

Introduced: 1/22/85
Referred: State Affairs
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2 SENATE BILL NO. 81

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the definition of veteran for
7 purposes of veterans' employment preference rights."

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

9 * Section 1. AS 39.25.150(19)(A) is amended to read:

10 (A) "veteran" means a person with 181 days or more
11 active service in the armed forces of the United States who has
12 been honorably discharged after having served during any period
13 between April 6, 1917, and December 1, 1919, between September
14 16, 1940, and December 31, 1947, or between June 27, 1950, and
15 October 14, 1976 [NOVEMBER 7, 1975];

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : _____

REQUEST

Bill Resolution No. : SB 81
 Title : Re: to the definition of veteran for purposes of veterans' employment preference rights.
 Sponsor : _____
 Requestor : House Finance Committee
 Date of Request : Feb. 3, 1986

FISCAL DETAIL

Agency Affected : Administration
 BRU : Personnel

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

| OPERATING | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | -0- | | | | |
| TRAVEL | | -0- | | | | |
| CONTRACTUAL | | -0- | | | | |
| SUPPLIES | | -0- | | | | |
| EQUIPMENT | | -0- | | | | |
| LAND & STRUCTURES | | -0- | | | | |
| GRANTS, CLAIMS | | -0- | | | | |
| MISCELLANEOUS | | -0- | | | | |
| TOTAL OPERATING | | -0- | | | | |
| | | | | | | |
| CAPITAL | | -0- | | | | |
| | | | | | | |
| REVENUE | | -0- | | | | |

FUNDING : (Thousands of Dollars)

| | | | | | | |
|---------------|--|-----|--|--|--|--|
| GENERAL FUND | | 0 | | | | |
| FEDERAL FUNDS | | -0- | | | | |
| OTHER | | -0- | | | | |
| TOTAL | | -0- | | | | |

POSITIONS :

| | | | | | | |
|-----------|--|-----|--|--|--|--|
| FULL-TIME | | -0- | | | | |
| PART-TIME | | -0- | | | | |
| TEMPORARY | | -0- | | | | |

ANALYSIS : Attach a separate page if necessary

Prepared by : House Finance Committee - Al Adams - Chairman Phone : 465-3706
 Division : House Finance Committee Date : 2/27/86

Approved by Commissioner : _____ Date : _____
 Agency : _____

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: Nov. 14, 1985

REQUEST
Bill/Resolution No.: SB 81
Title: Definition of veteran for purposes of employment preference.

FISCAL DETAIL
Agency Affected: Administration
BRU: Personnel

Sponsor: Rules at request of Governor
Requestor: Senate State Affairs
Date of Request: January 31, 1985

Components: Centralized Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 86 | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 |
|------------------------|------------|----------|----------|----------|----------|----------|
| OPERATING | | | | | | |
| PERSONAL SERVICES | 0 | 0 | 0 | 0 | 0 | 0 |
| TRAVEL | 0 | 0 | 0 | 0 | 0 | 0 |
| CONTRACTUAL | 1.7 | 0 | 0 | 0 | 0 | 0 |
| SUPPLIES | 0 | 0 | 0 | 0 | 0 | 0 |
| EQUIPMENT | 0 | 0 | 0 | 0 | 0 | 0 |
| LAND & STRUCTURES | 0 | 0 | 0 | 0 | 0 | 0 |
| GRANTS, CLAIMS | 0 | 0 | 0 | 0 | 0 | 0 |
| MISCELLANEOUS | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL OPERATING | 1.7 | 0 | 0 | 0 | 0 | 0 |
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
| REVENUE | 0 | 0 | 0 | 0 | 0 | 0 |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|------------|----------|----------|----------|----------|----------|
| GENERAL FUND | 1.7 | 0 | 0 | 0 | 0 | 0 |
| FEDERAL FUNDS | 0 | 0 | 0 | 0 | 0 | 0 |
| OTHER | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 1.7 | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

| | | | | | | |
|-----------|---|---|---|---|---|---|
| FULL-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| PART-TIME | 0 | 0 | 0 | 0 | 0 | 0 |
| TEMPORARY | 0 | 0 | 0 | 0 | 0 | 0 |

ANALYSIS: Attach a separate page if necessary

Cost of running 2" x 4" display ad in newspapers around the state to notify applicants of the change--\$1,676. Assumes an effective date in FY 86.

This revised fiscal note reflects updated display ad rates as well as advertising in additional sources throughout the state.

Prepared By: Frank Rave *Frank Rave* Phone: 465-4430
 Division: Personnel Date: 12/17/85
 Approved by Commissioner: Eleanor Andrews *Eleanor Andrews* Date: 12/20/85
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

amendment substituted agency, and of the by in the Department" for "and of the" in paragraph (3)

amendment added

and classified reclassification of the fully exempt services which, in the

classification of policy; which policies are

susceptible to

exempt service federal requirements federal funds.

classification of the combined service to 7 ch 144 SLA

in April 19, 1960" "combined service" in the of subsection (a) by exempt service"

personnel officers classification program

(a) The director of administration for all positions

(b) The commissioner of administration shall review the amendments and submit them to the personnel board.

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

(1) posted in public buildings throughout the state;

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

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

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

(d) The rules may provide for exemptions and modifications that are necessary to assure the continuity of federal grants to agencies supported in whole or in part by federal contributions.

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

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

(g) An amendment to the personnel rules takes effect 30 days after it is approved by the personnel board. The board, if requested to do so, may hold a public hearing on a proposed amendment. (§ 12 ch 144 SLA 1960; am § 5 ch 5 SLA 1966; am §§ 11-13 ch 112 SLA 1982)

Effect of amendments. — The 1982 amendment rewrote subsection (c), substituted "shall be published" for "may be published" in the second sentence of subsection (e), and added subsections (f) and (g).

NOTES TO DECISIONS

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

Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971). Cited in *State v. Bogenrife*, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

Sec. 39.25.150. Scope of the rules. The personnel rules shall provide for (go to p. 39)

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval of the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; the position classification plan shall include

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

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

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

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

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

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

(6) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state service and promotion shall be by competitive examination whenever possible; in considering promotions, the applicants' qualifications, performance records, seniority, and conduct shall be evaluated;

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

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

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

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

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

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

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

(14) the development, maintenance, and use of employee performance records;

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

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

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

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

(19) the granting of employment preference rights to a veteran not within the area of promotion, when the veteran possesses the necessary qualifications in the job classification applied for under this chapter; in

an examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran and ten additional points shall be added to the passing grade of a disabled veteran, but the additional points may be used only the first time the veteran obtains a position in the classified service; if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job; this paragraph may not be interpreted to amend the terms of a collective bargaining agreement; in this paragraph

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

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

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

bill changed to 10/14/76

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

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

(23) the delegation, when feasible, of personnel responsibilities and duties to the principal departments of the executive branch;

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

(25) other rules and administrative regulations, not inconsistent with this chapter, that are necessary for its enforcement. (§ 13 ch 144 SLA 1960; am § 1 ch 130 SLA 1961; am § 1 ch 147 SLA 1962; am § 1 ch 117 SLA 1966; am § 1 ch 33 SLA 1967; am § 3 ch 226 SLA 1970; am § 1 ch 39 SLA 1971; am § 3 ch 42 SLA 1971; am § 1 ch 21 SLA 1973; am § 1 ch 27 SLA 1976; am § 1 ch 4 SLA 1978; am § 2 ch 67 SLA 1979; am § 38 ch 94 SLA 1980; am §§ 1, 2 ch 89 SLA 1982; am § 14 ch 112 SLA 1982)

Revisor's notes. — AS 39.25.150 was also amended by §§ 1 and 2, ch. 89, SLA 1982. That chapter amended former paragraphs (6) and (9). However, ch. 112, SLA 1982 is given effect here since it was enacted later than ch. 89, SLA 1982, has a later effective date than ch. 89, SLA 1982 and is a comprehensive repeal and reenactment of this section.

Cross references. — For the pay plan prepared under (2) of this section, see AS 39.27.011.

Effect of amendments. — The 1980 amendment substituted "November 7, 1975" for "a date to be determined by the legislature which shall be on or about six

months after the termination of hostilities involving forces of the United States in Viet Nam" near the middle of paragraph (23), and substituted a semicolon for a period at the end of paragraph (23).

The first 1982 amendment added "including the granting of employment preference to local residents in accordance with AS 39.25.181 or under appropriate circumstances" to the end of paragraph (6) and "including the granting of employment preference to local residents in accordance with AS 39.25.181" to the end of paragraph (9).

The second 1982 amendment rewrote this section.

NOTES TO DECISIONS

The scope of rules prepared pursuant to AS 39.25.050 is limited severely in this section, leaving the director of personnel very little discretion and virtually no policy-making power.

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

Chapter attempts to ensure most efficient expenditure of public funds.

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

2-8-81

January 22, 1985

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the definition of "veteran" for purposes of veterans' preference rights for state employment. This bill conforms the current definition of veteran found in AS 39.25.150(19)(A) to the federal definition in 5 U.S.C. sec. 2108.

In essence, the bill extends the period of time of active duty in the United States armed forces which qualifies an individual as a veteran for employment preference. The Alaska statute currently sets November 7, 1975 as the service cut-off date for qualifying as a veteran, while federal law establishes October 14, 1976 as the date. The bill amends AS 39.25.150(19)(A) to reflect the October 14, 1976 date, thereby conforming the federal and state periods of service for being considered a veteran to receive employment preference rights.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor