

HB

108

#1

ination unless the questions are to be used in future examinations.
(§ 18 ch 144 SLA 1960; am § 5 ch 112 SLA 1982)

Effect of amendments. — The 1982 amendment, effective July 1, 1982, substituted the present provisions of this section for the provisions set out in the main pamphlet.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Article 2. Coverage of Personnel.

Section

- 90. Coverage of chapter
- 110. Exempt service
- 120. Partially exempt service

Section

- 130. Extension of partially exempt and classified services

Sec. 39.25.090. Coverage of chapter. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the exempt and partially exempt service as specifically provided.
(§ 3 ch 144 SLA 1960; am § 6 ch 112 SLA 1982)

Effect of amendments. — The 1982 amendment, effective July 1, 1982, inserted "exempt and" in item (2).

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

- (1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;
- (2) justices, judges, magistrates, and employees of the judicial branch including employees of the Judicial Council;
- (3) employees of the state legislature and its agencies;
- (4) the head of each principal department in the executive branch;
- (5) officers and employees of the University of Alaska;
- (6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 — 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;
- (7) certificated teachers employed by the Department of Education as correspondence teachers or teachers in skill centers operated by the Department of Education;
- (8) patients and inmates employed in state institutions;
- (9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor;
- (10) members of boards, commissions, or authorities;

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Effect
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(1) the officers and employees of the following boards, commissions, and authorities:

- (A) Alaska Gas Pipeline Financing Authority;
- (F) Alaska Permanent Fund Corporation;
- (C) Alaska Energy Center;
- (D) Alaska Industrial Development Authority;
- (E) Alaska Commercial Fisheries Entry Commission;
- (F) Alaska Commission on Postsecondary Education;

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

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

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

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

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

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

(18) employees of the Alaska Seafood Marketing Institute;

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

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

(21) [Repealed June 30, 1988] Employees of the Citizens' Advisory Commission on Federal Areas in Alaska (AS 41.37.010). (§ 5 ch 144 SLA 1960; am § 1 ch 48 SLA 1961; am § 1 ch 133 SLA 1961; am § 3 ch 93 SLA 1962; am § 3 ch 24 SLA 1966; am § 31 ch 46 SLA 1970; am § 65 ch 69 SLA 1970; am § 13 ch 113 SLA 1970; am § 3 ch 78 SLA 1971; am § 18 ch 78 SLA 1974; am § 42 ch 127 SLA 1974; am § 2 ch 32 SLA 1975; am § 2 ch 79 SLA 1975; am § 37 ch 124 SLA 1975; am § 1 ch 157 SLA 1976; am § 3 ch 90 SLA 1978; am § 7 ch 18 SLA 1980; am § 43 ch 106 SLA 1980; am § 10 ch 131 SLA 1980; am § 4 ch 148 SLA 1980; am § 4 ch 106 SLA 1981; am §§ 2, 3 ch 37 SLA 1982; am § 7 ch 112 SLA 1982)

Effect of amendments. — The 1981 amendment added a paragraph (26), relating to employees of the Alaska Seafood Marketing Institute. These provi-

sions are now contained in paragraph (18) of this section as amended by ch. 112, SLA 1982.

Section 2 of the first 1982 amendatory

Sec. 47.30.310. Transfer of patients previously committed. A mental patient committed from this state under Title 48 U.S.C., § 46 et seq., and P.L. 830, 84th Congress, 2nd Session, may be transferred to a designated hospital or other facility designated by the department to the extent and in the manner that a patient can be transferred who is committed under AS 47.30.010 — 47.30.340. (§ 132 ch 87 SLA 1957)

Sec. 47.30.320. Purpose. The purpose of AS 47.30.010 — 47.30.340 is to establish and provide modern procedures for the commitment, hospitalization, care and treatment of the mentally ill. All rights and safeguards provided by AS 47.30.010 — 47.30.340 apply to all patients in a public or private hospital without regard to whether or not the cost of care or treatment of the patient is paid in whole or in part from state funds. (§ 100 ch 87 SLA 1957)

Sec. 47.30.330. Criminal penalties. A person who intentionally causes, or attempts to cause, or conspires with another person to cause an individual to be committed to a hospital under AS 47.30.010 — 47.30.340, knowing or having reasonable grounds for believing that the individual is not mentally ill and in need of hospitalization, is punishable by a fine of not more than \$10,000, or by imprisonment for not less than one year nor more than 10 years, or by both. The court may order all or part of the fine paid to the injured individual. (§ 133 ch 87 SLA 1957; am § 37 ch 43 SLA 1964)

Amendment of section applicable to offense committed before October 1, 1964. — See 1964 Op. Att’y Gen., No. 8.

Sec. 47.30.340. Definitions. In AS 47.30.010 — 47.30.340, unless the context otherwise requires,

- (1) "court" means the superior court;
- (2) "department" means the Department of Health and Social Services or its designee;
- (3) "designated examiner" means a licensed physician designated by the department as specially qualified, under standards established by it for the purpose of AS 47.30.010 — 47.30.340, in the diagnosis of mental illness, except that for areas in which no licensed physician so qualified is available, any licensed physician may be designated;
- (4) "designated hospital" means a "hospital" which is designated and authorized by contract with the department to provide care and treatment of the mentally ill;
- (5) "head of a hospital" means the individual in charge of a hospital, or his designated representative, except that when the individual or his designee in charge of a hospital is not a licensed physician, authority placed in the head of a hospital by AS 47.30.010 — 47.30.340 which involves in major part the exercise of medical judgment shall be exercised by a licensed medical official of the hospital who is designated by the individual in charge of the hospital;

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§ 47.30.340 WELFARE, SOCIAL SERVICES AND INSTITUTIONS § 47.30.340

(6) "hospital" means a public or private hospital or institution located in the state or in another state equipped and qualified to provide care and treatment for the mentally ill;

(7) "individual," as used in AS 47.30.020, 47.30.030 and 47.30.070, means a resident of or a person in the state;

(8) "interested party" means an interested, responsible adult including the legal guardian, spouse, parent, adult children, or next of kin of an allegedly mentally ill individual or patient;

(9) "licensed physician" means (A) an individual licensed under the laws of the state to practice medicine, (B) a medical officer of the government of the United States while in the state in the performance of his official duties, (C) a medical officer of the state, or (D) a physician licensed under the laws of another state;

(10) "mentally ill individual" means an individual having a psychosis or senile changes which substantially impair his mental health to the degree that he is a danger to himself or others; the definition does not include an individual suffering from acute alcoholism or drug addiction;

(11) "patient" means a resident of or a person in the state qualified under AS 47.30.010 — 47.30.340 for hospitalization as a mentally ill individual;

(12) "peace officer," when used in connection with cases which involve individuals who, because of mental illness, are likely to injure themselves or others if allowed to remain at liberty, includes a state police officer, municipal or other local police officer, state, municipal, or other local health officer, public health nurse, U.S. Marshal or Deputy U.S. Marshal, or a person authorized by a court;

(13) "resident" means a person who is residing in the state; a married woman may establish a residence apart from her husband, and an unemancipated minor takes the residence of the parent or guardian with whom he is living;

(14) "state" includes a state of the United States, the District of Columbia, the territories and possessions of the United States, and the Commonwealth of Puerto Rico, and, with the approval of the United States Congress, Canada. (S 101 ch 87 SLA 1957; am §§ 1, 2 ch 127 SLA 1959; am § 1 ch 115 SLA 1961; am § 65 ch 32 SLA 1971; am § 6 ch 104 SLA 1971; am § 3 ch 165 SLA 1978)

Cross reference. — As to persons with handicaps by reason of mental or physical disabilities, see AS 47.80.

Effect of amendment. — The 1978 amendment deleted "a mentally deficient and severely mentally retarded person whom the commissioner of health and social services or his designee admits for treatment subject, however, to all the other admission and discharge procedures provided for in §§ 10 — 340 of this chapter"

following "danger to himself or others" in paragraph (10).

Editor's note. — As to intent of 1978 amendatory act, see § 1, ch. 165, SLA 1978, effective July 1, 1978, in the 1978 Temporary and Special Acts and Resolutions.

Legislative history report. — For report on ch. 32, SLA 1971 (HB 111 am), see 1971 House Journal, p. 138.

RECEIVED

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THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

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FISCAL NOTE

LEGISLATIVE FINANCE REQUEST

Bill/Resolution No. House Bill 108/Senate Bill 64
Title Inclusion in state exempt service of licensed physicians
Requested by Commissioner's Office Date 1/24/83

II. FISCAL DETAIL

Agency Affected Health & Social Services
Program Category Affected Mental Health & Developmental Disabilities
BRN, Program, Or Subprogram(s) Affected _____
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

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

No cost impact is foreseen to the Department of Health & Social Services as a result of this legislation.

Thomas R. Bradlee

IV. DATE 1/25/83 PREPARED BY Robert W. Marshall, M.D., Director
AGENCY Health & Social Services/Mental Health & DD
PHONE 465-3370
Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

OMB Reviewed by: Nancy Dunn

Nancy Dunn

PROPOSED TITLE:

AN ACT RELATING TO THE INCLUSION IN THE STATE EXEMPT SERVICE OF LICENSED PHYSICIANS EMPLOYED BY THE DIVISION OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES, DEPARTMENT OF HEALTH AND SOCIAL SERVICES

GENERAL DOLLARS: \$0 (P. NOTE)

PRIME SPONSOR: HOUSE RULES COMMITTEE.

OTHER DOLLARS: \$0

CO-SPONSORS:

CURRENT STATUS: 4/29/83 CHAPTER 0011 SLA 03

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/21/83	01	0081	FIRST READING -- COMMITTEE REPORTS
02/08/83	02	0205	HSS -- DP07
02/08/83	03	0205	L&C CMTE P/NOTE EQUALS ZERO
02/28/83	04	0362	FIN -- DP08, NR01
02/28/83	05	0365	SECOND READING
02/28/83	06	0365	ADVANCED TO 3RD READING BY UNAN CONSENT
02/28/83	07	0365	THIRD READING
02/28/83	08	0366	PASSED BY DIV 39-00-01
04/13/83	17	0860	TRANSMITTED TO GOVERNOR
04/29/83	18	1147	SIGNED BY GOVERNOR-CH0011, EFF 07/28/83
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DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/01/83	09	0288	FIRST READING -- COMMITTEE REPORTS
03/11/83	10	0371	L&C -- DP03
03/30/83	11	0529	FIN -- DP05
04/12/83	12	0670	RLC -- OTHER04
04/13/83	13	0683	SECOND READING
04/13/83	14	0683	ADVANCED TO 3RD READING BY UNAN CONSENT
04/13/83	15	0683	THIRD READING
04/13/83	16	0683	PASSED BY DIV 16-02-02
****	**	**	*** ** *

SENATE LABOR AND COMMERCE
STANDING COMMITTEE
March 10, 1983
1:35 p.m.

Members Present: Senator Dick Eliason, Chair
Senator Bob Mulcahy
Senator Pat Rodey

Members Absent: Senator Don Bennett
Senator John Sackett

COMMITTEE CALENDAR

HB 108

"An Act relating to the inclusion in the state exempt service of licensed physicians employed by the Division of Mental Health and Developmental Disabilities, Dept. of Health and Social Services."

SB 145

"An Act relating to the Board of Marine Pilots."

SB 154

"An Act repealing the municipal exemption option to the Public Employment Relations Act."

WITNESS REGISTER

(HB 108)

Terry Cramer, Administrative Assistant to the Blue Ribbon Commission (on the State Personnel Act)

Pouch YG

Juneau, Alaska 99811

465-4442

Position statement: Does not oppose legislation, and knows of no opposition.

T.R. Branton, Deputy Director of Division of Mental Health and Developmental Disabilities, Dept. of Health and Social Services

Pouch H

Juneau, Alaska 99811

465-3370

Position statement: Psychological and medical staff of Division support bill; poses no problem to Division.

(SB 145)

Joseph Merrill, Manager, Southwest Alaska (Marine) Pilots Association

P. O. Box 977

Homer, Alaska

235-8753

Position statement: Supports SB 145, and continuation of Board of Marine Pilots.

Harry Treager, Director, Div. of Occupational Licensing, Dept. of
Commerce and Economic Development

Pouch D

Juneau, Alaska 99811

465-2534

Position statement: Conveyed administrative support and division
support for continuation of Board.

(SB 154)

Senator Bettye Fahrenkamp, prime sponsor SB 154

Pouch V

Juneau, Alaska 99811

465-3762

Position statement: As prime sponsor, strongly urges passage of SB 154.

Barbare Steckel, Municipality of Anchorage

Pouch 6-650

Anchorage, Alaska 99501

264-4433

Position statement: Municipality does not support SB 154.

Marlene Neve, AFL-CIO

SR Box 20948

Fairbanks, Alaska 99701

456-2030

Position statement: Supports SB 154.

Marilyn Miller, Alaska Municipal League

204 N. Franklin

Juneau, Alaska 99801

586-1325

Position statement: Opposes SB 154.

Bill Hao, Fairbanks Firefighters

P. O. Box 867

Fairbanks, Alaska 99701

456-6458

Position statement: Strongly supports SB 154.

Mike Pulice, Fairbanks Police Dept. Employees Assn.

1635 Kivalina St.

Fairbanks, Alaska 99701

452-6652

Position statement: Supports SB 154.

Barry Haight, Fairbanks Firefighters

S.R. Box 20184

Fairbanks, Alaska 99701

455-6293

Position statement: Supports SB 154.

Lee Sharp, City Attorney, City and Borough of Juneau

155 S. Seward St.

Juneau, Alaska 99801

586-3300

Position statement: Opposes SB 154.

Greg O'Claray, Inland Boatman's Union District Union Seafarers
International Union of North America AFL CIO (IBUSIU), representing
Juneau municipal employees

124 Front St.

Juneau, Alaska 99801

585-9711

Position statement: Supports SB 154.

Jim Wakefield, Laborers Local #942

369 S. Franklin St.

Juneau, Alaska 99801

586-3880

Position statement: Supports SB 154.

Tom Cashen, IBEW Local 1547 (International Brotherhood of Electrical
Workers)

124 Front Street

Juneau, Alaska 99801

586-3050

Position statement: Supports SB 154.

James Robison, Commissioner, Dept. of Labor

Box 1149

Juneau, Alaska 99802

465-2700

Position statement: Provided information on fiscal impact.

Cherie Shelley, Alaska Public Employees Association

340 N. Franklin St.

Juneau, Alaska 99801

586-2334

Position statement: Supports SB 154.

PREVIOUS ACTION

No previous action in Labor and Commerce.

ACTION NARRATIVE

Tape #8

Number 007

Senator Eliason called the meeting to order, with Senators Mulcahy and Rodey in attendance. Senator Eliason outlined the agenda, and brought up House Bill 108, concerning returning licensed physicians employed by the state to the classified service, with the exception of those physicians and a few other medical staff in the Division of Mental Health and Developmental Disabilities.

Number 20

Terry Cramer, Administrative Assistant to the Blue Ribbon Commission, testified on HB 108, stating that last year a revision of the statute had placed all licensed physicians employed by the states in the exempt service. The Department has had no problem in attracting and retaining doctors, and this bill would return the law to the status quo preceding last session, limiting those in the exempt service to the physicians in the Division of Mental Health and Developmental Disabilities. In response to Sen. Eliason's question asking if she knew of anyone opposed to the legislation, Terry Cramer responded that she did not.

T.R. Branton, Deputy Director of the Division of Mental Health and Developmental Disabilities (DHSS); testified on HB 108, stating that the psychological and medical staff in the division are in favor of the legislation, and that it "poses no problem to us".

Sen. Mulcahy moved that HB 108 be passed out of committee with individual recommendations. Sen. Rodey seconded the motion and recommended "Do Pass".

Number 115

The committee took up SB 145, concerning continuation of the Board of Marine Pilots, as part of their "sunset" review of the board.

Joseph Merrill, Manager of the Southwest Alaska Pilots Association, testified in support of SB 145, continuing the Board of Marine Pilots. He gave a sketch of the historical background of marine pilots and referred to legislation before Congress this session which concerns marine safety and regulation. He stated that Alaska, with half of the coastal area of the U.S., should continue to regulate its marine pilots. The Alaska economy is highly dependent on water transportation, and Alaska has an outstanding record of safety. He urged retention of the board for the benefit of the public. In closing, Joseph Merrill introduced Captain Hendricks Elsensohn, head of the Southeast Alaska Pilots Association.

Sen. Eliason commended the marine pilots for the excellent job they are doing and for their great record.

Number 208

Harry Treager, Director of the Division of Occupational Licensing, conveyed administrative support for the Board of Marine Pilots. He had previously supplied the committee with the data they had requested, and supports continuation of the Board.

Sen. Eliason explained that in order to comply with the "sunset" provisions, the committee would prepare a letter to the President of the Senate, and they would recommend that the Board be continued. The committee is waiting for the bill providing for the continuation of the Board of Marine Pilots to come over from the House.

Number 235

Senate Bill 154, a bill to repeal Section 4 of the Public Employment Relations Act (municipal opt-out provision), was taken up for consideration.

Number 243

Senator Fahrenkamp, prime sponsor of SB 154, testified on the measure, clarifying her reasons for introducing the bill. She stated that the bill attempts to address basic rights guaranteed to State employees since 1972 passage of PERA. As enacted the PERA envisioned general applicability of its provisions to all boroughs and political subdivisions. The PERA is the rule; the Koslosky amendment exemption is the exception to the rule. A signal was sent to local governments saying that while they were being provided the opportunity to exercise local employer prerogatives, it was fully expected that they would adopt ordinances which upheld and guaranteed basic employee rights similar to those enacted by the PERA. The declaration of policy statement contained in the PERA recognized that public employees should share in the decision-making process affecting their wages, working conditions and the like. There are examples of political subdivisions of the state which have adopted personnel systems embracing the principles of the PERA, such as the Municipality of Anchorage, which has made a strong commitment to employee rights. (Point of law: the right and power of a city or municipality to reject the PERA has been found to be subordinate to the rights of the employees.) As long as good faith bargaining continues, then the intent of the PERA is being met.

Sen. Fahrenkamp expressed surprise at the size of the fiscal note, and suggested that maybe the fact that many employees, especially in Anchorage and Fairbanks, are already organized had been overlooked.

Number 349

Barbara Steckel, representing the Municipality of Anchorage, testified on SB 154, stating that Anchorage adopted an ordinance to address the rights of public employees at the time that the Municipality opted out. She expressed the opinion that local control over bargaining should be maintained, and that to disallow local government the option of local control will harm employees.

Number 376

Sen. Eliason inquired about the kind of relationship between Anchorage employees and the Municipality, and Barbara Steckel responded that it was good.

Number 392

Sen. Rodey provided historical background for SB 154, stating that the PERA opt-out provision was effected by the Kosloski amendment which was offered on the floor of the Senate. It received no hearing and was a matter of horse trading rather than a well-thought-out process.

Number 411

Marlene Neve, representing AFL-CIO, stated that she had submitted written testimony and would not take up the committee's time. PERA was adopted in June, 1972, and was modelled after a federal act. The issue is not really one of local autonomy. If the rest of the municipalities were exercising the leadership displayed by Anchorage, there would not have been a need for SB 154. Several employers in Alaska have evaded the issue, and after opting out have failed to put an ordinance into practice, thus denying the employees' rights. She asked the committee's approval of SB 154.

Number 464

Marilyn Miller, representing the Alaska Municipal League, read an excerpt from the League's policy statement, strongly opposing any attempt to force the municipalities to participate in PERA. They maintain that a municipality at any time should be able to reject or withdraw from the terms of PERA.

Number 610

Bill Hao, City of Fairbanks Firefighter for the past 12 years, testified in support of SB 154, stating that an employee under their personnel system is treated in an arbitrary manner. He favors labor agreements, not personnel ordinances. The City of Fairbanks uses its exemption from PERA to disaffect (?) its employees, and Bill Hao favors passage of SB 154 because it will mean fair and just treatment of employees.

Senator Eliason confirmed that Fairbanks bargains collectively, but with select groups (such as IBEW) but not all.

Number 668

Mike Pulice, with the City of Fairbanks Police Department Employees' Association, testified on SB 154, citing problems encountered by City employees trying to negotiate with the City of Fairbanks. The City would not recognize their bargaining unit and there were abuses of the system in terms of pay ranges, promotions, etc., resulting in low morale and lack of any mutual trust. Mike Pulice regards the situation as an infringement on the rights of the employees.

Number 720

Barry Haight, with the Fairbanks Firefighters Association, a professional organization that represents its members in collective bargaining, testified in support of SB 154 and the right of employees to collectively bargain with their employer (City of Fairbanks): it worked well that way for 10 years. The Association is anxious to see the original intent of the law (subverted by the Koslosky amendment) reinstated. It is in the public interest to protect the Firefighters program, and guarantee their right to bargain.

Number 779

Lee Sharp, City Attorney for the City and Borough of Juneau, conveyed the City and Borough's opposition to SB 154, on the grounds that it "runs counter to this sound Constitutional policy" of maximum local self-government with a minimum of local government units. Juneau opted out of PERA and adopted its own comprehensive employee relations ordinance, similar to the state act but adapted to meet local needs "as perceived by our local elected officials." Employees have rights guaranteed by U.S. Constitution assuring them of the right for a hearing and fair treatment whenever an adverse action affecting the employee is to be taken. The legislature should not impose a system on all local governments to deal with what may be perceived as a problem in one community. In addition, if residents of a municipality believe that their municipal employees should be under PERA, they may, by referendum, repeal the ordinance or resolution by the which the opt out was effected. Local elected officials in best position to deal with local problems.

Number 838

Greg O'Claray, (IBUSIU/AFL CIO), representing the municipal employees of Juneau, testified in favor of SB 154, stating that the ordinance passed by Juneau does not work. There is no binding arbitration provision. He discussed the time-consuming nature of the procedure required just to get certified (each section, some of only three persons, must have an election) which results in spending more time getting the election process going than in representing people. He objects to the ordinance and to the way in which the City and Borough relates to their employees.

Side 2
Number 041

Jim Wakefield, with the Laborers Local 942 of Fairbanks, gave some historical background on bargaining, citing the Wagner Act which gave employees the right to bargain collectively. In 1972 the Alaska Legislature gave the same right to public employees. He believes in local autonomy, but some municipalities which have opted out of PERA have not passed an ordinance. Jim Wakefield urged the committee's favorable consideration of SB 154.

Number 134

James Robison, Commissioner of the Dept. of Labor, testified on SB 154, substantiating the fiscal note on the grounds that the department's labor relations services would be greatly expanded by passage of the measure. The department would become the labor relations agency for all political subdivisions of the state on a continuous basis. The department's position paper states that they support the concept of collective bargaining for all public employees, and Commissioner Robison stated that all employees should have that right. The department does not have the staff or financial resources to assume the expanded services inherent in SB 154 without the funds requested in the fiscal note. The position paper states that "this administration feels that labor relations are more effectively maintained at the local level. However, amendments to encourage or mandate political subdivisions to

recognize their collective bargaining responsibilities for this group of public employees is recommended."

Number 348

Cherie Shelley, APEA, testified in favor of SB 154. Their experiences with municipalities which have opted-out of PERA indicates that the expenses associated with elections to which Dept. of Labor alludes would not be as high as the department believes. This is due in part to "consent elections". APEA has also had negative experiences with municipalities which express an interest in bargaining, then discover the opt-out provision and "hedge". Also, there have been cases of a city determining the degree of their desire to bargain on the basis of how much they liked the bargaining agent. PERA does not remove local control, it merely sets rules for playing the game. If management has no money, all labor relations can do is make them sit down and negotiate.

Number 410

Sen. Eliason stated that public hearings would be held in Anchorage on SB 154, and a teleconference would also be held before the committee took action on the bills.

Number 424

Meeting adjourned.



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 25, 1983

TO: House Health, Education & Social Services Committee

FROM: Teresa B. Cramer *Teresa B. Cramer*
Administrative Assistant

SUBJECT: HB 108, Licensed Physicians in the Department of Health and Social Services

An unintended change created by an amendment to the State Personnel Act last session has caused some question in the Department of Health and Social Services. Prior to the amendment, licensed physicians employed by the Division of Mental Health and Developmental Disabilities were placed in the exempt service. Other physicians working for the department were members of the classified service. This system worked well. The exception for those working in the mental health field was necessary in order to attract and pay qualified staff.

The amendment placed all licensed physicians, as defined in AS 47.30.340(9), employed by the state into the exempt service. Title 47.30 addresses mentally ill and insane persons but the definition section defined "licensed physician" in general terms. The department brought to the commission's attention an unforeseen situation. There were two employees in the Division of Public Health serving as Regional Health Officers. One was a medical doctor and the other a licensed veterinarian. Under the amended version of the State Personnel Act, the doctor could be placed in the exempt service and the veterinarian would remain in the classified service. Both have the same duties, though in different locations.

The commission recommends that legislation be adopted to return all medical doctors except those employed by the Division of Mental Health and Developmental Disabilities to the classified service.

Bill Analysis

The bill amends the section of the State Personnel Act which lists membership in the exempt service to place only those physicians employed by the Division of Mental Health and Developmental Disabilities in the exempt service.

TBC:lmk
Attachment

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

December 14, 1982

The Honorable Bill Ray, Chairman
Blue Ribbon Commission on the State Personnel Act
Pouch YG, Mail Station 3123

Attention: Terry Cramer, Administrative Assistant

Subject: Licensed Physicians - Department of Health & Social Services

Dear Senator Ray:

Subsequent to the December 7 meeting of the Blue Ribbon Commission, and at its direction, the Department of Health & Social Services considered the circumstances surrounding the statutory language relating to licensed physicians employed by the state. The original purpose for the inclusion of licensed physicians in the exempt service under AS 39.25.0110 (19) was to provide for recruitment and retention of qualified and competent staff within the Division of Mental Health & Developmental Disabilities. That situation has worked well since that time.

The amendments to that statute as adopted under HCS CSSB 193 in 1982 eliminated that particular distinction. As presently written, that statute could be interpreted to include licensed physicians in the Division of Public Health. That action is not adjudged to be in the best interests of the state and those employees. It should be noted that in 1981, AS 47.30.340 was repealed in its entirety and AS 47.30.915 was added. That section again defined "licensed physician" in the legislative reference to mental health programs.

It is therefore respectfully requested that the language in AS 39.25.110 (13) be amended to read as follows: "licensed physicians, as defined in AS 47.30.915 (11), employed by the Division of Mental Health & Developmental Disabilities, Department of Health & Social Services.

Thank you for your consideration of this matter.

Sincerely,



Allen K. Korhonen
Acting Commissioner



Alaska Public
Employees Association **APEA**
State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334.

FACT SHEET

FROM: Cherie Shelley, Executive Director
Alaska Public Employees Association (APEA)

TO: Representatives Milo Fritz and Mae Tischer
Co-Chairpersons, HESS House Committee

SUBJECT: House Bill No. 108

DATE: February 4, 1983

APEA position concerning HB 108

APEA favors the passage of HB 108.

Employees groups referred to in HB 108

Classified - are those employees who meet state requirements and can be fired only for "just cause".

Exempt - are those employees in the state political hierarchy and can be fired without "just cause".

Physicians affected by HB 108

Physicians in "Exempt" group - are those physicians employed by the Division of Mental Health and Developmental Disabilities, Department of Health and Social Services. This group is comprised of psychiatrists and one medical physician, working mainly out of API in Anchorage. They have been and still are in the "Exempt" group.

Physicians in "Classified" group - are five medical physicians, Department of Health and Social Services, (not psychiatrists) working throughout the state. There are two Public Health Medical Specialists, a Medical Specialist/Child Development Services, a Regional Medical Officer and a Regional Health Officer in Fairbanks who is a veterinarian. They have been and still are in the "Classified" group.

Salary Schedule for "Exempt" group - the one medical physician is in range 27. The psychiatrists are in ranges 28 and 29. The Director is a range 30. Their salary is based on the F step plus five percent.

Salary Schedule for "Classified" group - the five medical physicians are in ranges 26 and 27.

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Note "Exempt" group wages are higher than "Classified" group.

Legislation background

Last year SB 193, sponsored on behalf of the Blue Ribbon Commission of which I am a member, proposed the following as part of an effort to clarify the State Personnel Rules: "(15) Licensed physicians, as defined in AS 47.30.340(9), employed by the division of mental health and developmental disabilities, Department of Health and Social Services..."

SB 193 was amended by the Senate State Affairs Committee. The portion amended was AS 39.25.110, which lists the membership of the exempt service to include: "(13) all licensed physicians as defined in AS 47.30.340(9) employed by the state...."

The amendment was merely a means to shorten the language content. AS 47.30 is entitled "Mentally Ill and Insane Persons". AS 47.30.340(9) referred to physicians (psychiatrists) working for Division of Mental Health. Therefore it was redundant to state "employed by the division of mental health and development disabilities, Department of Health and Social Services..." However, AS 47.30.340(9), when read out of context with AS 47.30, entitled "Mentally Ill and Insane Persons" with articles dealing with the mental health program - could be interpreted to mean all physicians working for the state and not just the psychiatrists.

HB 108

HB 108 corrects the unintentional implication of the amendment language change. The intent of the legislation was not to move all physicians from the "Classified" to the "Exempt" group. The intent was to leave those physicians (medical) in the "Classified" group and to leave those physicians (psychiatrists) in the "Exempt" group.

Reason for APEA's involvement

Physicians that could be affected if this legislation does not pass are the medical doctors (not psychiatrists), employed by the Division of Public Health. As APEA members, they have contacted the Association to voice their concern about the amendment last session of the State Personnel Act (SB 193). APEA has spoken with three of the five physicians. They wish to remain in the "Classified" employee group. It is our understanding that the physicians (psychiatrists) in the "Exempt" employee group wish to remain there as set forth in the legislation.

Passage of Bill

Would satisfy physicians (medical and psychiatrists) now working for the state - would not cost the state anything as salary schedules would remain the same - and would appear to be the most practical and expedient method of correcting an inadvertent language error in the amendment.

HB 108

House bill 108 changes the current statute back to the original wording of the statute in 1980. AS 39.25.110 (19), in October, 1980, included as exempt employees the licensed physicians employed by the division of health and developmental disabilities, Department of Health and Social Services.

The October, 1982 revision of the statute changed the wording to include all licensed physicians employed by the state as exempt employees.

The language of HB 108 returns licensed physicians to the classified service, except for those working within the division of health and developmental disabilities, of the DHSS.

This affects psychiatrists, primarily, but also includes other specialists within the Alaska Psychiatric Institute. The justification for placing psychiatrists in the exempt category is that they demand salaries in excess of the established salary range for the classified service. Rather than change the salary range, the proposal is to revert to the previous exempt status. Those people categorized as exempt serve at the pleasure of the governor, and are not subject to the personnel rules.

Bill Fact Sheet

Date Received 3/1/83

Bill Number HB108 Title Inclusion exempt svc /physicians

Fiscal Note - Date Requested 1/21/83 Date Received 2/3/83

- Of Whom Norma Lang

Dept. Position Paper - Date Requested 1/21 Date Received _____

- Of Whom Norma Lang

Resource People

Initial Hearing - Date no quorum
3/8/83, 3/10/83
People Contacted

- Terry Kramer - 4442 - 3/4 - 3/9
- Norma Lang - 3030 - Dept of H+SS - 3/4
- Dick Branton - 3370 - Mental Health - 3/4 3/9
- APEA - Sherrin - 586-2334 - 3/4 3/9

Follow-up Hearing - Date _____

Final Action passed L+C Date 3/10/83