

HB

25

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Department of Administration  
 Title: An act relating to affirmative BRU: Personnel  
action.  
 Sponsor: Martin Components: Centralized Administrative  
 Requestor: \_\_\_\_\_ Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	115.0	115.0	115.0	115.0	115.0
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	0	115.0	115.0	115.0	115.0	115.0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	115.0	115.0	115.0	115.0	115.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	115.0	115.0	115.0	115.0	115.0

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)

Prepared By: Diana DeSimone Phone: 465-4430  
 Division: Personnel Date: 1-21-88

Approved by Commissioner: John M. Andrews Date: 1/23/88  
 Agency: Department of Administration

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

JAN 26 1988  
 LEGISLATIVE FINANCE

HB 25

CONTINUATION OF FISCAL NOTE ANALYSIS

For Bill No. HB 25

House Bill 25 grants the Office of Equal Employment Opportunity broad enforcement authority with respect to equal employment opportunity and affirmative action matters. Of concern to the Division of Personnel is that portion of the proposed bill which allows the office to require agencies to change their selection procedures, that is, to require new examination or testing methods for employment application. Currently, any examination device must adhere to federally mandated test validation procedures. The proposed legislation appears to impose requirements for test validation that are in addition to the federal requirements.

Depending on the scope of the validation exercise, i.e., number of job classes involved, number of positions concerned, number of job sites affected, costs may range from \$30,000 to \$200,000 per examination. The fiscal note assumes an average of these two figures with one test validation performed per fiscal year. Contractual rather than personal services are indicated because it is most cost effective to contract with firms who specialize in test validation than to recruit and hire State employees with these specialized qualifications.



FISCAL NOTE

REQUEST:

Revision Date: 03-17-88  
Title: An act relating to affirmative action.  
Sponsor: Martin  
Requestor: \_\_\_\_\_

Agency Affected: Department of Administration  
BRU: Personnel  
Components: Centralized Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	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	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	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)

CSHB 25 (Judiciary) is consistent with current federal and State requirements regarding selection procedures. This bill will not have a fiscal impact on the Division of Personnel.

Prepared By: Dave Otto *Dave Otto* Phone: 465-4430  
Division: Personnel Date: 3-17-88

Approved by Commissioner: John M. Andrews *John M. Andrews* Date: 3/18/88  
Agency: Department of Administration

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

MAR 22 1988

LEGISLATIVE FINANCE

Original sponsor: Martin

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 25 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to affirmative action and equal  
7 employment opportunity in public employment."

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

9 \* Section 1. AS 44.19.442(b) is amended to read:

10 (b) The office may

11 (1) recommend legislative or administrative action to the  
12 governor relating to equal employment opportunity and affirmative  
13 action matters;

14 (2) require the division of personnel in the Department of  
15 Administration to purge records of a complaint of unlawful discrimina-  
16 tion from the personnel file of an employee who has filed a complaint  
17 of unlawful discrimination;

18 (3) forbid an agency to hire or promote employees based on  
19 a discriminatory employment practice;

20 (4) require an agency to reverse a personnel action includ-  
21 ing a hiring decision if it finds that the action was based on a  
22 discriminatory employment practice;

23 (5) require an agency to change its selection procedures if  
24 it finds that the procedures violate state or federal laws prohibiting  
25 employment discrimination; and

26 (6) when there is reason to believe that an employee has  
27 violated this subsection, require the agency to investigate and to  
28 impose discipline if the investigation reveals facts warranting it.

29 \* Sec. 2. AS 44.19.442 is amended by adding a new subsection to read:

1 (c) A collective bargaining agreement adopted under AS 23.40.-  
2 070 - 23.40.260 (Public Employment Relations Act) must be consistent  
3 with principles of equal employment opportunity and affirmative  
4 action. AS 44.19.441 - 44.19.449 supercede the provisions of AS 39.25  
5 (State Personnel Act).

6 \* Sec. 3. AS 44.19.444 is amended to read:

7 Sec. 44.19.444. AFFIRMATIVE ACTION PLAN. The governor shall  
8 establish an equal employment opportunity program and adopt annually  
9 an affirmative action plan for the executive branch of state govern-  
10 ment. The plan remains in effect until the governor adopts a subse-  
11 quent plan. The office shall work with each agency to enhance equal  
12 employment opportunity.

13 \* Sec. 4. AS 44.19.445 is amended by adding a new subsection to read:

14 (b) When the office finds that an agency has violated the affir-  
15 mative action plan or its affirmative action program, the office may

16 (1) suspend the hiring authority of the agency; and

17 (2) impose mandatory affirmative action measures on the  
18 agency to bring the agency into compliance.

POSITION PAPER  
CSHB 25 (Judiciary)

The focus of present statutory responsibilities of the Office of Equal Employment Opportunity (OEEO) is to be an advisor, counselor and advocate to Executive Branch agencies in matters of equal employment and affirmative action. The powers and duties assigned to the office under AS 44.19.442 are consistent with this focus. These powers and duties require the office to establish an affirmative action plan and to counsel, train and assist State managers in an effort to voluntarily meet the plans objectives. The office is also given statutory authority to accept complaints of employment discrimination in the Executive Branch and to use its expertise and the status of the Governor's Office to bring about an informal resolution of those complaints.

This legislation broadens the powers assigned to the OEEO. Section 1 of the bill gives the office the authority to require the Division of Personnel to purge the records of an employee who has filed a complaint of unlawful discrimination; forbid an agency to hire or promote employees and reverse a personnel action if it finds that the action was based on a discriminatory employment practice; require an agency to change selection procedures if those procedures violate State or federal law; and, require an agency to investigate whether an employee has violated this subsection and to impose discipline if warranted. Section 4 of this bill gives the office authority to impose mandatory affirmative action measures or suspend an agencies' hiring authority if it finds that an agency has violated its affirmative action program.

We support the twin goals of eradicating discrimination and securing compliance with the affirmative action plan. The Division of Personnel and the OEEO must work closely together to achieve these goals. We do, however, have two specific concerns about the approach taken by this legislation.

The OEEO's current role of advisor, counselor and advocate enables the office to develop a trust relationship with State managers who rely on the expertise of the office when attempting to determine how to comply with affirmative action requirements and/or goals. The assignment of enforcement powers to the office would undermine this trust relationship.

Second, the assignment of enforcement powers to the OEEO would remove an option now available to minority groups or individuals who feel that they have been discriminated against. Currently such individuals or groups can attempt to gain relief informally through the OEEO or through the formal adjudicatory complaint process administered by the Human Rights Commission. If the OEEO is given broad enforcement powers, the informal approach would be eliminated.

Finally, the powers outlined in Section 4 of this bill already rest with the Governor. Since the OEEO is placed in the Governor's Office, it can now make recommendations to the Governor if it finds that the affirmative action plan has been violated.

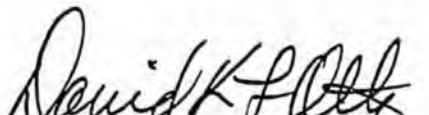
The Governor is the appointing authority for the Executive Branch. AS 39.25.020(2) allows him to qualify or withhold a delegation of appointment authority. In keeping with his authority, he may also determine whether his delegation of authority to an agency should be limited based on a recommendation of the OEEO. This is an important tool. The ability of a manager to make appointments

POSITION PAPER (continued)  
CSHB 25 (Judiciary)

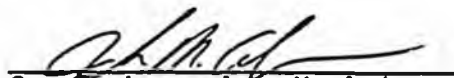
to positions within the manager's scope of authority is basic to all supervisors. The threat of removing this authority or modifying it in a way which would limit the manager's freedom of choice is a threat which would not be taken lightly. It is a power which can be exercised by the Governor under existing law to facilitate change consistent with OEE0's recommendation.

In addition, the Division of Personnel can work hand in hand with OEE0 to fight discriminatory practices. The Personnel Act prohibits employment actions affecting the employment status of a State employee or applicant if the action was taken on the basis of unlawful discrimination (AS 39.25.160(f)). If the director of Personnel finds that a current employee's status has been affected, or an applicant has been denied employment because of discrimination, the director can "correct the status of an employee, change an employee's salary or vacate or correct the appointment." These actions can now be taken on the basis of an investigation conducted by the Division of Personnel or upon the investigation and recommendation of OEE0.

The division supports the intent of this legislation. We do, however, believe that the role of the OEE0 should be that of helper and trainer, rather than as a duplicate Human Rights Commission or Federal Equal Employment Opportunity Commission.

  
\_\_\_\_\_  
David K. F. Otto, Director  
Division of Personnel

4-20-88  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Commissioner John M. Andrews  
Department of Administration

4/20/88  
\_\_\_\_\_  
Date

Amendment #1

by Goll

HB 25

Line 14 - After "records" ADD "of a complaint  
of unlawful discrimination;"

Line 15 - Delete: "of unlawful discrimination"

Line 15 - ADD: After "filed," ADD "SUCH A"

Line 17 - ADD "to" before "require"

Line 23 Delete: "require an agency to investigate  
WHETHER"

Line 23 ADD "When there is reason to believe that"  
(before "employee")

Line 24, After "subsection" add: "require an  
agency to investigate"

AM #1 Correction

Delete Reference in AM #1 to Line 17

Substitute:

Re: Subsec 3

Divide into 2 sections & re-number accordingly

- 3) Prohibit an agency to hire or promote employees based upon a discriminatory employment practice;
- 4) require an agency to reverse a personnel action including a hiring decision if it finds that the action was based on a discriminatory employment practice;

TO : House Finance Committee Members

REF : G. Nicole Harrison  
In Support of House Bill #25

During the afternoon hearing held on April 22, 1988, I shared with you some of the roadblocks I have encountered while seeking employment with the Alaska State government. Over the last two and one half (2 1/2) years I have been presented with no real opportunities to apply my professional auditing/accounting training and experience in the State's government.

Below I have constructed a synopsis summarizing the actions I feel violate the 1964 Civil Rights Act, Title VII; Alaska Statute 44.19; Freedom of Information Act; my first, ninth and fourteenth amendments to the U.S. Constitution.

After you have read this information, I sincerely hope your compassion and your legislative integrity will permit you to support House Bill #25, passing it out of Committee and supporting it through full passage and implementation.

Thank you for your support.

Additional information will be provided upon request. Similar occurrences showing lack of Affirmative Action by Dept of Labor, Dept. of Environmental Conservation, Dept. of Natural Resources, the Office of the Governor, Department of Administration and the Dept. of Labor can also be shared with you showing a pattern of traditionally hiring nonminority

TO : Judiciary Committee Members

REF : G. Nicole Harrison  
In Support of House Bill #25

SUBJECT: Interview(s) with Department of Revenue

Ms. Harrison received numerical ratings for Revenue Auditor I, II, III, IV after numerous complaints against Revenue personnel to rate Ms. Harrison's application. Revenue personnel personnel had procrastinated over a nine month period of time before rating application. Ms. Harrison questioned fifteen point variance between Revenue Auditor II level (90) and Revenue Auditor III level of (75). No justification was given by Revenue personnel. There is only a 5 point difference between Revenue Auditor I rating of (95) and Revenue Auditor II rating.

Ms. Harrison inquired to local Audit Manager and Commissioner on projected hiring of Revenue Auditors. Audit Manager's response, "the money budgeted for Fiscal Year 1988 was to be used for promoting Revenue Auditors presently working within the department." The Equal Employment Opportunity Manager was also informed of the same. At least three newspaper advertisements were published encouraging applicants to apply. Ms. Harrison discussed the contradiction with the Commissioner during a meeting on 7/16/87. This was one of several meetings and telephone calls to come. Commissioner informed Ms. Harrison new Revenue Auditor jobs were budgeted for F.Y. 1988 and the positions would be filled.

Ms. Harrison was notified by mail of Revenue Auditor positions (seven (7) positions in the Anchorage area) to be filled. Ms. Harrison responded by certified mail confirming interest in being interviewed for one of the seven positions. All seven positions were at the III level.

First interview took place by telephone on 10/7/87. The first question asked Ms. Harrison was if she could report to work in the Anchorage area within two weeks. Ms. Harrison was also asked to participate in a visual. To be exact -- Ms. Harrison was asked to visit a revenue employee who worked in the State Office building and chat with him. Ms. Harrison was instructed that it would not be another interview, she did not have to discuss her qualifications or the job being interviewed for. She was to just chat with the employee and that this employee would be able to see what they had not been able to see by telephone. Ms. Harrison declined to participate in the visual.

TO : Judiciary Committee Members

REF : G. Nicole Harrison  
In Support of House Bill #25

SUBJECT: Interview(s) with Department of Revenue  
Page Two

Ms. Harrison complained to the Commissioner and Revenue Audit Manager in the Anchorage area. Later Ms, Harrison was informed by the Commissioner he had been informed the interview never took place. Telephone records will show telephone call took place on 10/7/87 from approximately 3:07 p.m. and lasted to 3:44 p.m. Ms. Harrison was then informed by Anchorage Audit Manager he wanted to make everything right. He decided to throw out the telephone interview and set up a local interview with the same Revenue employee Ms. Harrison was asked to participate in a visual with. The interview with the Revenue employee lasted approximately three hours. Later Ms. Harrison was informed she was highly recommended for one of the Revenue Auditor III positions but was not selected.

Three (3) white males and two (2) white females, outside of State government were hired for five (5) of the Revenue Auditor positions; numerous positions of Revenue Auditors were upgraded to higher levels; One (1) white male was hired as Revenue Auditor I and One (1) Asian/Pacific Islander male was hired as Revenue Auditor I during the periods Ms. Harrison pursued work with Department as a Revenue Auditor. Two (2) white employees within the service were also hired as Rev Aud IIIs. Ms. Harrison was interviewed again on 2/11/88 for a Revenue Auditor III position in the Seattle Office but did not receive job offer.

Revenue Auditor register has reopened for the third time in a one year period. Ms. Harrison's rating will expire in less than one year. Department continue to seek new applicants despite Ms. Harrison's rating of being qualified.

REQUEST FOR INFORMATION-STATISTICS WITHIN JOB GROUPS  
 WITHIN DEPARTMENTS FOR THE PERIOD ENDING FEBRUARY 29, 1988  
 (REQUESTED BY NICOLE HARRISON)  
 PREPARED MARCH 14, 1988

EMPLOYER STATUS CLASSTITLE	RACE/SEX PROFILE														
	AI/F	AI/M	AN/F	AN/M	API/F	API/M	B/F	B/M	H/F	H/M	UNK/F	UNK/M	W/F	W/M	
TOTAL	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT
REVENUE FULL-TIME															
REVENUE AUDIT SUPVR I	5	0	0	0	0	0	0	0	0	0	0	0	0	2	3
REVENUE AUDIT SUPVR III	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
REVENUE AUDITOR I	2	0	0	0	0	1	0	0	0	0	0	0	0	0	1
REVENUE AUDITOR III	11	0	0	0	0	0	0	0	0	0	0	0	4	7	
REVENUE AUDITOR IV	7	0	1	0	0	1	0	0	0	0	0	0	2	3	
REVENUE AUDITOR V	9	0	0	0	0	0	0	0	0	0	0	0	1	8	
REVENUE ENFORCEMENT OFCR IV	2	0	0	0	0	0	0	0	0	0	0	0	0	0	2
REVENUE ENFRCMNT OFCR II	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1

## RACE/SEX CODES:

W/M = WHITE MALE  
 B/M = BLACK MALE  
 H/M = HISPANIC MALE  
 API/M = ASIAN/PACIFIC ISL. MALE  
 AI/M = AMERICAN INDIAN MALE  
 AN/M = ALASKAN NATIVE MALE  
 U/M = UNKNOWN MALE

W/F = WHITE FEMALE  
 B/F = BLACK FEMALE  
 H/F = HISPANIC FEMALE  
 API/F = ASIAN/PACIFIC ISL. FEMALE  
 AI/F = AMERICAN INDIAN FEMALE  
 AN/F = ALASKAN NATIVE FEMALE  
 U/F = UNKNOWN FEMALE

REQUEST FOR INFORMATION-STATISTICS WITHIN JOB GROUPS  
 WITHIN DEPARTMENTS FOR THE PERIOD ENDING FEBRUARY 29, 1988  
 (REQUESTED BY NICOLE HARRISON)  
 PREPARED MARCH 14, 1988

EMPLOYER STATUS CLASSTITLE	RACE/SEX PROFILE														
	AI/F	AI/M	AN/F	AN/M	API/F	API/M	B/F	B/M	H/F	H/M	UNK/F	UNK/M	W/F	W/M	
TOTAL	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT
REVENUE FULL-TIME REVENUE HEARING EXAMINER	5	0	0	0	0	1	0	0	0	0	0	0	0	2	2
REVENUE OFFICE MANAGER	3	0	0	0	0	0	0	0	0	0	0	0	0	3	0
SECRETARY I	6	0	0	0	0	1	0	0	0	0	0	0	0	4	1
SECRETARY II	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0
SPEC ASST/COMM I	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
SPEC ASST/COMM II	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
STATE INVST OFCR I	4	0	0	0	0	0	0	0	0	0	0	0	0	0	4
STATE INVSTMNT OFCR II	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1

## RACE/SEX CODES:

W/M = WHITE MALE  
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 API/M = ASIAN/PACIFIC ISL. MALE  
 AI/M = AMERICAN INDIAN MALE  
 AN/M = ALASKAN NATIVE MALE  
 U/M = UNKNOWN MALE

W/F = WHITE FEMALE  
 B/F = BLACK FEMALE  
 H/F = HISPANIC FEMALE  
 API/F = ASIAN/PACIFIC ISL. FEMALE  
 AI/F = AMERICAN INDIAN FEMALE  
 AN/F = ALASKAN NATIVE FEMALE  
 U/F = UNKNOWN FEMALE

CURRENT WORKFORCE STATISTICS IN THE EXECUTIVE BRANCH  
 (WITHIN JOB GROUP/BY DEPARTMENT/BY JOB CLASS)  
 REQUESTED BY NICOLE HARRISON  
 PREPARED JULY 1, 1987

RACE/SEX PROFILE		AI/F	AI/M	AN/F	AN/M	API/F	API/M	D/F	B/M	H/F	H/M	UNK/F	UNK/M	W/F	W/M
DEPARTMENT	JOB GROUP	CLASSTITLE	TOTAL	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT
-----															
REVENUE															
1405															
		RESEARCH ANALYST III	1	0	0	0	0	0	0	0	0	0	0	0	1
-----															
	*TOTAL	JOB GROUP 1405	2	0	0	0	0	0	0	0	0	0	0	1	1
1410															
		ACCOUNTING SUPERVISOR III	2	0	0	0	0	0	0	0	0	0	0	2	0
		COORD/FLD AUDIT OPERATION	1	0	0	0	0	0	0	0	0	0	0	0	1
		FLD SVC MGR/REVENUE	1	0	0	0	0	0	0	0	0	0	0	1	0
		LOAN EXAMINER III	1	0	0	0	0	0	0	0	0	0	0	1	0
		PETRO PROPRTY APPRAISER I	1	0	0	0	0	0	0	0	0	0	0	0	1
		PETRO PROPRTY APPRAISER III	2	0	0	0	0	0	0	0	0	0	0	0	2
		REVENUE AUDITOR III	5	0	0	0	0	0	0	0	0	0	0	0	2
		REVENUE AUDITOR IV	8	0	1	0	0	0	0	0	0	0	0	2	3
		REVENUE AUDITOR V	9	0	0	0	0	0	0	0	0	0	0	3	3
		REVENUE FIELD AUDITOR II	4	0	0	0	0	0	0	0	0	0	0	2	7
		STATE INVST OFCR I	4	0	0	0	0	0	0	0	0	0	0	1	3
			4	0	0	0	0	0	0	0	0	0	0	0	4

12/9  
 Under 11:  
 no Black or  
 female  
 2 of Oct 3

2	3
3	3
2	7
1	3
0	4





REQUEST FOR INFORMATION-STATISTICS WITHIN JOB GROUPS  
 WITHIN DEPARTMENTS FOR THE PERIOD ENDING FEBRUARY 29, 1988  
 (REQUESTED BY NICOLE HARRISON)  
 PREPARED MARCH 14, 1988

EMPLOYER STATUS CLASSTITLE	RACE/SEX PROFILE														
	AI/F	AI/M	AN/F	AN/M	API/F	API/M	B/F	B/M	H/F	H/M	UNK/F	UNK/M	W/F	W/M	
TOTAL	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	
-----															
REVENUE															
FULL-TIME															
STATE INVSTMNT OFCR III	2	0	0	0	0	0	0	0	0	0	0	0	0	0	2
STATE INVSTMNT OFCR IV	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
STATE PETRO PROPERTY ASSES	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
SUPPLY OFFICER II	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0
TAX COLLECTION SPEC II	3	0	0	0	0	1	0	0	0	0	0	0	2	0	
TAX EXAMINER II	13	0	0	0	0	0	0	0	0	0	0	0	12	1	
TAX EXAMINER III	2	0	0	0	0	0	0	0	0	0	0	0	1	1	
TREASURY COMPTROLLER	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
-----															

## RACE/SEX CODES:

W/M = WHITE MALE  
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TO : Judiciary Committee Members

REF : G. Nicole Harrison  
In Support of House Bill #25

SUBJECT: Interview with Department of Regional & Community Affairs

Ms. Harrison was interviewed on 3/18/87, by Auditor within Division of Administration, for Internal Auditor II position. The interview was unstructured. Ms. Harrison was again interviewed by Director of Administrative Services and informed at end of interview the Commissioner would want to interview her. The selection was delayed for over two months.

Ms. Harrison was later informed the Internal Auditor II vacancy had been filled by someone who had previous State Administrative experience. This requirement was not mentioned by either of the interviewers but was mentioned to Senator Duncan's Aide when she inquired to the Department as to why I was not hired for the position. Previous state administrative experience is not specified in Internal Auditor job description.

A white male was hired on or about 3/30/87. As of 2/87 the Department of Community & Regional Affairs employ two (2) white male Internal Auditors. One at the II level and one at the III level.

REQUEST FOR INFORMATION-STATISTICS WITHIN JOB GROUPS  
 WITHIN DEPARTMENTS FOR THE PERIOD ENDING FEBRUARY 29, 1988  
 (REQUESTED BY NICOLE HARRISON)  
 PREPARED MARCH 14, 1988

EMPLOYER STATUS CLASSTITLE	RACE/SEX PROFILE														
	AI/F	AI/M	AN/F	AN/M	API/F	API/M	B/F	B/M	H/F	H/M	UNK/F	UNK/M	W/F	W/M	
TOTAL	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT
-----															
COMMUNITY & REGIONAL AFFAIRS															
FULL-TIME															
INTERNAL AUDITOR II	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
INTERNAL AUDITOR III	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
LOAN CLOSER II	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0
LOAN EXAMINER I	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
LOAN EXAMINER II	5	0	0	2	1	0	0	0	0	0	0	0	0	1	1
LOAN EXAMINER III	2	0	0	0	0	0	0	0	0	0	0	0	0	2	0
LOAN MANAGER	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
LOCAL GOVERNMENT SPEC II	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0

## RACE/SEX CODES:

W/M = WHITE MALE  
 B/M = BLACK MALE  
 H/M = HISPANIC MALE  
 API/M = ASIAN/PACIFIC ISL. MALE  
 AI/M = AMERICAN INDIAN MALE  
 AN/M = ALASKAN NATIVE MALE  
 U/M = UNKNOWN MALE

W/F = WHITE FEMALE  
 B/F = BLACK FEMALE  
 H/F = HISPANIC FEMALE  
 API/F = ASIAN/PACIFIC ISL. FEMALE  
 AI/F = AMERICAN INDIAN FEMALE  
 AN/F = ALASKAN NATIVE FEMALE  
 U/F = UNKNOWN FEMALE

REQUEST FOR INFORMATION-STATISTICS WITHIN JOB GROUPS  
 WITHIN DEPARTMENTS FOR THE PERIOD ENDING FEBRUARY 29, 1988  
 (REQUESTED BY NICOLE HARRISON)  
 PREPARED MARCH 14, 1988

EMPLOYER STATUS CLASSTITLE	RACE/SEX PROFILE														
	AI/F	AI/M	AN/F	AN/M	API/F	API/M	B/F	B/M	H/F	H/M	UNK/F	UNK/M	W/F	W/M	
TOTAL	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	
-----															
COMMUNITY & REGIONAL AFFAIRS															
FULL-TIME															
LOCAL GOVERNMENT SPEC III	8	0	0	1	0	0	0	1	0	0	0	0	0	3	3
LOCAL GOVERNMENT SPEC IV	6	0	0	1	1	0	0	0	0	0	0	0	0	1	3
LOCAL GOVERNMENT SPEC V	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
NAT RESOURCE MGR I	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1 x
NAT RESOURCE MGR II	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1 x
NAT RESOURCE OFFICER I	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1 x
NAT RESOURCE OFFICER II	2	0	0	0	1	0	0	0	0	0	0	0	0	0	1 x
PLANNER III	2	0	1	0	0	0	0	0	0	0	0	0	0	0	1

## RACE/SEX CODES:

W/M = WHITE MALE  
 B/M = BLACK MALE  
 H/M = HISPANIC MALE  
 API/M = ASIAN/PACIFIC ISL. MALE  
 AI/M = AMERICAN INDIAN MALE  
 AN/M = ALASKAN NATIVE MALE  
 U/M = UNKNOWN MALE

W/F = WHITE FEMALE  
 B/F = BLACK FEMALE  
 H/F = HISPANIC FEMALE  
 API/F = ASIAN/PACIFIC ISL. FEMALE  
 AI/F = AMERICAN INDIAN FEMALE  
 AN/F = ALASKAN NATIVE FEMALE  
 U/F = UNKNOWN FEMALE





TO : Judiciary Committee Members

REF : G. Nicole Harrison  
In Support of House Bill #25

SUBJECT: Interview with Department of Transportation

Ms. Harrison mailed certified return receipt affirmative response confirming interest in being interviewed for Internal Auditor II position. Ms. Harrison was interviewed by Division Auditor (telephone interview) but was not selected for position. A white male was hired to fill the vacancy.

Later Ms. Harrison met with Audit Manager twice and talked with him on several occasions in seeking employment with Department. In the most recent telephone inquiry with Audit Manager, Ms. Harrison was informed the previous problem presented was promoting the Internal Auditor IIs, currently on board, to Internal Auditor IIIs. This inquiring took place during 12/87. Ms. Harrison was also informed by Audit Manager the Internal Auditor II position we had discussed would be filled in January, 1988. My rating for Internal Auditor II and III expired in January, 1988.

As of 2/88 the Department of Transportation employs One(1) Alaska Native male as Internal Auditor II; four (4) white males as Internal Auditor IIIs; three (3) white males as Internal Auditor IVs; and one (1) white male as Internal Auditor V.

REQUEST FOR INFORMATION-STATISTICS WITHIN JOB GROUPS  
 WITHIN DEPARTMENTS FOR THE PERIOD ENDING FEBRUARY 29, 1988  
 (REQUESTED BY NICOLE HARRISON)  
 PREPARED MARCH 14, 1988

EMPLOYER STATUS CLASSTITLE	RACE/SEX PROFILE														
	AI/F	AI/M	AN/F	AN/M	API/F	API/M	B/F	B/M	H/F	H/M	UNK/F	UNK/M	W/F	W/M	
TOTAL	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	
TRANSPORTATION & PUBLIC FACILITIES															
FULL-TIME															
HIGHWAY ENG TECH WG IX	2	0	0	0	0	0	0	0	0	0	0	0	0	1	1
HIGHWAY ENG TECH WG V	3	0	0	0	0	0	0	0	0	0	0	0	0	0	3
HIGHWAY ENG TECH, WG VII	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0
INFORMATION OFFICER III	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0
INTERNAL AUDITOR II	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0
INTERNAL AUDITOR III	4	0	0	0	0	0	0	0	0	0	0	0	0	0	4
INTERNAL AUDITOR IV	3	0	0	0	0	0	0	0	0	0	0	0	0	0	3
INTERNAL AUDITOR V	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1

RACE/SEX CODES:

W/M = WHITE MALE	W/F = WHITE FEMALE
B/M = BLACK MALE	B/F = BLACK FEMALE
H/M = HISPANIC MALE	H/F = HISPANIC FEMALE
API/M = ASIAN/PACIFIC ISL. MALE	API/F = ASIAN/PACIFIC ISL. FEMALE
AI/M = AMERICAN INDIAN MALE	AI/F = AMERICAN INDIAN FEMALE
AN/M = ALASKAN NATIVE MALE	AN/F = ALASKAN NATIVE FEMALE
U/M = UNKNOWN MALE	U/F = UNKNOWN FEMALE



TO : Judiciary Committee Members

REF : G. Nicole Harrison  
In Support of House Bill #25

SUBJECT: Interview with Department of Health & Social Services

Ms. Harrison mailed certified return receipt response to Department of H & SS confirming interest in being interviewed for Internal Auditor III vacancy. In January, 1986 Ms. Harrison was interviewed by one of the auditors and told she was highly recommended to Auditor Manager. She was then interviewed by Audit Manager. A written test was given during each interview. During second interview, Ms. Harrison was strongly encouraged to pursue CPA status. CPA status was not one of the requirements on vacancy announcement, job description nor discussed during two interviews as being manatory.

Later Ms. Harrison was told by first interviewer that Audit Manager was interested in hiring an applicant with CPA status and that was her initial intent.

A white male was hired to fill Internal Auditor II vacancy. As of 2/29/88 the Department of Health & Social Services employ two white males as Internal Auditor IIIs and one white female as Internal Auditor IV.

REQUEST FOR INFORMATION-STATISTICS WITHIN JOB GROUPS  
 WITHIN DEPARTMENTS FOR THE PERIOD ENDING FEBRUARY 29, 1988  
 (REQUESTED BY NICOLE HARRISON)  
 PREPARED MARCH 14, 1988

EMPLOYER STATUS CLASSTITLE	RACE/SEX PROFILE														
	AI/F	AI/M	AN/F	AN/M	API/F	API/M	B/F	B/M	H/F	H/M	UNK/F	UNK/M	W/F	W/M	
TOTAL	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT	COUNT
HEALTH & SOCIAL SERVICES															
FULL-TIME															
HRBRVW DEV CTR SUPT	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
INDUSTRIAL THERAPIST	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0
INSTITUTNL EDUCATION COORD	2	0	0	0	0	0	0	0	0	0	0	0	0	2	0
INTERNAL AUDITOR III	2	0	0	0	0	0	0	0	0	0	0	0	0	0	2 X
INTERNAL AUDITOR IV	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0 X
INVESTIGATOR II	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
JANITOR, WG IX	5	0	0	0	0	0	0	1	0	0	0	0	0	0	4
LABORATORY ASSISTANT I	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0

## RACE/SEX CODES:

W/M = WHITE MALE  
 B/M = BLACK MALE  
 H/M = HISPANIC MALE  
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 AI/M = AMERICAN INDIAN MALE  
 AN/M = ALASKAN NATIVE MALE  
 U/M = UNKNOWN MALE

W/F = WHITE FEMALE  
 B/F = BLACK FEMALE  
 H/F = HISPANIC FEMALE  
 API/F = ASIAN/PACIFIC ISL. FEMALE  
 AI/F = AMERICAN INDIAN FEMALE  
 AN/F = ALASKAN NATIVE FEMALE  
 U/F = UNKNOWN FEMALE



#2  
moved  
not yet  
Aprd  
wid

AMENDMENT TO CS HB 25 (State Affairs)

by BROWN

p. 2, line 9  
after "opportunity." Insert:

"The office shall advise the Governor when it finds that an agency has violated the affirmative action plan or its affirmative action program and shall recommend to the Governor appropriate action to remedy the violation."

Delete section 4.



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

**MEMORANDUM**

**TO:** Representative Al Adams, Chairman  
House Finance Committee

**FROM:** Cherie Shelley *CS*

**SUBJECT:** CSHB 25 (SA)  
An Act relating to affirmative action

**DATE:** April 18, 1988

The Alaska Public Employees Association supports the Committee Substitute for House Bill 25, State Affairs, which would greatly strengthen the power of the Office of Equal Employment with respect to equal employment opportunity and affirmative action in the executive branch of government. The House state Affairs Committee addressed APEA's concerns in the original legislation.

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

Anchorage Field Office  
833 Gambell Street, Suite A  
Anchorage, AK 99501  
Telephone: (907) 274-1688

Juneau Field Office  
227 4th Street  
Juneau, AK 99801  
Telephone: (907) 586-6305

# REP. TERRY MARTIN

ELECTIVE DISTRICT 13  
MOUNTAIN VIEW  
RUSSIAN JACK SPRINGS  
NUNAKA VALLEY  
ELMENDORF A.F.B.  
CREEKSIDE  
EAST ANCHORAGE

HOME  
3960 NEKA DRIVE-B6  
ANCHORAGE, AK 99508  
PHONE 333-6990

DURING SESSION  
P. O. BOX V  
STATE CAPITOL BUILDING  
JUNEAU, AK 99811  
PHONE 465-3783



## Alaska House of Representatives

### M E M O R A N D U M

DATE: February 10, 1988  
TO: Representative John Sund, Chairman  
House Judiciary Committee  
FROM: Representative Terry Martin  
SUBJ: CSHB 25 - AFFIRMATIVE ACTION

With the recent implementation of the Governor's reorganization/consolidation of the state EEO offices under the new Office of Equal Opportunity, I feel that the time is appropriate to have public hearing on CSHB 25.

The legislation, in its original form empowered the Office of Equal Opportunity to direct the Department of Administration, Division of Personnel to take certain action with regard to employees who have been discriminated against by the state. However, in keeping with the recent reorganization this legislation has been changed to impact the Human Rights Commission. (Draft CS has been requested from Legal.)

Public interest in the issue of discriminatory action by the state against its employees runs very high. I have documentation on file from many individuals who claim that they have been discriminated against by the state. Some have entered into costly litigation, others could not afford to do so. In one case, after an employee took legal action against the state (at great personal expense) and later settled his case with the state, he was essentially blackballed from future re-employment with the state because of documentation remaining in his personnel records as a result of the discriminatory act that he had taken the state to court for in the first place.

This is just one incident, there are many, many more.



CSHB 25 - Affirmative Action  
Page 2

The intent of CSHB 25 is to give the Human Rights Commission more specific statutory power to right the wrong being done to many state employees.

I hereby request that the House Judiciary Committee schedule a hearing on CSHB 25 - Affirmative Action at its earliest convenience.

Thank you for your consideration of my request.

/laj/sund.laj



# Alaska State Legislature

## House

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

### MEMORANDUM

Date: February 10, 1987

To: House Committee on State Affairs

From: Lydia Jones, Legislative Assistant  
Office of Representative Terry Martin

Re: HB 25 - Affirmative Action

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For over two years, our office has been receiving complaints from members of an Anchorage based group called "Minority Victims of Alaska State Government Discrimination". This organization was founded by individuals who felt that they had been discriminated against by the State of Alaska. The group alleges that the State has been discriminatory in its hiring and promotion practices. They further allege that the state attempts to retaliate against employees who have filed discrimination complaints or who have pointed out improper procedures going on in State government.

Take for example the litigation initiated by an employee with six years of state service. Between 1977 and 1982, this individual filed a total of four discrimination suits with the Office of Equal Employment Opportunity and the Alaska Human Rights Commission. In his experience, the administrative complaints received by these state agencies did not result in relief or resolution agreements that were satisfactory to him. This complainant finally took his case to the Superior Court for adjudication. After reaching an out of court settlement with the state, this individual began to reapply for state jobs only to find that he was essentially "blackballed" because his personnel files still contained reports, performance appraisals and other documentation that was the result of the discriminatory practices that he had been subjected to during his past employment with the state.

Another example is that of a two year state employee who "blew the whistle" on certain improprieties regarding the management and control of state property. Investigation of these improprieties led to the firing of his boss and a grand jury probe into the affairs of the department. As a result of these revelations, this individual was laid off. He was told that the lay off was due to "budgetary constraints". This

individual filed two discrimination complaints with the Alaska Human Rights Commission. The arbitrator in this action concluded that this employee was laid off by certain state officials partly in retaliation for questioning safety practices at work and ordered that he be reinstated.

These examples are only two of many.

The State Office of Equal Employment Opportunity as established by statute in 1985, was given the responsibility to administer the equal employment opportunity program and to ensure its compliance. The office was never given the authority to "enforce" the concept of equal employment opportunity. Under AS 44.19, the Office of Equal Employment Opportunity can only recommend solutions to an agency if that agency is found to be in noncompliance with affirmative action guidelines. The agency is in no way obligated to comply with those recommendations.

HB 25 will enable the Office of Equal Employment Opportunity to enforce compliance with affirmative action standards, guidelines and procedures by:

- 1) forbidding an agency to hire or promote employees and requiring an agency to reverse a personnel action including a hiring decision if it finds that the action was based on a discriminatory employment practice.

- 2) requiring an agency to change its selection procedures if it finds that the procedures have a discriminatory affect on members of a protected class.

- 3) requiring an agency to hold a disciplinary hearing to determine whether an employee has violated this subsection; the Office of EEO may participate in the hearing.

HB 25 will also require the Division of Personnel in the Department of Administration to purge records from an employee's personnel file if the records are the direct or indirect result of complaint of unlawful discrimination by a state official or employee. One official of the State of Alaska acknowledged that, "The criminal justice system in this state basically treats convicted felons better than the State personnel system treats employees and former employees". By this he meant that under certain circumstances, a convicted felon may have his/her record purged after their sentence has been satisfied and they are released from probation. However, a state employee who has filed a complaint or who has

derogatory documentation on disciplinary actions in his/her personnel file has no such recourse.

We felt that it was important to provide for the protection of these individuals. Once information of this type has been placed in a personnel file, it remains there indefinitely. The end result is that the individual is passed over for promotion or finds it virtually impossible to get rehired by the state once he/she terminates.

In summary, we feel that this legislation will give the Office of Equal Employment Opportunity the "clout" it needs to really get down to the business of implementing the statewide Affirmative Action Plan.



February  
1987

Editor: Tim Weiss

UMC MEETING

February 6, 5-7:30 pm  
Filipino Community Hall  
251 South Franklin St.

**AGENDA:**

Appointment of Committees on UMC's function: membership, fund raising, legislative lobbying, Martin Luther King anniversary 1988, problem of UMC, solutions.

*Meetings are open to the public.*

MEMBERSHIP DUES DUE

UMC Treasurer, Aida Ganey, has informed me that UMC membership dues are due. UMC needs your support to continue putting out this newsletter, to continue to provide support to the minority community, put on functions such as Martin Luther King Jr. Day celebrations, and future efforts. Dues are totally tax deductible.

AFFIRMATIVE ACTION BILL INTRODUCED

As Review by: *Ben Holganza, UMC President*

HB 25 entitled "An Act relating to affirmative action" was recently introduced by Representative Terry Martin. This would amend the State Office of EEO statute by adding a few requirements and duties to the office, namely:

- 1) *require the division of personnel in the Department of Administration to purge records from an employee's personnel file if the records are the direct or indirect result of complaint of unlawful discrimination by a state official or employee;*
- 2) *forbid an agency to hire or promote employees and require an agency to reverse a personnel action including a hiring decision if it finds that the action was based on a discriminatory employment practice;*
- 3) *require an agency to change its selection procedures if it finds that the procedures have a discriminatory affect on members of a protected class; and*

4) *require an agency to hold a disciplinary hearing to determine whether an employee has violated this subsection; the office may participate in the hearing.*

I have heard that the ideas in this bill originated from an actual case that Rep. Martin was aware of in which a state employee was "blackballed" after filing and winning a discrimination complaint. Apparently the fact that he/she had filed a complaint was kept in the personnel files and agencies who interviewed this person felt that he/she might be a troublemaker.

Several people have commented that even former convicts have more rights than state government employees do. Former convicts can have their conviction and arrest records purged after serving their probation, but state employees who file a complaint can't. Is-this justice?

This bill would also serve another valuable function, it would finally define the function of OEEO more clearly and settle the dispute over whether OEEO is a "resource" agency or an "enforcement" agency.

PUBLIC HEATH NURSES' APPEAL

On November 27, 1986, Superior court Judge Duane Craske directed the parties in the public heath nurses' case to get on with the appeal of the Human Rights Commission's Order. The commission decided earlier in January 1986 that the state Department of Health and Social Services and Department of Administration had discriminated against the nurses by paying them less than physician's assistants. The commission decided that nurses were victims of sex discrimination because their work was of comparable character to the work of the physician's assistants but were paid less.

In February 1986, the state appealed the commission decision and since then the progress of the appeal was stymied by disputes about which judge should decide the case and whether damages should be calculated before the appeal would be heard. In the most recent action, Judge Craske of Sitka told the parties to go forward on the appeal without a specific damage award.

## **Supreme Court Decisions**

*The following commentary on several important Supreme Court decisions is reprinted with the permission of the Michigan Department of Transportation, Bureau of Administration, Office of Small Business Liaison. It appeared in the Spring 1987 issue of Michigan Liaison. We hope you find it useful in your training sessions and other work.*



Recent decisions by the U.S. Supreme Court have served to securely entrench in law one of our nation's most controversial legacies: affirmative action. Several Court cases on affirmative action issues were decided during the past few years, the most recent one being the March 25, 1987 decision which upheld the Santa Clara County Transit Agency's affirmative action plan. Following are summaries of some Supreme Court decisions which address the issue of affirmative action.

### **Johnson vs. Transportation Agency**

The Supreme Court rejected a sex discrimination suit filed by a white male who was passed over for promotion in favor of a woman with a slightly lower score in a competitive interviewing process. The opinion written by Justice Brennan said that under Title VII of the Civil Rights Act of 1964, the federal job discrimination statute, the same standards that the Court has laid down to assess the legality of racial affirmative action plans should be used in assessing sex-based affirmative action plans and vice versa.

### **United States vs. Paradise**

The Supreme Court ruled in a case involving Alabama state troopers that judges may order employers temporarily to use strict racial quotas in promotions, as well as hiring, to cure "egregious" past discrimination against blacks.

### **Local 93, Intl. Assn. of Firefighters vs. Cleveland**

By a 6-to-3 vote the Supreme Court rules that a federal court could enforce a voluntary agreement between the City of Cleveland and the firefighters union to give minorities preference in hiring and promotion. In essence, the justices held that under Title VII of the Civil Rights Act of 1964, a voluntary public sector affirmative action plan

is valid when contained in a consent decree and Title VII does not preclude a court from approving a consent decree that is broader than the relief which could have been awarded by the Court after a trial.

### **Local 28, Sheet Metal Workers vs. Equal Employment Opportunity Commission**

The Supreme Court approved a lower court ruling requiring a New York City sheet metal workers' local to meet a 29 percent minority membership quota by 1987 to rectify especially "egregious" discrimination. In this case the Court upheld the power of a federal court to impose an affirmative action plan on an unwilling defendant in cases of egregious discrimination or where necessary to dissipate the lingering effects of pervasive discrimination.

### **Wygant vs. Jackson Board of Education**

In this case, the Supreme Court rules the Board of Education's collective bargaining agreement with the teachers' union unconstitutional because it allowed for layoffs of white teachers before minority-group teachers with less seniority thereby imposing too much of a burden on white teachers and hence violating the Equal Protection Clause of the 14th Amendment. The court reasoned that other less intrusive means, such as the adoption of hiring goals, were available to reduce past discrimination.

Perhaps the most important outcome of this case was the declaration that the benefits of race-conscious affirmative action plans are not limited to specific identified victims of racial discrimination.

### **Memphis Firefighters vs. Stotts**

The Supreme Court ruled that a federal judge had no power under Title VII of the Civil Rights Act of 1964 to modify a consent decree by ordering that recently hired blacks keep their jobs while whites with more seniority were being laid off.

### **Weber vs. Kaiser Aluminum**

In 1978, the Supreme Court ruled that the prohibition against racial discrimination in employment in Title VII did not bar a private employer from reserving for blacks half the positions in a special training program, to rectify "old patterns of racial segregation and hierarchy."

It is interesting to note that Justice Brennan cited the Weber case in his opinion on Johnson vs. Transportation Agency. In the opinion he wrote, "...Weber held that an

*(Continued on next page)*

### **EEO/AA Manual**

J. Cooper and Associates has published a two-volume EEO/AA Manual which is being offered to AAAA members at a discount price of \$200.00 (Regular price is \$294.00). The lead author, Joseph Cooper, was formerly Director of OFCCP. For more information, contact J. Cooper and Associates, 733 15th St., NW, Suite 774, Washington, D.C. 20005, (202) 628-1423. To obtain the discount, identify yourself as an AAAA member.

### **Workforce 2000: Work and Workers in the 21st Century**

The Hudson Institute, Herman Kahn Center, 5395 Emerson Way, P.O. Box 26-919, Indianapolis, IN 46226, (317) 545-1000. Cost: \$10.00. This report from one of the nation's best-known think tanks examines the significant changes in the workforce and their dramatic impact on the protected classes.

### **Projections 2000: The Labor Force, Monthly Labor Review**

September 1987, U.S. Department of Labor, Bureau of Labor Statistics, Washington, D.C. \$4.75. The entire issue is devoted to reports of how future change will affect the people served and championed by affirmative action. Contact: Government Printing Office, Superintendent of Documents, Washington, D.C. 20402.

### **Sexual Harassment Sensitivity Program Package**

Developed by Oklahoma State University, this is an innovative and comprehensive program for students. Package consists of a 15-minute video tape and instructor's manual. For more information contact: C.S. Ross, 101 Whitehurst Hall, Oklahoma State University, Stillwater, OK 74078-0004. Phone: (405) 624-5627.

### **Affirmative Action Video Showcase**

Jennifer Coplon, an active Region I member and a specialist in EEO/AA video training materials, is making available a unique and comprehensive annotated catalogue listing over 100 EEO/AA-related video resources. Contact: Resource Presentations, 230 Western Avenue, Boston, MA 02134. Phone: (800) 225-3959.

### **Valuing Diversity**

This new three-part series of films/video examines the benefits and challenges arising from diversity and dramatically shows managers and employees how to deal with everyday practical issues which affect relationships, communication, and performance in multicultural organizations. Produced by Copeland Griggs Productions. For more information about costs, previews, rental or purchase, contact Copeland Griggs Productions, 411 15th Avenue, San Francisco, CA 94118. Phone: (415) 668-4200.

### **Enhancing Your Person Impact: Strategies for Becoming More Effective**

This is an in-house seminar which focuses on the organization's particular needs. Participants learn to understand the communication process and increase their abilities to communicate. Presented by AAAA Region I Director, James McClain. For more information call Glenda Best (617) 353-2151.

### **Supreme Court Decisions** (continued from page 6)

employer seeking to justify the adoption of a plan need not point to its own prior discriminatory practices, nor even to evidence of an arguable violation on its part. Rather it need point only to "conspicuous...imbalance in traditionally segregated job categories."

### **Interpretation**

The Supreme Court decision in the Johnson case is perhaps the most significant of all. It defines the standards that could be used by employers in structuring affirmative action plans by establishing that sex, along with seniority, job performance, and other factors may be used to determine who is to be hired and promoted. Perhaps most important, the case clarified the distinction between affirmative action plans voluntarily adopted by employers and those imposed by the courts. The new ruling is expected to result in an increase in the percentages of women and minorities in job categories which have been traditionally underrepresented with minorities and women. ■

Original sponsor: Martin

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR HOUSE BILL NO. 25 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL  
6 For an Act entitled: "An Act relating to affirmative action."  
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 44.19.442(b) is amended to read:

9 (b) The office may

10 (1) recommend legislative or administrative action to the  
11 governor relating to equal employment opportunity and affirmative  
12 action matters;

13 (2) require the division of personnel in the Department of  
14 Administration to purge records from the personnel file of an employee  
15 who has filed a complaint of unlawful discrimination;

16 (3) forbid an agency to hire or promote employees and  
17 require an agency to reverse a personnel action including a hiring  
18 decision if it finds that the action was based on a discriminatory  
19 employment practice;

20 (4) require an agency to change its selection procedures if  
21 it finds that the procedures have a discriminatory effect on members  
22 of a protected class; and

23 (5) require an agency to investigate whether an employee  
24 has violated this subsection and to impose discipline if the inves-  
25 tigation reveals facts warranting it.

26 \* Sec. 2. AS 44.19.442 is amended by adding a new subsection to read:

27 (c) A collective bargaining agreement adopted under AS 23.40.-  
28 070 - 23.40.260 (Public Employment Relations Act) must be consistent  
29 with principles of equal employment opportunity and affirmative

1 action. AS 44.19.441 - 44.19.449 supercede the provisions of AS 39.25  
2 (State Personnel Act).

3 \* Sec. 3. AS 44.19.444 is amended to read:

4 Sec. 44.19.444. AFFIRMATIVE ACTION PLAN. The governor shall  
5 establish an equal employment opportunity program and adopt annually  
6 an affirmative action plan for the executive branch of state govern-  
7 ment. The plan remains in effect until the governor adopts a subse-  
8 quent plan. The office shall work with each agency to enhance equal  
9 employment opportunity.

10 \* Sec. 4. AS 44.19.445 is amended by adding a new subsection to read:

11 (b) When the office finds that an agency has violated the affir-  
12 mative action plan or its affirmative action program, the office may

13 (1) suspend the hiring authority of the agency; and

14 (2) impose mandatory affirmative action measures on the  
15 agency to bring the agency into compliance.

Introduced: 1/19/87  
Referred: State Affairs, Judiciary  
and Finance

1 IN THE HOUSE

BY MARTIN

2

HOUSE BILL NO. 25

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to affirmative action."

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

8 \* Section 1. AS 44.19.442(b) is amended to read:

9

(b) The office may

10

(1) recommend legislative or administrative action to the  
11 governor relating to equal employment opportunity and affirmative  
12 action matters;

13

(2) require the division of personnel in the Department of  
14 Administration to purge records from an employee's personnel file if  
15 the records are the direct or indirect result of complaint of unlawful  
16 discrimination by a state official or employee;

17

(3) forbid an agency to hire or promote employees and  
18 require an agency to reverse a personnel action including a hiring  
19 decision if it finds that the action was based on a discriminatory  
20 employment practice;

21

(4) require an agency to change its selection procedures if  
22 it finds that the procedures have a discriminatory affect on members  
23 of a protected class; and

24

(5) require an agency to hold a disciplinary hearing to  
25 determine whether an employee has violated this subsection; the office  
26 may participate in the hearing.

27

\* Sec. 2. AS 44.19.442 is amended by adding a new subsection to read:

28

(c) A collective bargaining agreement adopted under AS 23.40.-

29

070 - 23.40.260 (Public Employment Relations Act) may not contradict

1 the provisions of AS 44.19.441 - 44.19.449. AS 44.19.441 - 44.19.449  
2 supercede the provisions of AS 39.25 (State Personnel Act).

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