, the seasonal system has produced some positive benefits for Fish and Game. For these longer term positions, a higher percentage of the incumbents return in succeeding years providing us with trained, knowledgeable employees. However, these benefits are unfortunately overshadowed by the problems we encounter with the system on those positions that last less than 120 days. The difficulties occur in two major areas: cost and local hire.

First the cost.

Attachment No. 1 outlines the salary plus benefit costs for 712 seasonal positions. 56% or 399 of these 712 positions are employed for less than 120 days a year. These 399 positions represent a salary cost of 2.4 million dollars to which you must add \$556,000 for benefits as permanent seasonals. These same 399 positions would need only \$185,000 as non permanents--a difference of \$471,000. Keep in mind these employees are on our payroll for two weeks to four months per year.

That is only part of the cost. To that you must add the cost of recruiting these people. We did a survey of those positions hired out of our Anchorage Regional office for just the Division of Commercial Fisheries. In 1979, prior to the passage of the non permanent hire law, we spent \$3,900 on telegrams and long distance phone calls, during April, May and

June, to hire 175 temporary employees. In 1980, after the non permanent hire law, to hire these same 175 employees we spent \$14,600 on telegrams and long distance phone calls--a difference of \$10,000. In 1981 our \$14,000 in long distance calls and telegrams only got us 40 employees. The total cost for telegrams and long distance phone calls for recruiting in 1981 was \$28,000.

The third cost associated with these seasonal employees is another recruiting cost--manpower. Commercial Fisheries estimates it took about 50 man days in 1979 to recruit 175 seasonals. In 1980 it took 217 man days to recruit 175 seasonals. In 1981 the personnel doing the recruiting were more organized, more knowledgeable about the new regulations and more efficient and it still took in excess of one man day of effort to hire each seasonal employee. When we hit the peak recruiting months of April, May and June in Anchorage, everyone from a range 8 clerk typist to range 20 management biologists recruit seasonal personnel. At an average salary of \$12 per hour plus benefits, 217 man days represents a cost of \$25,000. Even at this we haven't begun to measure the cost of lost productivity in their regular jobs.

Another area of particular concern to the Department is the ability to hire local residents. In the past, if one of the Fisheries Divisions needed some basic biological information in a rural area, they sought someone in the area who understood the local fishery to gather the data. Now, when that need arises, the Divisions must go to a register and hire from the top five. In most cases they hire someone from an entirely different area. This is compounded by some rural residents who don't want to bother with the

bureaucracy so don't bother to get on registers or, during the one month in the year when the register is open, doesn't think he will want to work for us in six months so again doesn't get on the register.

Those are the major problems but, in addition, there are the little ones:

- Comm Fish tries to get this seasonal hiring organized early and on May 1 offers John Smith a Fish Tech II job for two months beginning on June 1. John says, "I'll be there." On May 27, Sport Fish offers John Smith a Fish Tech III job for three months beginning June 1 and John Smith accepts. Comm Fish then finds themselves with an expired register and no employee to begin work in 4 days. An emergency hire is only good for 30 days so, if you hire that way, you will have to replace the person mid stream. It will take a week to get a new register, another week to work it and, if you are successful, there is only a two week delay which probably means some data is lost forever.
- College students who want summer jobs have to be on the registers when we go through our big recruiting effort in April and May. Individuals have told us they have received in excess of 100 telegrams from Fish and Game. Each one must be responded to or their name will be removed from the register.

In summary, Fish and Game supports permanent seasonal positions for jobs that last more than 120 days per year. However, we believe the Department could operate more efficiently, less expensively, to greater satisfaction of all parties and to the benefit of State if AS 39.25.195 applied only to positions in excess of 120 days.

Department of Fish and Game  
Seasonal Positions  
FY 1982

		<u>Pos</u>	<u>Mos</u>	<u>Salary</u> \$
Commercial Fisheries	Salmon	326	868.2	1,419.4
	Shellfish	40	142.8	280.7
	Herring	42	97.7	165.4
	Admin	3	9.5	16.4
	Groundfish	14	76.0	159.1
Sport Fish	Investigations	119	313.5	593.7
	Management	5	17.0	33.7
	Restoration	4	8.0	14.8
F.R.E.D.	Operations	127	579.0	1,037.4
	Admin	4	27.5	37.9
Game	Investigations	28	147.0	270.8
	& Research	—	—	—
		<u>712</u>	<u>2,286.2</u>	<u>4,013.3</u>

56% of these positions are for less than 120 days.  
 $\$4,029.3$  (total salaries)  $\times$  .56 =  $\$2,256.4$

Benefits as Non Permanents

$\$2,256.4 \times .0819$  (FY 82 benefit rate) = \$184.0

Benefits as Permanent Seasonals

$\$2,256.4 \times .1575$  (FY 82 benefit rate) = 355.4

$\$1,128.2 \times .0966$  (50% covered by police retirement) = 109.0

$1,280.3 \text{ mm} \times \$150$  (insurance premium  $\times$  months) = 192.0

Total benefits \$656.4

Difference \$471.6



Alaska Public  
Employees Association **APEA**

State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

April 9, 1982

William R. Hudson  
Commissioner  
Department of Administration  
Pouch C  
Juneau, Alaska 99811

Dear Commissioner Hudson:

A growing body of evidence, increased public concern and legislative inquiry have focused attention on two existing problems relative to State employment in remote or rural areas.

First, residents in remote areas frequently face almost insurmountable obstacles in securing local State employment. This is due primarily to an inability to gain the experience and training necessary to meet the stated minimum qualifications and the complicated process involved for obtaining a place on State registers. This is made more cumbersome and lengthy due to their remote status.

Second, several Departments (notably Fish & Game) have expressed concern about their capacity to fill positions in remote areas expeditiously and economically when required to import labor from larger metropolitan areas. This is particularly true when faced with the need to fill a large number of short-term but essential positions.

Equally critical concerns are budgetary shortfalls. There is increasingly obvious failure on the part of the State to meet Affirmative Action goals and objectives. This includes stabilizing and improving the economic base in remote areas and addressing the issue of employment in remote areas.

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825-D College Road  
Fairbanks, AK 99701  
Telephone: (907) 456-5412

Anchorage Field Office  
833 Gambell Street, Suite A  
Anchorage, AK 99501  
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Juneau Field Office  
227 4th Street  
Juneau, AK 99801  
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William R. Hudson  
Commissioner  
April 9, 1982  
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APEA is prepared to address these issues and repeatedly indicated its willingness to do so. APEA has reviewed pertinent statutes, Personnel Rules, and negotiated agreements. This review suggests that a viable, legal mechanism exists which can be utilized to meet the needs of both the citizens and the State.

The mechanism is the Vocational Class V-XVII series, currently a part of the State Classification Plan.

The Vocational Class series was created in 1971 in accordance with the provisions of AS 39.25.155 for the purpose stated in the specifications (copy attached):

These classes are intended for use primarily in remote areas of high unemployment where the opportunity to gain required hiring qualifications does not exist, but where there is a local need for employees with certain vocational skills.

As far as we have been able to determine, positions are not now being allocated to the Vocational Class series, nor have these classes ever been used extensively (if at all) for their stated purpose. The State's failure to utilize an apparently available mechanism is doubtless due in part to the absence of adequate procedures for implementation. In recognition of this fact and in the interest of facilitating a rapid, effective response to the problems outlined above, APEA proposes the following minor modifications:

1. Revision of the existing Vocational Class V-XVII specifications (6905-6917)

Delete second sentence of paragraph three under Distinguishing Characteristics which reads:  
"Vocational Classes are compensated at one pay range below the counterpart in regular non-professional classes."

Substitute:

An employee meeting the Minimum Qualifications of the target class (such as Fish & Game Technicians I-III, Fish Culturists I-II, or Forest Technicians I-III) for which he/she is recruited will be placed in the Vocational Class assigned a salary range equivalent to that of the target class.

An employee capable of doing the work but lacking specific training and experience necessary for appointment to the target class will be placed in the Vocational Class one pay range below the target class.

As soon as any employee in a Vocational Class gains sufficient training and experience to meet the minimum qualifications of the target class, he or she will be placed in the target class, and receive the pay rate assigned to that class.

2. Establishment of a procedure to implement revisions.

A procedure must be developed to determine which classifications and specific positions may be subject to the provisions outlined. Additionally, success of the proposal clearly requires a method for insuring that employees who enter State service in a Vocational Class are allocated to the appropriate target class in a timely manner. This could be accomplished by departmental certification to the Division of Personnel (as with coupled classes) or within the individuals departments under the delegation of authority regarding classification action.

3. Development of simplified application form.

APFA suggests that a simplified one page application form be developed solely for use in Vocational Class recruitment. Similar to the form once used for temporary employment, this form would request only basis information including demographic data and pertinent work history. To facilitate recruitment in the local areas, the application forms could be made available through State and local agencies capable of providing assistance to the applicant. Such agencies include the Department of Labor Job Services offices and the Department of Health and Social Services Public Assistance offices, as well as local Native Corporations and school systems.

4. Development of a definition of "remote areas" for use in implementing the Vocational Class specifications.

The Vocational Class series is intended for use in remote areas. Clearly, this precludes allocation

William R. Hudson  
Commissioner  
April 9, 1982  
Page Four

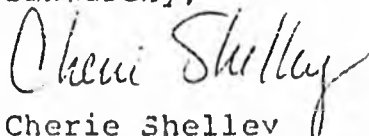
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to the series of those positions located in readily accessible population centers such as Anchorage, Fairbanks, Juneau, Ketchikan, Sitka, Haines, et cetera. APEA proposes that for purposes of recruitment within the Vocational Class series, "remote areas" be defined as those areas which have a relatively small population and are relatively inaccessible. This definition is intended to promote hire of local residents, particularly in those areas outside large metropolitan areas which experience demands for a large number of employees for short-term employment (i.e., Nome, Bethel, Kotzebue, Kodiak). In the past, these needs have been met through the importation of labor to the exclusion of local residents who are willing and capable of doing the necessary work.

In summary, APEA believes the above proposals will facilitate entry into State service for residents in remote areas; serve the needs of user departments in meeting their program needs; reduce the costs of recruitment for positions in remote areas; assist the State in meeting its Affirmative Action objectives, and contribute significantly to the economic base of the affected areas.

These proposals will require only minor modification to existing procedures and are in accordance with pertinent laws, personnel rules, and collective bargaining agreements. APEA urges their adoption.

Sincerely,



Cherie Shelley  
Executive Director

CS/rb

Attachment

cc: Senator Frank Ferguson  
Representative John Fuller  
Sandra Withers  
Kenneth Kareen

## Class Series Specification

VOCATIONAL CLASS V	6905 -05	VOCATIONAL CLASS XI	6911 - 11
VOCATIONAL CLASS VI	6906 -06	VOCATIONAL CLASS XII	6912 - 12
VOCATIONAL CLASS VII	6907 07	VOCATIONAL CLASS XIII	6913 - 13
VOCATIONAL CLASS VIII	6908 08	VOCATIONAL CLASS XIV	6914 - 14
VOCATIONAL CLASS IX	6909 -09	VOCATIONAL CLASS XV	6915 - 15
VOCATIONAL CLASS X	6910 -10	VOCATIONAL CLASS XVI	6916 - 16
		VOCATIONAL CLASS XVII	6917 - 17

Definition:

An incumbent filling a position in one of these classes performs the duties of the non-professional class and position to which its counterpart vocational class is assigned.

Distinguishing Characteristics:

This class series provides a means by which Alaska residents not meeting minimum qualifications of regular non-professional classes may enter State service via one of these classes, and maintain employment in that class until he or she meets minimum qualifications for a regular State class of position.

These classes are intended for use primarily in remote areas of high unemployment where the opportunity to gain required hiring qualifications does not exist, but where there is a local need for employees with certain vocational skills, in accordance with provisions of AS 39.25.155.

Although written examinations are not required, aptitude or occupational tests may be given if a position requires a specific ability. Vocational classes are compensated at one pay range below the counterpart in regular non-professional classes.

Examples of Duties:

Performs the duties of the non-professional class to which this class is assigned to the extent permitted by knowledge, skills and abilities.

Participates in any required training designed to impart knowledge, skills and abilities required for competent performance.

Knowledge, Skills and Abilities:

Ability to: Learn and perform specific job skills; follow instructions.

Willingness to participate in such testing, training and/or licensing required for safe and effective job performance, and for compliance with applicable laws.

Minimum Qualifications:

Physical and mental capacity to perform the work assigned.

Orig: 5/1/71



# Alaska State Legislature

## Senate

Official Business

### Labor & Commerce Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

Amendment proposed by Senator Fergusson

Amend Alaska Statute AS39.25.150 (6) to enable the adoption of personnel rules to provide for local preference. The specific language would be: "the procedure for certifying eligibles including preference for local residents under appropriate circumstances....."



JUNEAU, ALASKA

# Alaska State Legislature

BLUE RIBBON COMMISSION ON THE  
STATE PERSONNEL ACT  
Pouch AG/Mail Stop 0123  
Juneau, Alaska 99811  
(907) 465-4442

Senator Bill Ray  
Chairman

February 6, 1981

COMMISSIONER'S OFFICE  
**RECEIVED**  
FEB 9 1981

*Sum, 12 Feb 81*  
DEPARTMENT OF FISH AND GAME

The Honorable Jay S. Hammond  
Governor of the State Of Alaska  
Pouch A  
Juneau, Alaska 99811

Dear Governor Hammond:

At the most recent meeting of the Blue Ribbon Commission on the State Personnel Act, a situation was presented which caused members some concern. It regards the classification for seasonal positions in rural parts of Alaska in the Department of Fish and Game. In the past, these positions were classified as temporary positions and filled primarily by local residents. With the implementation of the nonpermanent law, the department reclassified these jobs as permanent seasonal and filled them through hiring from the list of eligibles.

Unfortunately, this meant that many experienced local residents were not hired for the past season, either because they had not applied in time to be considered for placement on the register or because, when their applications were evaluated, they failed to place within the top five interested eligible candidates. The persons hired for monitoring the marine mammal harvest and for collecting biological specimens were more likely to come from Anchorage and Fairbanks than from the local area. This was harmful to the local residents and also cost the state more because of transportation costs and because the out-of-towners had to become acquainted with the area before they were in a position to begin substantive work on the job. Attached is a copy of information supplied to the commission about this situation.

The commission is concerned and urges you to encourage the hiring of local residents for these positions.

Sincerely,

Senator Bill Ray  
Chairman

BR:lmk

Enclosure

cc: Commissioner Ronald O. Skoog  
Department of Fish and Game  
Bruce Cummings, Director  
Division of Personnel

Article 7. Nonpermanent Employees.

Section		Section
195. Appointment of nonpermanent employees	of	198. Civil liability
197. Termination of nonpermanent employees	of	200. Definitions

Editor's note. — Section 1, ch. 67, SLA 1979 provides: "LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that certain inconsistencies and abuses in the hiring of nonpermanent employees have jeopardized the integrity and efficiency of the merit system as well as the morale of employees. The legislature intends to curb the widespread administrative practice of

using nonpermanent state employment to evade departmental accountability and mask poor planning. The legislature further intends that nonpermanent employees be used only to the extent that it is impractical to meet the need with permanent employees and that the burden of proof shall fall upon the department or agency which proposes nonpermanent hire."

Sec. 39.25.195. Appointment of nonpermanent employees. (a) An individual may not be appointed as a nonpermanent employee in the state service without prior written approval of the director except as an emergency employee.

(b) Every appointment to state service, except an emergency appointment, shall be made from an applicable eligible list or dispatching register unless in appropriate circumstances the director has waived this requirement.

(c) No appointment of a nonpermanent employee may be made unless the request for authorization is approved by the director, adequate money is available for the anticipated duration of the appointment, and the director determines that

(1) the hiring department or agency has certified that the legislature has appropriated money for the work in question knowing that it is to be performed by a nonpermanent employee;

(2) the hiring department or agency has certified that there is an immediate need to fill an authorized, permanent position and it is impractical either to establish the position or to make certification within a reasonable time;

(3) the hiring department or agency has certified that an immediate need exists and the director determines that the hiring department or agency could not reasonably have been expected to anticipate and meet through the creation of a permanent position; or

(4) the hiring department or agency has certified that a program or project exists and the director determines that the need for employees can most appropriately be met through the use of program or project employees.

(d) The director may not authorize the appointment of a nonpermanent employee if he determines that

(1) the need for the nonpermanent employee can practicably be met through establishing and filling an authorized permanent position;

(2) the need for the nonpermanent employee would be more appropriately met through an emergency appointment; or

(3) the need for the nonpermanent employee is not immediate and reasonably have been anticipated and met by the appointing authority through the creation and filling of a permanent position.

(e) A nonpermanent employee may not be placed on the state payroll unless the director has first approved the personnel action for the employee's appointment.

(f) Nothing in this section prevents the director from adopting regulations to provide for timely substitution for permanent employees on medical or personal leave or other situations in which the appointment of an emergency or permanent employee would be inappropriate or when delay in making a temporary replacement would cause serious disruption.

(g) A department or agency may not use nonpermanent employees to perform a given work assignment for more than 120 calendar days in a 12-month period. A department or agency may not employ any individual as a nonpermanent employee for more than 120 calendar days in a 12-month period. In appropriate circumstances the director may authorize an extension of the limit imposed by this subsection if he finds that there is an immediate need for the extension. The limit imposed by this subsection does not apply to program or project employees or to substitutes appointed under (f) of this section.

(h) The director shall present a report on nonpermanent and emergency hire practices in state government to the legislature within the first 10 days of each regular legislative session. A hiring department or agency shall certify to the director within 15 working days following the appointment its reasons for appointing an emergency employee. The report shall include information on the number of nonpermanent employees authorized under this section and the number of emergency employees hired in each department, a description of the procedures used in authorizing the hiring of nonpermanent employees, and any recommendations for legislation required to implement the intent of this section. (§ 4 ch 67 SLA 1979)

**Sec. 39.25.197. Termination of nonpermanent employees.** When the director determines that an employee has been appointed as a result of a false certification under AS 39.25.195, he shall immediately notify the head of the affected department or agency in writing and the department or agency shall terminate the employee from state service within one working day after receipt of notice. (§ 4 ch 67 SLA 1979)

**Sec. 39.25.198. Civil liability.** A person who makes a false certificate under AS 39.25.195 is personally liable in a civil action to an individual terminated under AS 39.25.197 for any resultant damages and for punitive damages of an amount not to exceed three times the gross monthly salary at which the nonpermanent employee was appointed. (§ 4 ch 67 SLA 1979)

**Sec. 39.25.200. Definitions.** In AS 39.25.195 — 39.25.200,

(1) "certified" means signed by the head of a department or agency or by a responsible person designated by him;

(2) "director" means the director of the division of personnel and labor relations;

(3) "emergency employee" means an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest;

(4) "nonpermanent employee" means a person who is employed in state service in a position which is not in the exempt or partially exempt service and who is not a permanent or an emergency employee;

(5) "permanent employee" means an employee who has been appointed to an authorized, permanent full-time or part-time or permanent seasonal position in the classified service and who is in the process of completing or has successfully completed the required probationary service in that position;

(6) "program or project employee" means a nonpermanent employee, including a student intern, who is employed in state service with prior written understanding that employment in that position will continue for at most the duration of a specified program or project which is not a regular and continuing function of a department or agency and which has an established probable date of termination. (§ 4 ch 67 SLA 1979)

## Article 8. General Provisions.

### Section

210. Penalties

220. Short title

**Sec. 39.25.210. Penalties.** (a) A person who wilfully violates a provision of this chapter or of the personnel rules adopted under this chapter is guilty of a misdemeanor.

(b) A state employee who is convicted of a misdemeanor under this chapter or the personnel rules adopted under this chapter immediately forfeits his office or position. (§ 20 ch 144 SLA 1960)

**Sec. 39.25.220. Short title.** This chapter may be cited as the State Personnel Act. (§ 2 ch 144 SLA 1960)

(e) The rules adopted under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act. The rules may be published in the Alaska Administrative Register and Code for informational purposes. (§ 12 ch 144 SLA 1960; am § 5 ch 5 SLA 1966)

Legislative history report. — For report on ch. 5, SLA 1966, see 1966 House Journal, pp. 50 and 51.

A right clearly created by statute cannot be taken away by regulation. *Mueller v. Alaska State Bd. of Personnel*, Sup. Ct. Op. No. 396 (File No. 738), 425 P.2d 145 (1967).

Stated in *Kelly v. Zamarello*, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Cited in *State in Bogenrife*, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

**Sec. 39.25.150. Scope of rules.** The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval by the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; in the position classification plan all positions shall be grouped together into classes on the basis of duties and responsibilities; the position classification plan shall include for each class of position an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary position specifications;

(2) the preparation, maintenance, revision, and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan shall be prepared after consultation with the appointing authorities or their designee, and with representatives of interested employee groups; the pay plan shall be based upon the position classification plan, shall provide for fair and reasonable compensation for services rendered, and shall be based on the principle of like pay for like work; commissioners' salaries are not the maximum limit for the pay plan and in exceptional circumstances higher salaries may be specified; the pay plan may provide for uniform starting pay, increments, and area and time differentials; the pay plan prepared under this section may be amended, approved or disapproved by the legislature in regular or special session; after the pay plan is put into effect, no salary or wage payment may be made to a state employee covered by the pay plan unless the payment is in accordance with this chapter and the rules adopted under this chapter;

(3) the use of sound employee selection methods, including open competitive examinations to test the fitness of applicants for positions in the state service;

(4) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state

service, and promotion shall be by competitive examination whenever possible; in considering promotions, applicants' qualifications, performance record, seniority, and conduct shall be evaluated;

(5) the establishment and maintenance of eligible lists for appointment and promotion; the names of eligible candidates shall be placed on eligible lists in order of their relative performance in the examinations;

(6) the procedure for certifying eligibles;

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

(8) emergency appointments to positions in the state service;

(9) nonpermanent appointments to positions in the state service in accordance with AS 39.25.195 — 39.25.200;

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

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

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

(13) the payment of transportation costs when an employee transfers from one area to another at the request of the employer;

(14) the reinstatement of a person who resigns in good standing;

(15) layoffs for reason of lack of funds or work, abolition of positions, or material changes in duties or organization; best performance and seniority records shall be considered in the development of layoff orders;

(16) the development, maintenance, and utilization of employee performance records;

(17) the imposition of disciplinary suspension without pay for not longer than 30 days in any 12-month period;

(18) the procedures for review of disputed personnel actions and for resolving employee and interagency grievances;

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

(20) methods and procedures covering overtime work and pay;

(21) the delegation, where feasible, of personnel responsibilities and duties to the principal departments of the executive branch.

(22) other rules and administrative regulations, not inconsistent with this chapter, which are necessary for its enforcement;

(23) the granting of employment preference rights to a veteran at each time he applies for employment, not within the area of promotion, when he possesses the necessary qualifications in the job classification

for which he applies under this chapter; the term "veteran" means a person with 90 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and November 7, 1975; the term "disabled veteran" means a veteran who is rated by the United States Veterans' Administration as having at least a 10 per cent service-connected disability; in the examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran and 10 additional points shall be added to the passing grade of a disabled veteran; if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job;

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

(25) the granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination for periods up to four months and the granting of eligibility to a severely handicapped person provisionally appointed under the rules who demonstrates his ability to perform the job for permanent appointment without competitive examination; provisional employment under this paragraph may not exceed four months during a 12-month period; "severely handicapped" as used in this paragraph means persons certified by the director of the division of vocational rehabilitation to be severely handicapped. (§ 13 ch 144 SLA 1960; am § 1 ch 130 SLA 1961; am § 1 ch 147 SLA 1962; am § 1 ch 117 SLA 1966; am § 1 ch 33 SLA 1967; am § 3 ch 226 SLA 1970; am § 1 ch 39 SLA 1971; am § 3 ch 42 SLA 1971; am § 1 ch 21 SLA 1973; am § 1 ch 27 SLA 1976; am § 1 ch 4 SLA 1978; am § 2 ch 67 SLA 1979; am § 38 ch 94 SLA 1980)

Revisor's note. — The pay plan prepared under (2) of this section is set out in AS 39.27.011.

Effect of amendments. — The 1976 amendment added paragraph (24).

The 1978 amendment added paragraph (25).

The 1979 amendment substituted "nonpermanent appointments" for "temporary appointments" and "in accordance with AS 39.25.195 — 39.25.200" for "which are determined to be

of a seasonal or temporary nature" in paragraph (9).

The 1980 amendment substituted "November 7, 1975" for "a date to be determined by the legislature which shall be on or about six months after the termination of hostilities involving forces of the United States in Viet Nam" near the middle of paragraph (23), and substituted a semicolon for a period at the end of paragraph (23).

**Article 7. Nonpermanent Employees.**

<p><b>Section</b>                  195. Appointment of nonpermanent employees                  197. Termination of nonpermanent employees</p>	<p><b>Section</b>                  198. Civil liability                  200. Definitions</p>
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**Editor's note.** — Section 1, ch. 67, SLA 1979 provides: "LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that certain inconsistencies and abuses in the hiring of nonpermanent employees have jeopardized the integrity and efficiency of the merit system as well as the morale of employees. The legislature intends to curb the widespread administrative practice of

using nonpermanent state employment to evade departmental accountability and mask poor planning. The legislature further intends that nonpermanent employees be used only to the extent that it is impractical to meet the need with permanent employees and that the burden of proof shall fall upon the department or agency which proposes nonpermanent hire."

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**Sec. 39.25.195. Appointment of nonpermanent employees.** (a) An individual may not be appointed as a nonpermanent employee in the state service without prior written approval of the director except as an emergency employee.

(b) Every appointment to state service, except an emergency appointment, shall be made from an applicable eligible list or dispatching register unless in appropriate circumstances the director has waived this requirement.

(c) No appointment of a nonpermanent employee may be made unless the request for authorization is approved by the director, adequate money is available for the anticipated duration of the appointment, and the director determines that

(1) the hiring department or agency has certified that the legislature has appropriated money for the work in question knowing that it is to be performed by a nonpermanent employee;

(2) the hiring department or agency has certified that there is an immediate need to fill an authorized, permanent position and it is impractical either to establish the position or to make certification within a reasonable time;

(3) the hiring department or agency has certified that an immediate need exists and the director determines that the hiring department or agency could not reasonably have been expected to anticipate and meet through the creation of a permanent position; or

(4) the hiring department or agency has certified that a program or project exists and the director determines that the need for employees can most appropriately be met through the use of program or project employees.

(d) The director may not authorize the appointment of a nonpermanent employee if he determines that

(1) the need for the nonpermanent employee can practicably be met through establishing and filling an authorized permanent position;

(2) the need for the nonpermanent employee would be more appropriately met through an emergency appointment; or

(3) the need for the nonpermanent employee is not immediate and could reasonably have been anticipated and met by the appointing authority through the creation and filling of a permanent position.

(e) A nonpermanent employee may not be placed on the state payroll unless the director has first approved the personnel action for the employee's appointment.

(f) Nothing in this section prevents the director from adopting regulations to provide for timely substitution for permanent employees on medical or personal leave or other situations in which the appointment of an emergency or permanent employee would be inappropriate or when delay in making a temporary replacement would cause serious disruption.

(g) A department or agency may not use nonpermanent employees to perform a given work assignment for more than 120 calendar days in a 12-month period. A department or agency may not employ any individual as a nonpermanent employee for more than 120 calendar days in a 12-month period. In appropriate circumstances the director may authorize an extension of the limit imposed by this subsection if he finds that there is an immediate need for the extension. The limit imposed by this subsection does not apply to program or project employees or to substitutes appointed under (f) of this section.

(h) The director shall present a report on nonpermanent and emergency hire practices in state government to the legislature within the first 10 days of each regular legislative session. A hiring department or agency shall certify to the director within 15 working days following the appointment its reasons for appointing an emergency employee. The report shall include information on the number of nonpermanent employees authorized under this section and the number of emergency employees hired in each department, a description of the procedures used in authorizing the hiring of nonpermanent employees, and any recommendations for legislation required to implement the intent of this section. (§ 4 ch 67 SLA 1979)

**Sec. 39.25.197. Termination of nonpermanent employees.** When the director determines that an employee has been appointed as a result of a false certification under AS 39.25.195, he shall immediately notify the head of the affected department or agency in writing and the department or agency shall terminate the employee from state service within one working day after receipt of notice. (§ 4 ch 67 SLA 1979)

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 697

Title An Act Relating to appointment of nonpermanent employees

Requested by Representative Bylsma Date 1/27/82

II. FISCAL DETAIL

Agency Affected Fish and Game

Program Category Affected Natural Resources Management

BRU, Program, Or Subprogram(s) Affected see #III

(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	(471.6)	(477.0)				
200 TRAVEL						
300 CONTRACTUAL	(24.5)	(26.7)				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	(496.1)	(503.7)				

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	378.0	383.9				
FEDERAL FUNDS	78.5	79.5				
OTHER (Specify Source)	39.6	40.3				
Fish & Game Fund						

POSITIONS

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

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

	Line Item	
	100	300
Commercial Fisheries	(239.1)	(16.0)
F.R.E.D.	(125.9)	(5.0)
Sport Fish	(75.0)	(2.0)
Game	(31.6)	(1.5)

IV. DATE 2/5/82

PREPARED BY Beverly Reaume

AGENCY Fish and Game

Original: Legislative Finance

PHONE 465-4120

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

*Corrected 2/16/82*