

SCOMM

#51:8

REPORT OF THE
BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
TO THE
ELEVENTH ALASKA STATE LEGISLATURE
FIRST SESSION

SENATOR BILL RAY
Chairman

JUNEAU, ALASKA
March 27, 1979

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
MEMBERSHIP

Senator Bill Ray, Chairman*

Don Fisher, Transportation Planning, Vice Chairman**

B.B. Allen, Commissioner, Department of Administration***
Alternate: Robert Gates***

Representative Thelma Buchholdt - Chairwoman, Merit System/
Collective Bargaining Subcommittee
Alternate: Representative Mike Miller

Myrt Charney, Executive Director, Legislative Affairs Agency
Alternate: Ken Humphreys

Representative Richard Eliason

Frank Flavin, Ombudsman - Vice Chairman, Categories of Employees
Subcommittee
Alternate: Paddy Moriarity

W.R. Hudson, Commissioner, Department of Administration***

Patrick Hunt, Director, Division of Personnel and Labor Rela-
tions
Alternate: Ken Kareen

Lynda McCurry, Personnel Officer, Department of Labor

Representative Joseph McKinnon - Chairman, Categories of Employees
Subcommittee
Alternate: Representative Sally Smith

Patrick Murphy, Executive Director, Alaska Public Employees Asso-
ciation
Alternate: Darlene Howard

Greg O'Claray, Inlandboatmen's Union of the Pacific - Vice Chair-
man, Merit System/Collective Bargaining Subcommittee
Alternate: Homer Sarber

John Pugh, President, Alaska Public Employees Association
Alternate: Robert Mourant

Ken Spray, Vice President, Business Representative, Local No. 71
Public Employees Union

Membership (continued)

Niel Thomas, Executive Director, Alaska State Commission for
Human Rights***

Alternate: Janet Bradley***

Commission Staff

Teresa B. Cramer, Administrative Assistant/Research Assistant

Lori Peterson, Secretary

Mailing Address

Pouch AG, Mail 0123
Juneau, AK 99811

* Chairman, Classification, Certification & Recruitment Sub-
committee

** Vice Chairman, Classification, Certification & Recruitment
Subcommittee

*** Indicates served part of the term.

TABLE OF CONTENTS

I.	OVERVIEW	
A.	Commission Creation.....	1
B.	Commission Structure and Activities.....	1
C.	Conclusion.....	4
II.	MERIT SYSTEM/COLLECTIVE BARGAINING SUBCOMMITTEE.....	5
A.	Overview of the Development of Collective Bargaining in Alaska.....	5
B.	Summary of Issues before the Merit System/ Collective Bargaining Subcommittee.....	6
1.	Structure of the Division of Personnel and Labor Relations.....	6
2.	Procedures for the Adoption of the Personnel Rules.....	11
3.	Relationship of Collective Bargaining Contract Terms to Statutes and Personnel Rules.....	12
4.	Membership and Duties of the Alaska State Labor Relations Agency, the Personnel Board and the Retirement Board.....	13
5.	Inclusion of Non-certificated School District Employees Under the Public Employment Relations Act.....	16
6.	Merit Increases.....	16
III.	CLASSIFICATION, CERTIFICATION & RECRUITMENT SUBCOMMITTEE.....	19
A.	Scope of the Subcommittee's Assignment.....	19
B.	Summary of Issues Presented to the Classification, Certification & Recruit- ment Subcommittee.....	19

TABLE OF CONTENTS (continued)

CENTRALIZATION OR DECENTRALIZATION OF PERSONNEL ADMINISTRATION

1. Centralization or Decentralization.....20

CLASSIFICATION OF POSITIONS

2. Classification Process.....21

3. Division of Personnel Recommendations
to Division of Budget and Management
on Reclassifications.....23

4. Structure of Classes of Positions.....24

CERTIFICATION

5. Certification Process.....25

6. Multiple Applications within a
Job Series.....28

7. Veteran's Preference Points.....28

8. Promotional Lists.....29

9. Hiring from the List of Eligibles.....29

10. Criminal Records of Applicants.....32

AUDITS OF THE PERSONNEL SYSTEM AND PRACTICES

11. Auditing Role of the Division of
Personnel.....32

12. Audits of the Personnel System.....33

13. Disciplinary Measures for Violations
of the Personnel Rules.....34

JOB PERFORMANCE

14. Training Programs.....34

15. Flex Time.....35

16. Use of Employees in Tasks above
Job Specifications.....35

TABLE OF CONTENTS (continued)

THE STATE PERSONNEL ACT AND PERSONNEL RULES

17. The State Personnel Act.....	35
18. The Personnel Rules.....	36

IV. CATEGORIES OF EMPLOYEES SUBCOMMITTEE.....38

A. Overview of the Categories of Employees in the State System.....	38
B. Temporary Employees.....	38
C. Summary of Issues Before the Categories of Employees Subcommittee.....	39
1. Hiring Temporaries from Registers.....	39
2. Time Limits of Employment of Temporaries.....	40
3. Project Employees.....	41
4. Benefits for Temporary Employment.....	41
5. Vacant Permanent Positions.....	42
6. State Employees Who are Enrollees of the CETA Program.....	43
7. Due Process Rights for Temporary Employees.....	46
8. Pool of On-call Permanent Employees as an Alternative to the Hiring of Temporaries.....	48

APPENDICES

Appendix A. Commission Meetings	
Appendix B. Public Employee Unions	
Appendix C. An Act creating a Department of Employee Relations	
Appendix D. An Act relating to the hiring of non- permanent employees in the state personnel system	

I. OVERVIEW

A. Commission Creation

The Blue Ribbon Commission on the State Personnel Act was created by the Second Session of the 10th legislature to study and refine the State Personnel Act and to address a number of issues about the personnel system, collective bargaining, and contract employees which were of concern to the legislature. Some of these issues had been identified by the Office of the Ombudsman in a letter to the Legislative Council, suggesting a comprehensive review of the personnel system, and by the Division of Legislative Audit in its report of January 27, 1977, on the Division of Personnel in the Department of Administration.

B. Commission Structure and Activities

Commission members were drawn from the legislature, the Department of Administration and the Division of Personnel and Labor Relations, public employees unions, the Ombudsman's office, the Human Rights Commission, the Legislative Affairs Agency and departmental program managers. An organizational meeting was held in Juneau on September 15, 1978, at which Senator Bill Ray was elected Chairman. At the October 3, 1978 meeting, Senator Ray appointed subcommittees to carry on the investigation of the commission. Ken Humphreys, Senior Policy Analyst from the Legislative Affairs Agency, was designated to provide research assistance to the commission. In November, the commission hired an administrative assistant and a secretary.

The commission divided its tasks among three subcommittees:

Classification, Certification & Recruitment, chaired by Senator Ray; Merit System/Collective Bargaining, chaired by Representative Thelma Buchholdt; and Categories of Employees, chaired by Representative Joseph McKinnon.

The Classification, Certification & Recruitment subcommittee was designated to consider whether Alaska should have a central personnel system or whether the system should be partially or fully decentralized. The topic included consideration of the problems of certification, recruitment, classification and pay, examinations, and equal employment opportunity. The subcommittee considered the personnel statutes, rules and the practices of the Division of Personnel and the other state departments and agencies.

The Merit System/Collective Bargaining subcommittee studied the relationship between the merit system and collective bargaining as well as problems in the structure of the agencies working in those areas.

The task of the Subcommittee on Categories of Employees was to examine the groups into which state employees are placed, particularly the category of temporary employees. Each of the subcommittees was directed to draft recommendations for consideration by the full commission.

Membership of the three subcommittees overlapped so that each of the subcommittees would be advised of the approach of the others and to insure that problems would not be ignored by one subcommittee on the assumption that another was addressing them.

The subcommittees and the commission held public hearings in Juneau, Anchorage and Fairbanks and solicited written testimony from those who were unable to attend the meetings. (A list of these meetings appears as Appendix A.) A total of 78 people testified about their experiences and concerns. The commission received 23 letters about problems in the personnel system, and was provided copies of the Department of Administration's "Tell Us Off Questionnaire". In addition, commission members submitted memoranda and position papers for consideration by the others.

A conference on Civil Service Reform was co-sponsored by the commission and the National Conference of State Legislatures' Project TRAIN. Representatives of the federal Office of Personnel Management (formerly the U.S. Civil Service Commission), and from the states of Minnesota and Wisconsin addressed commission members on civil service reform efforts in their respective jurisdictions, and Jean J. Couturier, a nationally recognized authority on public management programs, provided a wider view. The speakers participated with the commission members in work sessions as well as making formal presentations of their respective topics.

Some of the commission members participated in a walk-through of the classification process for new positions and the reclassification process for existing positions, to better understand the paper flow. The walk-through was arranged by Lynda McCurry, Personnel Officer of the Department of Labor and commission member. Ken Kareen, Deputy Director of the Division of Personnel and an alternate commission member, assisted in the walk-through with the help of his staff.

The commission learned of problems in the personnel system through the written and oral testimony presented and through the experiences and knowledge of its members, most of whom had dealt closely with various aspects of the system for a number of years. The public testimony presented was not always directed to the appropriate subcommittee, and care was taken to refer specific information and problems to the appropriate body.

In late January, the commission staff compiled the information received into issue summaries for each subcommittee, which then formed the basis for subcommittee work sessions. Recommendations from each of the subcommittees came before the commission for further review and discussion. Only those recommendations adopted by the full commission are presented in this report.

C. Conclusion

The commission has found the subject matter complex. Facets of the system interlock, making it more difficult to change one aspect without also addressing changes to the other aspects. We have only begun to meet the task set out in the resolution which created the commission. Accordingly, in addition to the recommendations included in this report, the commission requests that the legislature extend the life of the commission through June 30, 1980. The commission will then be in a position to present a comprehensive analysis of the state's personnel system and changes to make it more responsive, equitable and efficient.

II. MERIT SYSTEM/COLLECTIVE BARGAINING SUBCOMMITTEE

A. Overview of the Development of Collective Bargaining in Alaska

The State Personnel Act (AS39.25) was enacted in 1961, shortly after Alaska achieved statehood. No comprehensive revision of that act has taken place since that time, although the advent of public employee collective bargaining in 1972 profoundly and fundamentally affected the nature of the rules and regulations governing the conditions of employment of most of the state's employees.

The state's work force has grown substantially since 1961. Almost all of the classified employees belong to one of the unions representing state employees. (See Appendix B for a list of those unions.) Of the remaining employees, some are classified as partially exempt, subject to only some of the Personnel Act and Rules, and the rest are members of the exempt service, and not affected at all by the Act. Membership in the partially exempt and the exempt service is established by statute. AS39.25.110 and AS39.25.120. As of February 16, 1979, there were 9,723 state employees in the classified service and 748 state employees in the partially exempt service. Figures were not available on the number of employees in the exempt service.*

Initially, at statehood, none of the state's employees were unionized. In 1964, legislation was passed to permit state employees of the Division of Marine Transportation engaged in operating the state ferry system to negotiate with the Commissioner of Public

*These figures are taken from Computer Printout R01-02A-4430, dated February 28, 1979.

Works concerning wages, hours, working conditions and other employment benefits. AS23.40.040.

In 1972, the Public Employment Relations Act (P.E.R.A., AS 23.40.070 - .260) was passed, extending collective bargaining rights to all state employees, as well as to employees of political subdivisions of the state, except to elected or appointed officials, teachers and non-certificated employees of school districts. AS23.40.080 and AS23.40.250 (5) and (6). The P.E.R.A. grants employee organizations the right to bargain on matters of wages, hours and other terms and conditions of employment. AS23.40.070(2). Terms and conditions of employment are defined as "the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees, but does not mean the general policies describing the function and purposes of a public employer". AS23.40.250(7).

In a recent case before the Alaska Supreme Court, marine transportation unions were held to be covered by P.E.R.A. as well as the marine transportation collective bargaining statutes, and therefore, one system now covers the state's collective bargaining. Hafling vs. Inlandboatmen's Union of the Pacific, No. 3438, 585 P.2d 870, October 6, 1978.

B. Summary of Issues Before the Merit System/Collective Bargaining Subcommittee

1. Structure of the Division of Personnel and Labor Relations

The Division of Personnel and Labor Relations is responsi-

ble for the operation of the state's personnel system and for representing the state as an employer in collective bargaining matters. It is one of eight divisions within the Department of Administration. The others consist of the following: Division of Administrative Services, Division of Data Processing, Division of Finance, Division of General Services and Supply, Division of Pioneer's Benefits, Division of Retirement and Benefits, and the Division of Equal Employment Opportunity. In addition, the department contains the Office of the Internal Auditor.

The tasks of the Division of Personnel and Labor Relations and the Division of Equal Employment Opportunity differ significantly from the kinds of tasks of the other six divisions within the department. The orientation of the other divisions is towards fiscal matters, and the commissioner of the department must be skilled in those areas. It is less likely that the commissioner will be selected because of his familiarity with labor relations, personnel administration and equal employment laws. The Director of the Division of Personnel and Labor Relations must educate new commissioners on issues concerning the division's activities, and during this time, the governor is probably less well informed about these topics. Given the significant impact labor relations negotiations have on the state's budget, the commission felt this to be undesirable.

Two approaches were suggested to the subcommittee. The first was to divide the Division of Personnel and Labor Relations into two separate divisions within the Department of Administration,

which would require additional funding for a director of labor relations. The second was to recommend the creation of a new Department of Employee Relations, to be headed by a commissioner with experience in labor relations and personnel administration. The subcommittee considered this second recommendation to be a better approach and requested that a draft bill be prepared for its consideration.

The functions of the new department would include administering the state personnel system, representing the state in its labor relations activities, coordinating safety and training programs for state employees and coordinating all executive branch activities involving equal employment opportunity in state government. The budget for the department would be provided by transferring the budgets of the existing divisions involved (Division of Personnel and Labor Relations and the Division of Equal Employment Opportunity) with the addition of funds for the positions of the new commissioner and perhaps a deputy commissioner.

The administration of the state personnel system and the representation of the state in its labor relations activities are the present responsibilities of the Division of Personnel and Labor Relations. Those responsibilities would not change by the creation of the new department, though there would be two separate divisions instead of one division with two subdivisions.

Specific reference to coordinating safety programs for state employees is included in the duties of the new department because the commission was concerned that there is a need for oversight of training programs. Under the federal Occupational Safety and

Health Act, the state is required to provide training for its employees in safety matters, but this requirement is not always met by the programs. Therefore, the commission plans that staff within the new department would monitor whether OSHA requirements were being met by the departments and would provide information on programs which might be of benefit to their employees.

The state's training programs also would benefit from general coordination which could be provided by the new department. Each department would continue to provide specialized programs, but the central office would make information available on programs of general interest and would provide technical assistance as requested. Having one central person in charge of coordination would help to insure that training programs which the state was required to provide (by union contract, for example) would take place.

The commission recognized that the efficiency and productivity of the state's employees depends in large part on the training they receive. For example, governmental accounting procedures differ significantly from procedures used in private industry or taught in college programs. Therefore, an introduction to the differences would make new state accountants more effective in carrying out their responsibilities. This same approach holds true for other areas as well. Training in supervisory and managerial skills would help insure the efficient management of the state's programs and improve employees' performance.

The Equal Employment Opportunity Division coordinates the state's equal employment opportunity programs, including gathering statistics on the work force, providing training to program

managers and supervisors on equal employment opportunity issues, investigating and counseling on complaints of discrimination in state government, and monitoring contract compliance and the state Equal Employment Opportunity and Affirmative Action plans. In addition to this central EEO office, each department has its own EEO officer, who is responsible for providing information and counseling to employees within that department as well as for preparing and monitoring the departmental affirmative action plan. The departmental EEO officer typically has other duties which are of greater priority.

Placing the central Equal Employment Opportunity office as a division of the new Department of Employee Relations would insure effective communication between that division and the divisions of personnel and labor relations in the areas which affect equal employment opportunities for all Alaskans. It should hold the status of a division to reflect the importance of its recommendations and emphasize the state's commitment to equal opportunity.

The commission also recommends that the adoption of Personnel Rules be made subject to the Administrative Procedures Act. A discussion of this recommendation follows.

In the proposal for a Department of Employee Relations, the commission does not address the issue of whether personnel functions should be centralized or decentralized. Considerable discussion has occurred on this topic, and the commission believes that more investigation is needed before it can decide the course it wishes to recommend to the legislature. Accordingly, the bill makes only peremptory amendments in the existing statute which addresses the decentralization of personnel functions to some

departments. AS39.25.153. The commission will advise the legislature of its findings and recommendations on the centralization/decentralization issue at a later time.

2. Procedures for the Adoption of the Personnel Rules

By statute, the Personnel Rules are considered to relate to the internal management of state agencies and are therefore exempted from the Administrative Procedures Act. The Commissioner of Administration is required to post notices of proposed rule changes in public buildings throughout the state, and if requested, the Personnel Board may hold public hearings on the amendments. Unless the Board disapproves the proposals within 30 days, they become effective. AS39.25.140. Rules pertaining to dress codes and appearance standards adopted by departments are made subject to the provisions of the A.P.A. AS39.26.015.

Would the adoption of Personnel Rules under the A.P.A. add greater opportunity for public comment on proposed changes? This is a question for legislative scrutiny. The A.P.A. sets out procedures to provide for hearings and for legislative review on proposed rule changes. AS44.62.210 and 44.62.320. In an emergency situation, the Rules could be amended under the emergency rule provision which permits rules stated to be necessary for the immediate preservation of the public peace, health, safety or general welfare to take effect immediately. AS44.62.250.

There does not appear to be a need to differentiate the methods for adopting the Personnel Rules from the methods required of other state departments in the adoption of their regulations. Therefore, the majority of the commission recommends that legislation

be adopted to provide that the Personnel Rules no longer be exempted from the Administrative Procedures Act.

3. Relationship of Collective Bargaining Contract Terms to Statutes and Personnel Rules

When adopted in 1961, the State Personnel Act, and the Personnel Rules promulgated under its authority, established the terms and conditions of employment for the entire classified service of the state. Since that time, collective bargaining has changed that situation dramatically.

As noted above, almost all of the state's classified employees are represented by public employee unions which negotiate with the state to establish the wages, hours and terms and conditions of employment which apply to their members. The standards of employment for most employees are contained in a multitude of uncoordinated documents--the collective bargaining contract, arbitration decisions interpreting the contract, the Personnel Act and Personnel Rules to the extent not superseded by the contract and departmental operating procedures.

The commission was advised by the Legislative Affairs Agency that amendments to the State Personnel Act which are adopted after the Public Employment Relations Act was passed would serve, to the extent that their intent so indicated, to limit the terms of future contract negotiations. (Opinion/Memorandum of March 9, 1979, by Ken Rosenstein, Legislative Counsel.)

The subcommittee discussed limiting the application of the State Personnel Act to employees not covered by collective bargaining. This would allow the Act and the Rules to be amended

to establish a comprehensive and consistent system for those employees but would require that all union contracts include terms for all aspects of the employment practices of the state affecting union members. This needs more study.

Under the P.E.R.A., collective bargaining agreements, to be valid, must conform to the constitutional provision that merit principles govern employment of persons by the state. Article XII, Sec. 6 of the Constitution of the State of Alaska, and AS 23.40.070(3). If the Personnel Act is to apply only to non-union employees, then a policy statement must be adopted emphasizing that merit principles be complied with, and also providing that the parties would immediately renegotiate any terms failing to meet those standards. This also needs more study.

Such a provision would also be important because federal standards have the same requirements. In most cases, when the state receives federal money for the operation of a program, it makes a commitment that employees hired to operate the program, whether salary money is provided by state or federal funds, will be selected in accordance with merit principles. The federal government retains the right to demand the return of moneys awarded if the hiring system is not found to be in compliance. In the past, the state was forced to modify its certification of eligibles on the hiring registers in order to comply with federal requirements.

4. Membership and Duties of the Alaska State Labor Relations Agency, the Personnel Board and the Retirement Board

The Personnel Board is composed of three members appointed

by the governor with confirmation by the legislature in joint session. The appointees must be qualified electors of the state, and there is a balance of two members from the same political party. They serve at the governor's pleasure and for a term of six years. AS39.25.060.

The Labor Relations Agency, for state employees, is the Personnel Board. For other public employees who are members of bargaining units, the Act sets the Department of Labor as the Labor Relations Agency unless the public employer has chosen to adopt its own labor relations system and established a different body for its labor relations agency. AS23.40.060(3).

The Public Employee Retirement Board is composed of five members, three of whom are the members of the Personnel Board of the Department of Administration. AS39.35.030.

The Labor Relations Agency generally is concerned with the organization of bargaining units and the recognition of labor organizations of public employees. It hears and decides complaints alleging that an employer or a labor organization has engaged in unfair labor practices. (Unfair labor practices are generally attempts to interfere with employee rights to organize or failure by either party to bargain in good faith.) It may appoint a mediator where negotiations between a public employer and an organization have deadlocked, either on its own initiative or at the request of any party to the dispute. It may adopt regulations in accordance with the Administrative Procedures Act. It may seek to enjoin strikes of employees whose right to strike is prohibited or limited by statute. AS23.40.

The Personnel Board approves or disapproves the original Personnel Rules and amendments to them, acts upon recommendations for the extension of the partially exempt and classified service, determines appeals by employees in the classified service and establishes its own rules of procedure. AS39.25.070. An employee may appeal to the Personnel Board if the employee has been dismissed, demoted or suspended for more than 30 working days in a 12-month period. The board may reinstate the employee if it finds that the action was taken for a political, racial or religious reason or in violation of Chapter 25 of the statutes or of the Personnel Rules. In all other cases, the board reports its findings and recommendations to both parties. AS39.25.170.

The Retirement Board oversees the operation of the Public Employee Retirement System of Alaska, sets policy, adopts regulations, acts as an appeal board, prescribes the interest rate credited to employee accounts each year and recommends contribution rates for public employees. AS39.35.040.

Testimony before the commission indicated that the Labor Relations Agency workload has increased substantially over the past few years. The Labor Relations Agency has no permanent staff, and relies on the employees of the Labor Relations Division for much of its supporting work. This places the Labor Relations Division in conflicting roles: first, as advocate for the state, and second, as impartial supporter of the Labor Relations Agency. This needs legislative action.

The Personnel Board (which consists of the same three members who form the Labor Relations Agency), in contrast, has a much lighter workload. The subcommittee is continuing to consider

the issue, and the commission is not prepared, at this time, to offer recommendations for the legislature's consideration.

5. Inclusion of Non-certificated School District Employees Under the Public Employees Relations Act

The commission received testimony in support of permitting non-certificated school district employees the right to organize under the P.E.R.A. They are presently specifically excluded from the Act. AS23.40.240(5). The subcommittee has asked the Legislative Affairs Agency to provide it with copies of bills which were introduced in previous sessions. The commission is not prepared at this time to offer any recommendations on this matter to the legislature.

6. Merit Increases

The commission received testimony on the state's merit increase policy. The Personnel Rules provide that a merit increase of one step in the same salary range may be given to an employee who has received an overall performance evaluation of "acceptable" or better and who has demonstrated satisfactory service of a progressively greater value to the State. P.R.9 02.21 and 9 02.22. The commission has not investigated the extent to which two-step merit increases are granted.

The availability of merit increases to state employees is limited by collective bargaining agreements. Members of the general government unit of the APEA are not permitted under their contract to be considered for or to receive two-step merit increases. Members of Local No. 71 do not participate in the merit increase program at all.

In a memorandum dated November 14, 1977, Governor Hammond initiated changes in the procedures and funding of merit increases. All supervisors were required to attend a specialized training course in "Measuring Job Performance". Each performance evaluation was to be reviewed with the division director or the head of the office before it was discussed with the employee. Each position was to be reviewed and the position description updated, and specified standards of achievement were to be provided in writing to each employee on the basis of the updated descriptions.

For the past two years, funding for merit increases has been provided only out of departmental vacancy moneys. Departments no longer receive a separate allocation for that purpose. In the past, the legislature did provide an allocation amounting to 1.75% of the departmental budget to be used, together with any vacancy money, for merit increases to deserving employees.

Merit increases appear to be management's way of rewarding an employee for a job well done. They are proposed to serve a different function from cost-of-living increases or salary increases based on length of service. Public union bargaining sets general salary ranges. Some perceive the existence of both bargaining and the availability of merit increases as a double dip for state employees. The existence of a merit increase program should be taken into account when salaries are negotiated and management holds down wage increases based on the possibility of this individual performance reward.

The foremost question is how to permit a system to reward those employees who are most productive, to encourage outstand-

ing performance and to persuade the best state employees to remain in service with the state, while avoiding unjustified awards to employees who are good friends with their supervisors or to employees whose supervisors are uncomfortable with the obligation of evaluating their staff.

The dilemma presented is how to divide the limited funds available for state employees salaries. If cost-of-living adjustments required by contracts are funded, can the state afford to provide additional merit increase money as it did two years ago?

The commission discussed this issue at length. Because of the obvious complexity, it can make no recommendations to the legislature without further study.

III. Classification, Certification & Recruitment Subcommittee

A. Scope of the Subcommittee's Assignment

This subcommittee was assigned to review those topics within the classification process (by which the state assigns positions to salary ranges, titles and position control numbers), the certification process (through which applicants for positions are evaluated and placed on the state's lists of eligibles) and the recruitment process, as well as to consider whether the system should be decentralized to permit the user departments to take a greater role in those processes, and to review the auditing role of the Division of Personnel on the sum of these activities. In addition, the subcommittee heard testimony on problems concerning a variety of other issues. These issues are interlocking, and the commission was reluctant to change one piece of the puzzle without full consideration of the effect of that change on the other pieces. Therefore, the commission is continuing to consider these issues to develop recommendations to present to the legislature at a later date.

The processes which are described in the discussions below apply generally to state employees. However, they do not apply in all cases to all employees, since by collective bargaining agreements, other procedures have been adopted for members of some unions.

B. Summary of Issues Presented to the Classification, Certification & Recruitment Subcommittee

CENTRALIZATION OR DECENTRALIZATION OF PERSONNEL ADMINISTRATION

1. Centralization or Decentralization

A thread throughout many of the issues presented to the subcommittee is whether the personnel functions of the state should be centralized in the Division of Personnel or decentralized to the separate departments. Decentralization of the certifying of eligibles for unique job classes could result in more accurate classification of positions and evaluation of applicants and take less time than Division of Personnel now requires, leaving the Division with more time to handle the general job classes and fulfill its audit and service roles. The audit role would be more important under a decentralized system because there would be need of insuring consistency among departmental decisions.

Decentralization could result in confusion for applicants if there were no central locations for applying for jobs. However, the Division of Personnel could provide central information offices for applicants. These offices could be coordinated with Department of Labor's Job Service Centers to accept applications and forward them to appropriate departments.

On the other hand, it would be possible to centralize all departmental personnel officers by making them employees of the Division of Personnel. This might insure better communication between the Division and the departments, and better control by the Division over personnel decisions within the departments. Testimony was presented to the commission indicating that a centralized system could result in considerable friction between the Division and the department in question and that this friction could hinder the effectiveness of the personnel officer.

Some departments have statutory authority for hiring their own personnel officers who are also empowered to adopt regulations for those classes of employees which are unique to that department. The departments are: Highways, Fish and Game, Education, Labor and Health and Social Services. AS39.25.153. This statutory authorization is not extensively used, for a variety of reasons, and if the state were to adopt a more decentralized system, then some departmental personnel offices might require additional staff to handle the increased workload.

Further subcommittee meetings are planned for review of this issue and the departmental personnel officers will be invited to present their opinions on the matter before the commission prepares its recommendations.

CLASSIFICATION OF POSITIONS

2. Classification Process

The process used for classifying new positions differs little from the process used for reclassifying existing positions. Testimony has indicated and the commission finds that in some cases both are slow and cumbersome. The process includes:

- a) Preparation of job descriptions (P402's) describing the duties of the position and justifying the requested title and salary range. For new positions, the P402 is prepared by the immediate supervisor of the position. For reclassifications, the present job holder typically prepares the form. This needs study.
- b) Departmental review, which varies widely among departments.
- c) Review and approval by the Division of Budget and Manage-

ment, if the classification or reclassification requires an increase to departmental budget.

d) Classification study by the Division of Personnel and Labor Relations, including a comparison to similar positions in other departments, other states and in private industry if the position does not clearly fall into a particular classification. The Division then assigns a salary range, title and position control number. Attempted analogy of Alaska's problems with other states has been, at times, a controlling factor in reclassification with disparity of results.

While most time is spent in the classification study, the process of classifying positions can develop delays at any of these steps. The time required for reclassifications prompts some program managers to blanket apply for full-time positions and then hire temporaries with their full-time appropriation. This often leads to circumvention of the controls of the merit system.

The subcommittee discussed decentralizing this process. Classification of new positions and of existing positions could be done by the user department's personnel section. The department would prepare Budget and Management forms and submit them directly to the Division of Budget and Management for budget authorization. The Division of Personnel would be given a copy of the entire submittal and would have a limited time to approve or veto the proposed classification action. If no response were received from the Division within the time set, then the action would stand, subject to post-audit review, which would be limited to changing actions found to be contrary to established rule or

law. Another suggested alternative is to allow an agency to only fill requested permanent positions with permanent employees.

This concept makes the classification time responsive to management at the departmental level, which can set priorities for action by its personnel section. Division of Personnel would retain an oversight role to insure consistency in classification standards throughout the state. This process could also be more responsive to applicants.

3. Division of Personnel Recommendations to Division of Budget and Management on Reclassifications

Testimony received by the commission indicates that the Division of Personnel evaluates and makes recommendations on proposed reclassifications only after the Division of Budget and Management has authorized funding for the changes.

Federal law requires that employees be paid on the principle of equal pay for equal work, as does state law. Under federal law, employees who have been underpaid may be entitled to back pay with interest and attorney's fees in case of litigation, if there is evidence of discrimination against a protected class.

The present system of approving reclassifications gives Budget and Management effective veto, in some instances, over reclassifications based upon the unavailability of funds to pay increased salaries. By written policy, the Division of Personnel and Labor Relations cannot begin work on any requests that will result in substantial budgetary impact without prior approval from the Division of Budget and Management. It is presumed that Budget and Management's decision is based on monetary considerations.

Therefore, reclassification requests which are not approved in advance by Budget and Management are not analyzed by the Division of Personnel and Labor Relations. The merit, or lack of merit, of the requests is never determined.

Consequently, Budget and Management is not fully informed of the need for the reclassification when it makes its decision. The priorities established for allocating available departmental funds will not reflect advice from the Division on the potential state liability under the equal wage and equal employment laws if the reclassification is not approved.

4. Structure of Classes of Positions

The commission heard testimony on several components of the structure of the state's job classes.

a) Consolidation of job classifications. At present, there are 1,600 job classifications in the state. Reducing the number could speed the classification process and could help to prevent some of the inequities in salaries assigned to different classifications. At the same time, the consolidation could help to develop rational career ladders within classes.

b) Minimum qualifications for positions. Testimony was presented that minimum qualifications for some positions over emphasize educational requirements, which then eliminate candidates who could perform the work satisfactorily but who lack the educational background specified. This is a particular problem for filling positions in the bush. On the other hand, one witness thought that more stringent educational standards should be required for social workers employed by the state.

The Vocational Substitution program requires establishment of vocational standards as alternatives for education or experience levels now required for non-professional occupational areas. Applicants will be placed on eligible lists for the vocational classification indicated on their applications, ranked by assessment of their technical ability and place of residence, without written examination. The purpose of the program is to establish a liberal system under which Alaskan residents not employed by the state may demonstrate their abilities and be hired.

c) Career ladders. Two alleged problems with career ladders were brought to the commission's attention:

1) In the Public Health Nurse class, there is no viable career ladder system. There are a number of PHN-I's in the state, only a handful of PHN-II positions and a few PHN-III positions. PHN-III's are itinerant health nurses, located in rural areas and traveling throughout a wide area. Nurses working as PHN-I's have no realistic opportunity of remaining in the state in their field and receiving a promotion to another job classification.

2) As reported to the commission, in the Chemist class, there was no position available to chemists just out of college. The Chemist I position requires the applicant to have a master's degree or one year of experience as a chemist. There was no typical entry-level chemist classification which required a college degree in chemistry and no additional experience.

CERTIFICATION

5. Certification Process

The process for certifying applicants and placing them on registers takes, in the majority of cases, from three to eight weeks. There are several components to this problem:

a) Open recruitment. The state's policy of open recruitment of applicants has led to a substantial increase in the number of applications submitted to the Division of Personnel. This increased workload has added to the time taken for evaluation, testing (where required) and placement on the register. The Legislative Auditor suggests in Recommendation No.2 of his report of January 27, 1977, that the Division should accept applications based on forecasted turnover of positions rather than continue accepting all applications submitted. The Division replied that the state would have to have a greater pool of employees before it could accurately forecast future staffing needs. The Division is now closing some classes.

Applicants are encouraged by the fact that the state has accepted an application and believe that there is a vacancy in that position. If no job interview occurs for a considerable time, the applicants become frustrated and feel that they are being unfairly treated by the Division of Personnel. On the other hand, if recruitment is closed for a period of time, then the state could not accept applications for any position within that classification. This could present a severe handicap, particularly for classes with a number of specialized positions.

b) Unreasonable departmental requirements. One applicant found the application process for the position of Correctional Officer I to be unduly cumbersome and overly technical. The Division of Corrections required that he be fingerprinted at

a particular state office within a limited time, although there were other more convenient state locations for being fingerprinted. He was forced to take personal leave in order to meet the division's schedule.

c) Evaluation of applicant's experience. It can take longer for the Division of Personnel to evaluate an applicant's experience than to administer an examination, even though the testing process is lengthy. Testimony presented alleged that for unique job classes and for professional level positions, the personnel analyst in the Division may lack the knowledge of the field necessary to perform an accurate evaluation. If the responsibility for filling positions in unique job classifications were delegated to the user department, this problem would be avoided.

d) Location. The Division of Personnel has offices in Anchorage, Fairbanks and a central office in Juneau. The Juneau office is responsible for evaluation of all applications except those from Anchorage for certain job classifications. Mail delivery and frequent mail delays add to the time required for action on an application. Applicants in other locations do not have ready access to the person making the evaluation and therefore are less able to challenge the results, should they feel that the evaluation is incorrect. Decentralization should be considered.

e) Data Processing. The Legislative Auditor, in his report, recommended that the Division adopt an automated application processing system. The Division indicated in its response that progress was being made on the implementation of that system. The Auditor also recommended that files be kept by social security number and that employee records should be automatically inter-

faced with the Payroll Section for immediate and constant updating. The Division replied that because of considerable public and legislative concern about the expanding use of social security numbers as identity numbers, a social security based filing system did not appear advisable.

As the discussion indicates, these issues will be affected by whether the state moves to a more decentralized or more centralized personnel system.

6. Multiple Applications within a Job Series

The Division of Personnel now requires an application for each job classification within a series. Applicants are therefore required to file several applications and to take several tests if they wish to apply for different levels within the series. In most cases if an applicant can pass the higher level test, he or she should automatically qualify for the lower level positions within that series.

For example, accountants must take different examinations for the different levels within the accounting field. The Division of Personnel has found that giving multiple examinations within a job series is necessary since different levels of a series may require different kinds of skills. Furthermore, performance on an examination for one level does not accurately predict the applicant's performance on an exam for a different level.

7. Veteran's Preference Points

One witness testified that he and his subordinate each applied for a vacancy outside the classification series of their present positions, but closely similar to them. His subordinate received

the job because he was slightly higher on the register as a result of the five points added to his score because he was a veteran.

Upon entry into state service, the Personnel Act provides for the granting of preference to veterans. In determining the qualification of applicants for entrance into the classified service under the merit system examination, five points are added to the passing grade of a veteran and ten points are added to the passing grade of a disabled veteran. AS39.25.150(23). The commission is considering alternatives.

8. Promotional Lists

Because the state's policy is to fill vacancies from promotional lists whenever possible, applicants who are on the competitive (rather than the promotional) registers may never be considered for vacancies. This may lead to the applicant on the competitive register becoming frustrated with the state's hiring system.

9. Hiring from the List of Eligibles (Registers)

a) Currentness of lists. Both program managers and applicants have concerns about the lists of eligibles. Program managers have found that some eligibility lists are not current. This occurs sometimes because of regional preferences of applicants and sometimes because the applicant has become unavailable for work or has accepted another position with the state and is no longer seeking the same level of placement.

An applicant may remain on an eligibility list for a period of two years. There are procedures for supervisors to indicate that an eligible should be removed from the register, but apparently, there is some confusion about how to do so. The Division of

Personnel puts a lower priority on updating the eligible list for this kind of information.

b) Qualifications of top five applicants on registers compared with qualifications of those following. For registers with a large number of applicants, the top five eligibles may not be significantly more qualified than those who follow. Federal regulations used to require that the state hire from the top five interested eligibles for programs funded by federal money, but federal civil service reforms have expanded the alternatives.

Some of those alternatives were listed in a memorandum on Merit Systems in Other Jurisdictions prepared for the commission by Ken Humphreys, Senior Policy Analyst with the Legislative Affairs Agency:

1) Rule of the list. Under this method, eligibles are certified on a pass/fail basis. All who pass are certified as eligible for appointment. This is the most open alternative.

2) Zone or category scoring. Individuals are ranked within specified ranges. Such categories might be called outstanding, well qualified, qualified and not qualified. Selections would be from the highest category unless the number of eligibles in it fell below a certain level, in which case the next category would become eligible. This is the method under the new federal law. It is worth noting that zones or categories may be tailored to suit different job classes.

3) Block scoring. All candidates within a specified block of scores are certified.

4) Rule of _____. Any arbitrary number such as one, seven

or ten may be inserted. The Classification, Certification and Recruitment Subcommittee has recommended that the state move toward a block scoring system. The full commission will study this recommendation.

c) Interviews for top five applicants. Departments are required to hire within the top five on the register (except where they can justify not doing so) but they are not required to interview each applicant within the group.

Supervisors may be prejudiced against an applicant because he or she has been on the register for a considerable length of time, and be less willing to hire him or her for that reason. The failure to interview all of the members of the group rewards those who are aggressive in seeking interviews with program managers and those who are in the location in which there is a vacancy. A prospective employer should have more knowledge of an applicant after an interview than he or she could glean from reading the written application.

The Department of Administration has indicated that they will prepare regulations for a pilot project to require that all of the top five interested applicants have an opportunity for a meaningful interview before a position is filled. The interviews should be scheduled long enough in advance to insure that the applicant will receive notice and be able to attend. The commission believes that this is an item specifically for legislative intent. Supervisors may wish to ask departmental staff in the applicant's area to conduct the interview, if the applicant prefers not to travel to the office with a vacancy. Inter-

views might also be conducted by telephone. Either of these methods is less desirable than an interview between the applicant and the person hiring.

The applicant would be responsible for any transportation costs to the interview.

10. Criminal Records of Applicants

The application form for state employment asks applicants to indicate whether they have been convicted of a felony within the past ten years. Federal law may now prohibit requiring that an applicant respond to that question. The only way to check the truth of an applicant's response, should one be provided, is to make a personal complaint with the Department of Public Safety.

Some commission members believe it is important for the state to know whether an applicant has a criminal record when filling a position where prior criminal activity may be relevant to the duties involved. For example, knowledge of a prior conviction of embezzlement would be relevant when considering an applicant's qualifications for a position which provides access to funds or supplies.

AUDITS OF THE PERSONNEL SYSTEM AND PRACTICES

11. Auditing Role of the Division of Personnel

The Division of Personnel should increase its review of personnel actions taken by departments, so that abuses of the personnel system would decrease. Testimony has indicated that one of the major areas of abuse is in departmental hiring practices. In order to avoid unfair treatment of those individuals hired through

improper departmental actions, the Division should be able to insure that it learns of improper actions promptly. Applicants for state employment should be provided with the name of the person whose duty it is to investigate and resolve abuses.

12. Audits of the Personnel System

The subcommittee considered whether to propose annual audits of the personnel system similar to the audit performed by the Division of Legislative Audit in 1977. An annual audit would reveal problems within the system, and would provide the Division of Personnel and Labor Relations with information about its performance. It could also serve to focus attention on misconceptions of the personnel system and serve to identify need for education about the personnel processes. The subcommittee was advised that the staff of the Division whole-heartedly supports a regular audit program.

The subcommittee was convinced that any audit should be non-political and should be performed considering standards which are valid for the conditions in Alaska. The scope should be defined to make the task manageable and useful. It was agreed that some provision should be made for audits to evaluate the effectiveness of the commission's recommendations, as well as the effectiveness of the personnel system as a whole.

While supporting the concept of annual audits, the commission has not yet defined who should perform the audit, what the scope should be, nor to whom the auditor should report. Therefore, the commission makes no recommendation on that issue at this time.

13. Disciplinary Measures for Violations of the Personnel Rules

There is no workable system to penalize supervisors who circumvent the Personnel Rules or who disobey equal employment opportunity laws in the decisions they make. In the Prohibitions and Penalties section of the Personnel Rules, there is a provision making any person who violates the Rules guilty of a misdemeanor and providing that any state employee who is convicted of that misdemeanor shall immediately forfeit his office or position. P.R.13 18.0. This is an unenforceable remedy, and therefore likely never to be used. An acceptable alternative needs to be formulated.

JOB PERFORMANCE

14. Training Programs

The Division of Personnel has limited staff to provide training programs to state employees. Training needs should include introduction to new state employees of the state's required procedures, EEO and Affirmative Action information, better management practices, introductory budget and financial management information to non-fiscal program managers, explanation of the state's personnel system, classification and reclassification processes and standards, the hiring system, labor relations information and the like.

One problem identified was the reluctance of supervisors to fire unsatisfactory employees. This reluctance may result from the lack of training in the state's standards, processes and some skill developments. But there may be other obstacles which training will not address.

15. Flex Time

Flex time is a system in which employees' hours are staggered so that not all arrive or depart at the same time, though each employee must work a full shift. The use of flex time is a way of responding to individual employee needs while also better meeting the public's need for services during lunch hours and after state offices are normally closed. Experience has shown that having people work at odd times can result in unions demanding extra pay for those hours, increasing the personal service costs to the state. The state permits departments to implement flex time programs, but this option is not widely practiced. The commission recommends that the legislature urge the executive branch to increase the availability of the use of flex time to state employees.

16. Use of Employees in Tasks Above Job Specifications

Supervisors are unwilling to document the performance by their staff of duties above the job classification to which an employee is assigned. This denies the employee credit for work done--either when being considered for promotion or for employment elsewhere--as well as for extra pay for the task in question. The procedures available for documenting work above grade should be fully implemented.

THE STATE PERSONNEL ACT AND PERSONNEL RULES

17. The State Personnel Act

As discussed in the section on the summary of issues before the Merit System/Collective Bargaining Subcommittee, the Person-

nel Act has not been comprehensively revised since its adoption, although circumstances have changed substantially since then.

In addition, the Act itself is poorly structured, and modifications and exceptions to the Act are spread throughout the rest of the statutes. There is need for a comprehensive recodification. Because of the complexity of the question, the Blue Ribbon Commission has not, within the time constraint, been able to consider this issue fully, and therefore can make no recommendation on this matter. We request more time so that we may complete the formulation of additional concepts.

18. The Personnel Rules

In addition to the method by which the Rules are adopted (see discussion above in the Merit System/Collective Bargaining Subcommittee Summary, page 11), there are a number of other problems with the Personnel Rules. Little attempt has been made to cross index the Rules with the several bargaining unit agreements nor are the Rules comprehensive in setting out the topics which they do address. For example, there is no specific rule on whether temporary employees may use the appeal procedures established in Rule 12. The Division has, by analogy, reasoned that temporaries may not use those procedures since probationary employees are forbidden access under the Rule on dismissal during the probationary period, P.R.6 04.0, and since temporary employees have fewer rights generally than do probationary employees.

Personnel Rules are in some instances vaguely drafted, leading to conflicting applications by different departments, and to inconsistent treatment of state employees, depending only on which

department they work in. In some cases, it would be reasonable to set out those limits statutorily.

The commission has not considered this issue extensively. Given the changes to the Rules which may result from future commission recommendations, a decision on this issue will be made at a later time.

IV. Categories of Employees Subcommittee

A. Overview of the Categories of Employees in the State System

In addition to three classes of service (classified, exempt and partially exempt), the state has six categories of employees. Provisions for those categories are set out in the Personnel Rules, and some of the union contracts modify those provisions. The six are: permanent (either full-time, part-time or seasonal), probationary, provisional, temporary, emergency, and short-term. The subcommittee focused its attention on the temporary category, although recognizing a need to later consider contract employees and to consider whether positions in the partially exempt service should be removed to the classified service.

The discussion of the issues following is limited to temporaries in the classified service, although much of what is said would pertain to those in the partially exempt service as well.

B. Temporary Employees

A temporary position is one which is established with an anticipated duration of less than six months. P.R. 1. That period may be extended by the director in extenuating circumstances. Appointments are not required to be made from the registers, but are directed, when practicable, to be done in that manner. P.R.5 06.0. Some departments have adopted internal procedures to require that this policy be followed (Health and Social Services, and recently Natural Resources). Time served as a temporary does not

count as part of an employee's probationary period (P.R.6 02.6), nor are temporaries eligible to receive most of the benefits provided to permanent employees.

The terms governing the employment of temporaries by the state have been modified in some of the contracts negotiated with public employee unions. Specific reference is made to some of those modifications in the discussion of the issues before this subcommittee.

C. Summary of Issues Before the Categories of Employees Subcommittee

1. Hiring Temporary Employees from the Register

Although the Personnel Rules require that temporary appointments shall, when practicable, be made from the eligible lists, (P.R.5 06.0), most of the temporary employees who testified before the commission were not hired from the registers. Requiring departments to abide by the rule and to hire temporaries from the registers could eliminate some of the abuses associated with temporary hiring practices. Abuses include hiring people who would not meet the minimum qualifications of vacant permanent positions so that they can develop minimum qualifications and be placed in the position; hiring people from out of state as temporaries so that they can establish residency and be placed in permanent positions; and using the temporary period to add to the probationary period of permanent employment.

Hiring from the register takes some time. Steps include request for and receipt of the register from the Division of Personnel; notification to eligibles on the register of the vacancy; inter-

department they work in. In some cases, it would be reasonable to set out those limits statutorily.

The commission has not considered this issue extensively. Given the changes to the Rules which may result from future commission recommendations, a decision on this issue will be made at a later time.

count as part of an employee's probationary period (P.R.6 02.6), nor are temporaries eligible to receive most of the benefits provided to permanent employees.

The terms governing the employment of temporaries by the state have been modified in some of the contracts negotiated with public employee unions. Specific reference is made to some of those modifications in the discussion of the issues before this subcommittee.

C. Summary of Issues Before the Categories of Employees Subcommittee

1. Hiring Temporary Employees from the Register

Although the Personnel Rules require that temporary appointments shall, when practicable, be made from the eligible lists, (P.R.5 06.0), most of the temporary employees who testified before the commission were not hired from the registers. Requiring departments to abide by the rule and to hire temporaries from the registers could eliminate some of the abuses associated with temporary hiring practices. Abuses include hiring people who would not meet the minimum qualifications of vacant permanent positions so that they can develop minimum qualifications and be placed in the position; hiring people from out of state as temporaries so that they can establish residency and be placed in permanent positions; and using the temporary period to add to the probationary period of permanent employment.

Hiring from the register takes some time. Steps include request for and receipt of the register from the Division of Personnel; notification to eligibles on the register of the vacancy; inter-

views of those interested in the position; and selection from among the applicants. In some instances, program managers may not be able to leave a position vacant for the length of time required.

2. Time Limits on Employment of Temporaries

The Personnel Rules provide that temporary employees can be employed in one position for a maximum of six months, with extensions possible in extenuating circumstances. P.R.5 06.0. Union contracts modify that rule. Local No. 71 members receive a wage supplement of \$1.32 per hour for the first 120 days of temporary service. If the period is extended beyond that time, then they are entitled additionally to shift from the entry-level wage step into the higher level step. The union must agree to the extension beyond the first 120 days. The APEA collective bargaining contract limits employment of its members as temporaries to six months and restricts extensions.

The six-month term is seen as excessively long by some. It invites departments to use temporary employees instead of hiring permanent full-time, part-time or seasonal employees, and permits them to evade the merit system established for hiring permanent employees.

On the other hand, some temporary employees and some program managers see the term as inadequate. The time required to establish a new position can cut into the time available for completion of a project, so managers may have no choice but to hire temporaries. If the project lasts longer than six months, then the manager is forced to train a new employee in the middle of the work. One witness suggested that some of the time required for implementa-

count as part of an employee's probationary period (P.R.6 02.6), nor are temporaries eligible to receive most of the benefits provided to permanent employees.

The terms governing the employment of temporaries by the state have been modified in some of the contracts negotiated with public employee unions. Specific reference is made to some of those modifications in the discussion of the issues before this subcommittee.

C. Summary of Issues Before the Categories of Employees Subcommittee

1. Hiring Temporary Employees from the Register

Although the Personnel Rules require that temporary appointments shall, when practicable, be made from the eligible lists, (P.R.5 06.0), most of the temporary employees who testified before the commission were not hired from the registers. Requiring departments to abide by the rule and to hire temporaries from the registers could eliminate some of the abuses associated with temporary hiring practices. Abuses include hiring people who would not meet the minimum qualifications of vacant permanent positions so that they can develop minimum qualifications and be placed in the position; hiring people from out of state as temporaries so that they can establish residency and be placed in permanent positions; and using the temporary period to add to the probationary period of permanent employment.

Hiring from the register takes some time. Steps include request for and receipt of the register from the Division of Personnel; notification to eligibles on the register of the vacancy; inter-

tion of a new program could be avoided if the legislature requested that departments present P402's for all positions created by a new program at the same time that the budget for the program was being considered.

3. Project Employees

It is difficult to plan for permanent positions in programs funded through federal grants whose receipt is not guaranteed from year to year. Program managers are not authorized to fill those positions until after funding is definite. This leads to the employment of temporaries in those positions. An alternative would be to create a new category for project employees. The employees would understand that their employment would be dependent upon continued receipt of funds for the project.

4. Benefits for Temporary Employment

Of the benefits provided to permanent employees by the state, temporary employees in the classified service are entitled to receive only holiday pay and unemployment insurance. Temporaries are not eligible for court leave, administrative leave, personal leave, or retirement benefits. Even if a temporary employee is subsequently placed in a permanent position, he or she does not receive retroactive credit towards either retirement or, in most cases, seniority.

Temporary employment does not entitle employees to be placed on promotional registers. The state's merit system provides a policy favoring filling positions by promotions. This would appear in some cases to penalize temporary employees who may have

worked for a substantial period of time for the state.

If temporary employees did, in fact, work only for a short time in one position, then it might be inappropriate for the state to provide leave benefits. Temporaries would then be hired only where there were deadlines that could not otherwise be met, and if they were out on leave, the department would have to pay not only their salary, but also the salary of a second replacement temporary.

Because the state does not have to pay for as many fringe benefits to temporaries as it does for permanent employees, it is cheaper for departments to hire temporaries. Program managers may therefore leave permanent positions vacant and hire temporaries instead so as to be able to increase the staff available to work on a project. For the same reason, departments may use temporary employees instead of permanent seasonal employees for recurrent seasonal needs. Some departments have a substantial number of such employees and would probably need a supplemental appropriation to fund benefits if they made use of the permanent seasonal category.

The Local No. 71 collective bargaining agreement addresses the lack of benefits provided to temporary employees. Members who are working as temporaries receive a wage supplement of \$1.32 per hour for the first 120 days of work in a temporary position. After the 120 days, they shift from the entry level wage step into a higher level wage step, and they continue to receive the supplement.

5. Vacant Permanent Positions

The legislature reviews the number of vacant PCN's when it

considers a department's budget request. In some instances, those PCN's which have been vacant for more than six months are removed from the budget, unless the department can justify the delay in hiring. There is evidence that despite this policy, a number of PCN s are remaining vacant for several years, although funds are made available to departments to fill them. Departments use this money to hire temporaries instead of permanent employees.

6. State Employees who are Enrollees of the CETA Program

The state placed employees who are enrolled in the CETA (Comprehensive Employment and Training Act) program in the temporary employee category. This placement creates some problems, both for CETA's working under Titles II and VI and for CETA's working in SCSEP (Senior Community Service Employment Program). The objective of CETA is to provide employment opportunities for underemployed and disadvantaged groups of people in the state.

a) SCSEP. The federal regulations for the SCSEP program provide that an enrollee may work for a maximum of 1,300 hours in a year. No enrollee may be required to work more than 30 hours per week, although he or she may choose to work the full hours of a normal work week. The state may not set a time limit in conflict with these provisions. Therefore, the six-month limit placed on temporary employment appears to be in violation of the program rules. However, extensions are available.

As temporary employees, SCSEP enrollees do not receive the leave, retirement, or health insurance benefits provided to permanent employees. Federal regulations require that all enrollees

of an employer receive the same benefits and that those benefits be comparable to the benefits provided to other employees within the same category. The state meets that requirement, since all temporary employees are treated equally. If the state placed SCSEP employees in the permanent category, whether in the classified or the partially exempt service, then the state would be obligated to provide them with all the benefits which it provides to permanent employees.

As a result of being placed in the classified service, SCSEP employees are members of the bargaining units in which they are placed. Therefore, the union contract provisions apply to them. The APEA contract establishes a minimum wage which the state must meet, and this provision applies equally to SCSEP members as to all other members of the bargaining unit. The union contract and federal regulations of the program forbid the state to work members in tasks above their classification. Placement within the partially exempt service would remove the SCSEP employees from collective bargaining units. In addition to removing them from union oversight, the employees would lose access to the grievance procedures provided in the union contract. As temporary employees, or as partially exempt employees, they would not have access to the dispute resolution procedures set out in the Personnel Rules (P.R. 12) and in order to meet the requirements of the federal regulations governing the program, the state would have to develop some new mechanism of dispute resolution for this group.

Because the goal of the SCSEP program is to promote the use-

ful part-time employment of economically disadvantaged persons who are 55 years or older, the normal state selection procedures for employees have to be modified for the program enrollees. However, those employed by the state must, in addition to meeting the eligibility standards, meet the state's minimum requirements for the job class in which they are hired. If they were placed in the classified service as permanent employees, special registers would have to be developed for SCSEP positions, containing only applicants who both meet the program's and the state's selection criteria. Placement in the partially exempt service would mean that enrollees would not have to be hired from the state's registers nor meet minimum qualification standards and would avoid this difficulty.

b) Other CETA programs. The federal regulations implementing the CETA program set the maximum salary which the federal government will provide for an enrollee. Prior to October 1, 1978, that limit was set at \$10,000 per year, or approximately \$833 per month. The maximum has been changed to reflect the higher cost of living in Alaska and is now \$19,880 per year or about \$1,656 per month. The state may supplement that amount, should it wish to do so. The state is expected to maintain an average salary for all CETA's in Titles II and VI of no more than \$14,314 per year. Testimony was presented on the experience of one CETA enrollee working at a correctional center. She indicated that she was doing the same work as the Correctional Officer I's employed at the institution, but that they were not part of the CETA program and therefore received significantly higher wages than she did. She knew of an instance

where a CETA enrollee was supervising a non-CETA state employee who was much higher paid than the supervisor.

Other testimony presented to the commission has indicated that the state is relying on CETA enrollees to provide essential state services in a number of programs. This reliance, while economical in that CETA salaries are paid from federal monies, may cause serious disruption to those programs in the event that CETA funds become unavailable. There is some question of whether state practices are in full compliance with federal CETA regulations.

7. Due Process Rights for Temporary Employees

Under the Personnel Rules, temporary employees have only a limited right to pursue grievances. The grievance procedures set out in Rule 12 are available to "any employee occupying a position in the classified service who has a grievance relating to his position, working conditions or employment over which the Executive Head of his department may lawfully exercise discretion". However, Rule 6 04.0 limits the rights of probationary employees to appeal or have a hearing for dismissal, except where the dismissal was due to discrimination based on race, color, sex, religion, national origin, or political beliefs. The Division of Personnel has reasoned that temporary employees have less status than probationary employees, and that therefore if probationary employees' right to appeal adverse decisions is limited, then the right of temporary employees must also be limited.

The Personnel Board appeals procedure set out in AS39.25.170

has been administratively construed to apply to employees having a permanent status, rather than a probationary status, except in cases where dismissal of a probationary employee is due to racial, religious or political discrimination. Whaley vs. State, 438 P.2d 718 (1968). Therefore, it is probably also unavailable to temporary employees.

Under collective bargaining agreements, the right of temporary employees to use the grievance procedures is limited as well. In the past, APEA did pursue grievances for temporary employees within their bargaining unit. However, the Division of Personnel began, about a year ago, to hold the association to the letter of the agreement. Under language that had been in the contract since at least 1973, the definition of employee did not include temporary employees.

Art. 1, Sec. 2(c) "Employee" in this Agreement means a person in the state service who is paid a salary or wage and holds probationary, permanent, or provisional status.

Grievances were defined as "any controversy or dispute arising between APEA or an employee of the bargaining unit and the Employer." Article X, Section 1. Given the language, an arbitrator upheld the Division's position that grievance rights were not available to temporary employees, even though that language had not been challenged by the department in previous grievances on the behalf of temporaries within the unit.

The Local 71 contract provides that temporary employees have the right to grieve on violations of contract terms and penalty pay, but that only permanent or probationary employees have a right to arbitration procedures.

8. Pool of On-call Permanent Employees as an Alternative to the Hiring of Temporaries

The state could develop a pool of skilled, permanent employees who would be on call to the various departments to fill in during vacations and to be available during unexpected vacancies or periods of peak work. The departments would have to work with the Division of Personnel to identify which classifications are used enough to benefit from a pool. Certainly, clerical needs could be filled from a pool, and perhaps accounting. Some of the positions in the pool could be set aside for people interested in working part-time.

APPENDICES

COMMISSION MEETINGS

PUBLIC HEARINGS

Anchorage

November 30 & December 1, 1978	Categories of Employees Subcommittee Classification, Certification & Recruitment Subcommittee Merit System/Collective Bargaining Subcommittee Blue Ribbon Commission
January 4, 1979	Categories of Employees Subcommittee
January 27, 1979	Blue Ribbon Commission

Fairbanks

December 12 & 13, 1978	Categories of Employees Subcommittee Merit System/Collective Bargaining Subcommittee Classification, Certification & Recruitment Subcommittee Blue Ribbon Commission
---------------------------	---

Juneau

October 3, 1978	Blue Ribbon Commission
November 15 & 16, 1978	Classification, Certification & Recruitment Subcommittee (then called the Centralization/Decentralization Subcommittee) Categories of Employees Subcommittee Blue Ribbon Commission
January 10, 1979	Blue Ribbon Commission
February 15, 1979	Blue Ribbon Commission

WORK SESSIONS AND OTHER MEETINGS

September 15, 1978 Juneau	Blue Ribbon Commission
January 26, 1979 Anchorage	Categories of Employees Subcommittee Classification, Certification & Recruitment Subcommittee Merit System/Collective Bargaining Subcommittee

Appendix A

February 5, 6 & 7, 1979 Juneau	Classification, Certification & Recruitment Subcommittee Merit System/Collective Bargaining Subcommittee Categories of Employees Subcommittee Blue Ribbon Commission & National Conference of State Legislatures
February 15, 1979	Classification Process Walk-Through
February 23, 1979 Juneau	Classification, Certification & Recruitment Subcommittee Merit System/Collective Bargaining Subcommittee Categories of Employees Subcommittee Blue Ribbon Commission
February 24, 1979 Juneau	Blue Ribbon Commission
March 13 & 14, 1979 Juneau	Blue Ribbon Commission

PUBLIC EMPLOYEE UNIONS

Alaska Public Employees Association (APEA)
General Government Unit
Supervisory Unit

Confidential Employees Association (CEA)

Inlandboatmen's Union of the Pacific (IBU)

International Order of Masters, Mates & Pilots (MMP)

Marine Engineers Beneficial Association (MEBA)

Public Employees Local No. 71 (AFL-CIO), covering Labor
Trades & Crafts unit employees (Local 71)

Public Safety Employees Association (PSEA)

1 service without prior written approval of the director except as pro-
2 vided in this section.

3 (b) Every appointment to state service except an emergency
4 appointment shall be made from the appropriate eligible list or dis-
5 patching register unless in exceptional circumstances the director has
6 waived this requirement.

7 (c) The director may authorize the appointment of a non-permanent
8 employee if the request for authorization is accompanied by evidence of
9 available funds for the anticipated duration of that hire and the direc-
10 tor determines that

11 (1) there is specific legislative authorization that the work
12 in question be performed by non-permanent employees and funds have been
13 made available on that condition;

14 (2) there is an urgent need to fill an authorized, permanent
15 position and it is impractical to establish the position or to make
16 certification within a reasonable time because of a lack of individuals
17 on the eligible lists for that position;

18 (3) an urgent program need exists which the appointing auth-
19 ority could not reasonably have been expected to anticipate and meet
20 through the creation of a permanent position; or

21 (4) a program or project exists and the needs for employees
22 can most appropriately be met through the use of program or project
23 employees.

24 (d) The director may not authorize the appointment of a non-
25 permanent employee if after consideration he determines that

26 (1) the need for the non-permanent employee can reasonably be
27 met through the creation and filling of a permanent position;

28 (2) the need for the non-permanent employee would be more
29 appropriately met through an emergency appointment; or

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL (for
the Commission on the State
Personnel Act)

IN THE SENATE

SENATE BILL NO. 253

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the hiring of non-permanent employees in the state personnel system; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that certain inconsistencies and abuses in the hiring of employees in the state personnel system 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 non-permanent state employment to evade departmental accountability and mask poor planning. The legislature further intends that non-permanent 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 non-permanent hire.

* Sec. 2. AS 39.25.150(9) is amended to read:

(9) non-permanent [TEMPORARY] appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200 [WHICH ARE DETERMINED TO BE OF A SEASONAL OR TEMPORARY NATURE];

* Sec. 3. AS 39.35.680(21)(C)(iii) is amended to read:

(iii) casual or [,] emergency [OR TEMPORARY]
workers or non-permanent employees as defined in AS 39.25.200;

* Sec. 4. AS 39.25 is amended by adding new sections to Article 6 to read:

Sec. 39.25.195. APPOINTMENT OF NON-PERMANENT EMPLOYEES. (a) An individual may not be appointed as a non-permanent employee in the state

1 (3) the need for the non-permanent employee is not urgent and
2 could reasonably have been anticipated and met by the appointing autho-
3 rity through the creation and filling of a permanent position.

4 (e) To insure compliance with the intent of this section the
5 director may require a department or agency to obtain prior approval for
6 emergency appointments.

7 (f) The director shall adopt regulations implementing this sec-
8 tion. The regulations shall include consideration of the need for
9 timely substitution for permanent employees on medical or personal leave
10 and other situations in which the appointment of an emergency or perma-
11 nent employee would be inappropriate and when delay in hiring would
12 cause serious disruption.

13 (g) A work assignment may not be performed by a non-permanent em-
14 ployee for more than 120 calendar days in a 12-month period. A non-
15 permanent employee may not be employed by any one department for more
16 than 120 calendar days in a 12-month period. In extraordinary circum-
17 stances the director may authorize an extension of the limit imposed by
18 this subsection if he finds that there is an urgent need for the exten-
19 sion. The limit imposed by this subsection does not apply to program or
20 project employees.

21 (h) The director shall present a report on non-permanent and
22 emergency hire practices in state government to the legislature within
23 the first 10 days of each regular legislative session. The report shall
24 include information on the number of non-permanent employees authorized
25 under this section and the number of emergency employees hired in each
26 department, a description of the procedures used in authorizing the
27 hiring of non-permanent employees, and any recommendations for legisla-
28 tion required to implement the intent of this section.

29 Sec. 39.25.197. TERMINATION OF NON-PERMANENT EMPLOYEES. When the

1 director determines that a non-permanent employee has been appointed in
2 violation of AS 39.25.195, he shall immediately notify the appointing
3 authority in writing and the appointing authority shall immediately
4 terminate the non-permanent employee from state service.

5 Sec. 39.25.198. CIVIL LIABILITY. An appointing authority who
6 violates AS 37.25.195 is liable in a civil action to an individual
7 terminated under AS 37.25.197 as a result of that violation. The
8 damages recoverable under this section are presumed to be three times
9 the gross monthly salary at which the non-permanent employee was hired
10 by the appointing authority.

11 Sec. 39.25.200. DEFINITIONS. In AS 39.25.195 - 39.25.200,

12 (1) "director" means the director of the division of person-
13 nel and labor relations;

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

18 (3) "non-permanent employee" means a person who is employed
19 in state service in a position which is not in the exempt or partially
20 exempt service and who is not a permanent or an emergency employee;

21 (4) "permanent employee" means an employee who has been
22 appointed to an authorized, permanent part-time or permanent seasonal
23 position in the classified service and who is in the process of complet-
24 ing or has successfully completed the required probationary service in
25 that position;

26 (5) "program or project employee" means a non-permanent em-
27 ployee who is employed in state service with prior written understanding
28 that employment in that position will continue for at most the duration
29 of a specified program or project which is not a regular and continuing

1 function of a department or agency and which has an established probable
2 date of termination.

3 * Sec. 5. This Act takes effect September 30, 1979.
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Introduced: 3/22/79
Referred: State Affairs,
Finance and Labor & Management

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
COUNCIL (for the Commission
on the State Personnel Act)

1 IN THE SENATE

2 SENATE BILL NO. 256

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating a Department of Employee Relations;
7 amending the state personnel laws; and providing for an
8 effective date."

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

10 * Section 1. AS 44 is amended by adding a new chapter to read:

11 CHAPTER 22. DEPARTMENT OF EMPLOYEE RELATIONS.

12 Sec. 44.22.010. COMMISSIONER OF EMPLOYEE RELATIONS. The principal
13 executive officer of the Department of Employee Relations is the commis-
14 sioner of employee relations. The commissioner of employee relations
15 shall have experience in both personnel administration and labor rela-
16 tions, either in the public or private sector. His combined experience
17 in these fields must total at least five years of full-time experience.

18 Sec. 44.22.020. DIVISIONS OF THE DEPARTMENT. (a) The Department
19 of Employee Relations shall include the following divisions:

- 20 (1) labor relations;
21 (2) personnel;
22 (3) equal employment opportunity.

23 (b) The head of the division of labor relations is the director of
24 labor relations, appointed by the commissioner of employee relations.
25 The director of labor relations shall have at least three years of
26 full-time experience in labor relations, either in the public or private
27 sector.

28 (c) The head of the division of personnel is the director of
29 personnel, appointed by the commissioner of employee relations. The

1 director of personnel shall have at least three years of full-time
2 experience in personnel administration, either in the public or private
3 sector.

4 (d) The head of the division of equal employment opportunity is
5 the director of equal employment opportunity, appointed by the commis-
6 sioner of employee relations.

7 Sec. 44.22.030. POWERS AND DUTIES OF DEPARTMENT. The Department
8 of Employee Relations shall

9 (1) administer a statewide personnel program, including
10 central personnel services such as recruitment, examination, position
11 classification, training, employee development, and pay administration;

12 (2) represent the state as an employer in collective bargain-
13 ing and grievance resolution under the Public Employment Relations Act
14 (AS 23.40.070 - 23.40.260), except to the extent those functions are
15 performed by the Board of Regents of the University of Alaska;

16 (3) coordinate safety programs for state employees;

17 (4) coordinate all executive branch activities involving
18 equal employment opportunity in state government;

19 (5) perform other functions as provided by law.

20 * Sec. 2. AS 23.40.212 is amended to read:

21 Sec. 23.40.212. AGREEMENT WITH THE BOARD OF REGENTS. (a) The
22 Board of Regents of the University of Alaska may delegate to the Depart-
23 ment of Employee Relations [ADMINISTRATION] its authority under AS 23.-
24 40.070 - 23.40.260 to negotiate with an organization for an agreement.

25 (b) The Department of Employee Relations [ADMINISTRATION] shall
26 participate in the negotiations between the Board of Regents and an
27 organization. An agreement between the board and an organization re-
28 quires the approval of the department.

29 * Sec. 3. AS 39.20.295 is amended to read:

1 Sec. 39.20.295. SPECIAL REGULATIONS ON LEAVE PERIOD. In accord
2 with the procedures established in AS 39.20.320, the Department of
3 Employee Relations [ADMINISTRATION] shall adopt regulations [PROMULGATE
4 RULES] defining and establishing a uniform beginning and a uniform
5 concluding date for the 12 month periods applicable to leave use and
6 accumulation by officers and employees of state government.

7 * Sec. 4. AS 39.20.320 is amended to read:

8 Sec. 39.20.320. ADOPTION OF REGULATIONS. The director of the
9 division of personnel [AND LABOR RELATIONS] in the Department of
10 Employee Relations [ADMINISTRATION] shall prepare and submit regulations
11 necessary to carry out the intent of AS 39.20.200 - 39.20.330. These
12 regulations shall include provisions for crediting and, if necessary,
13 converting accrued leave when an officer or employee transfers, without
14 break in service, between a department or agency of the state government
15 where he is subject to AS 39.20.200 - 39.20.330 and a department or
16 agency of the state government where he is not subject to AS 39.20.200 -
17 39.20.330. These regulations shall be submitted to the commissioner of
18 employee relations [ADMINISTRATION WITHIN 60 DAYS OF JULY 9, 1978]. The
19 commissioner of employee relations [ADMINISTRATION] shall review the
20 regulations and submit them to the personnel board. The regulations, or
21 any part of the regulations, have the force and effect of law 30 days
22 after they are submitted to the personnel board if not disapproved by
23 the personnel board. Amendments to the regulations shall be prepared
24 and submitted in the same manner, and have the force and effect of law
25 30 days after they are submitted to the personnel board, if not dis-
26 approved by the personnel board. [THE REGULATIONS ADOPTED UNDER AS 39.-
27 20.200 - 39.20.330 RELATE TO THE INTERNAL MANAGEMENT OF STATE AGENCIES
28 AND THEIR ADOPTION IS NOT SUBJECT TO THE PROVISIONS OF THE ADMINISTRA-
29 TIVE PROCEDURE ACT (AS 44.62).]

1 * Sec. 5. AS 39.20.330 is amended to read:

2 Sec. 39.20.330. DEPARTMENTS TO KEEP LEAVE RECORDS. Each depart-
3 ment, office, institution, or agency of the state government shall keep
4 for its files a complete leave record, covering each of its officers and
5 employees, on forms prepared and supplied by the Department of Adminis-
6 tration. These records are subject to annual audit and approval by the
7 director of personnel of the Department of Employee Relations [ADMINIS-
8 TRATION].

9 * Sec. 6. AS 39.23.010 is amended to read:

10 Sec. 39.23.010. CREATION OF COMMISSION; COMPOSITION. There is
11 established in the Department of Employee Relations [ADMINISTRATION] the
12 Alaska Salary Commission consisting of five members appointed by the
13 governor. No member of the commission may be a public officer or em-
14 ployee.

15 * Sec. 7. AS 39.23.030 is amended to read:

16 Sec. 39.23.030. OFFICERS; STAFF. The commission shall select a
17 chairman from among its members annually. The director [OF THE DIVI-
18 SION] of personnel [AND LABOR RELATIONS] serves as ex officio secretary
19 to the commission and provides research, technical and administrative
20 services.

21 * Sec. 8. AS 39.25.030 is amended to read:

22 Sec. 39.25.030. [DIVISION OF] PERSONNEL [AND] BOARD. [THERE IS
23 ESTABLISHED WITHIN THE DEPARTMENT OF ADMINISTRATION A DIVISION OF PER-
24 SONNEL.] There is established within the division of personnel in the
25 Department of Employee Relations a personnel board.

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

27 (a) After June 30, 1979 [JUNE 30, 1961], the personnel board, upon
28 written recommendation of the commissioner of employee relations [ADMIN-
29 ISTRATION], may extend the partially exempt service to include any

1 position which was in the classified service on June 30, 1979 [APRIL 19,
2 1960], which in the judgment of the board:

3 (1) involves principal responsibility for the determination
4 of policy;

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

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

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

10 (c) After June 30, 1979 [JUNE 30, 1961], the personnel board, upon
11 written recommendation of the commissioner of employee relations [ADMIN-
12 ISTRATION], may extend the classified service to include any position
13 which was in the partially exempt service on June 30, 1979 [APRIL 19,
14 1960].

15 * Sec. 11. AS 39.25.130 is amended by adding a new subsection to read:

16 (d) An action taken under this section may not alter a collective
17 bargaining unit determined under AS 23.40.090. An action taken under
18 this section may be superseded by a determination of a collective bar-
19 gaining unit under AS 23.40.090.

20 * Sec. 12. AS 39.25.140(a) is amended to read:

21 (a) The director of personnel shall prepare and submit to the
22 commissioner of employee relations [ADMINISTRATION] any proposed amend-
23 ments to the personnel rules for all positions and employees subject to
24 this chapter.

25 * Sec. 13. AS 39.25.140(b) is amended to read:

26 (b) The commissioner of employee relations [ADMINISTRATION] shall
27 review the amendments and submit them to the personnel board.

28 * Sec. 14. AS 39.25.140(c) is amended to read:

29 (c) At the time he submits the amendments to the personnel board,

1 the commissioner of employee relations [ADMINISTRATION] shall, by
2 posting in public buildings throughout the state, give notice that the
3 personnel board has the amendments under consideration. The amendments
4 have the effect of law 30 days after they are submitted to the personnel
5 board if not disapproved by the personnel board. The personnel board,
6 if requested, may hold public hearings on the amendments.

7 * Sec. 15. AS 39.25.150(1) is amended to read:

8 (1) the preparation, maintenance, and revision by the direc-
9 tor of personnel, subject to approval by the commissioner of employee
10 relations [ADMINISTRATION] and the personnel board, of a position classi-
11 fication plan for all positions in the classified and partially exempt
12 services; in the position classification plan all positions shall be
13 grouped together into classes on the basis of duties and responsibili-
14 ties; the position classification plan shall include for each class of
15 position an appropriate title, a description of the duties and responsi-
16 bilities, training and experience qualifications, and other necessary
17 position specifications;

18 * Sec. 16. AS 39.25.153(b) is amended to read:

19 (b) The personnel officers specified in (a) of this section are
20 authorized to adopt regulations providing for the activities specified
21 in AS 39.25.150(1) - (10), (13) - (18), (20) and (22) for those classes
22 of employees which are unique to the respective departments specified in
23 (a) of this section. The initial determination as to which classes of
24 employees are unique within the respective departments shall be made by
25 the personnel officer in consultation with the commissioner of his
26 department and subject to the approval of the director of personnel
27 within the Department of Employee Relations [ADMINISTRATION. REGULA-
28 TIONS ADOPTED UNDER THIS SUBSECTION RELATE TO THE INTERNAL MANAGEMENT OF
29 STATE AGENCIES AND THEIR ADOPTION IS NOT SUBJECT TO THE ADMINISTRATIVE

1 PROCEDURE ACT (AS 44.62)].

2 * Sec. 17. AS 39.35.050(a) is amended to read:

3 (a) The commissioner shall appoint an administrator in charge of
4 the detailed affairs of the system. [THE COMMISSIONER MAY APPOINT THE
5 PERSONNEL DIRECTOR OF THE PERSONNEL DIVISION OF THE DEPARTMENT OF ADMIN-
6 ISTRATION AS THE ADMINISTRATOR.]

7 * Sec. 18. AS 44.15.010 is amended by adding a new paragraph to read:

8 (18) Department of Employee Relations.

9 * Sec. 19. AS 44.17.070 is amended to read:

10 Sec. 44.17.070. REORGANIZATION BY DEPARTMENT HEADS. Subject to
11 state personnel laws and the approval of the commissioner of employee
12 relations [ADMINISTRATION], the principal executive officer of each
13 department may, in the interest of improved management, abolish unneces-
14 sary offices and positions, transfer officers and employees between
15 positions, and change the duties, titles, and compensation of existing
16 offices and positions.

17 * Sec. 20. Regulations formerly adopted under AS 39.20.200 - 39.20.330
18 and AS 39.25, including the personnel rules, shall be published in the Alaska
19 Administrative Register and Code as they exist on June 30, 1979 and are con-
20 sidered to have been adopted in accordance with the Administrative Procedure
21 Act (AS 44.62) and this Act. After June 30, 1979, the adoption of regula-
22 tions and amendments to regulations under AS 39.20.200 - 39.20.330 and
23 AS 39.25 is subject to the Administrative Procedure Act.

24 * Sec. 21. TRANSFER OF FUNCTIONS. (a) The Department of Employee Rela-
25 tions is vested with the powers and duties formerly held by the division of
26 personnel and labor relations and the division of equal employment oppor-
27 tunity in the Department of Administration.

28 (b). Appropriations, records, equipment, and other property of the
29 division of personnel and labor relations and the division of equal employ-

1 ment opportunity in the Department of Administration are transferred to the
2 Department of Employee Relations.

3 (c) All litigation, hearings, investigations, and other proceedings
4 pending under a law amended or repealed by this Act, or in connection with
5 powers and duties transferred by this Act, continue in effect and may be
6 continued and completed notwithstanding an amendment, repeal, or transfer
7 made by this Act. Regulations, rules, and orders adopted under a law amended
8 or repealed by this Act remain in effect until they expire by their own terms
9 or until revoked, vacated, or otherwise modified as provided by law. Con-
10 tracts existing on July 1, 1979 which were made by a state agency whose
11 powers and duties have been transferred to the Department of Employee Rela-
12 tions remain in effect according to their terms.

13 * Sec. 22. AS 39.25.040, 39.25.140(e), and AS. 44.21.020(9) are repealed.

14 * Sec. 23. This Act takes effect July 1, 1979.
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

DATE: 3/27/79LOCATION: TelephoneMOTION: Release of commission's overview report to
the legislature.

MEMBER	YES	NO	ABSTAIN	ABSENT	SUB-COMMITTEES
Representative Buchholdt Representative Miller	✓				MS/CB
Myrt Charney Ken Humphreys(x)	✓				CCR
Representative Eliason				✓	CCR
Don Fisher				✓	CCR
Frank Flavin Paddy Moriarity					CCR CE
Commissioner Hudson (Pat Hunt)	✓				MS/CB
Pat Hunt Ken Kareen			✓		MS/CB CCR CE
Lynda McCurry	✓				MS/CB CCR & CE
Representative McKinnon Representative Smith					CE
Pat Murphy Darlene Howard	✓				MS/CB CE
Greg O'Claray Homer Sarber	✓				MS/CB
John Pugh Bob Mourant	✓				CCR MS/CB
Senator Ray	✓				M, C&C
Ken Spray	✓				M, C&C
~~Niel Thomas~~ ~~Janet Bradley~~					M, C&C

AMENDMENTS: