

**HB**

**458**

## Presentation Points

### HB 458: Extensions of Probation for State Employees

- Statute requires the Director of the Division of Personnel to establish regulations allowing for employee probationary periods of up to one year.<sup>1</sup>
- Regulation and collective bargaining establish probationary periods at six months for some employees and one year for the rest.
- It is a long-standing practice that the State and bargaining units have extended probationary periods beyond one year when such extension is in their mutual interests.
- In May 2001, the Alaska Superior Court ruled that extensions of probation beyond 12 months violated AS 39.<sup>2</sup>
  - a) For example, if a State Trooper Recruit is injured during Academy, s/he cannot become permanent until the Academy is completed (tenets of the Alaska Police Standards Council). If the Recruit's recovery extends probationary service beyond 12 months, s/he must be released from Recruit status, to the detriment of the Trooper and the State of Alaska. This legislation would allow an extension of probationary service to permit recovery and completion of Academy.
  - b) In another example, if an employee in the ninth or tenth month of a one year probationary period falls ill or victim to injury requiring recovery that extends probation beyond 12 months, s/he might be removed from that position. Family or medical leave does not protect the employee because s/he has not met the threshold service requirements.
- The legislation proposed in House Bill 458 allows our mutually beneficial practice to continue, amending statute to long-standing practice.

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<sup>1</sup> Alaska Statute Sec. 39.25.150. Scope of the rules.

The personnel rules must provide for

... (7) a period of probation not to exceed one year before an appointment to a position becomes permanent,...

<sup>2</sup> Baseden, S. vs. State of Alaska, Department of Transportation and Public Facilities, 1JU-01-1731 CT, p. 12 at line 5.



## **REPRESENTATIVE BILL HUDSON** Alaska State Legislature

Room 502 • State Capitol, Juneau, Alaska 99801 (907)465-3744 Fax: 465-2273

### **Sponsor Statement for HB 458** Probationary Periods for state employees

**"An Act relating to periods of probation for state employees; and providing for an effective date."**

This bill will allow the flexibility to extend probationary periods as needed.

The practice of extending employee probationary periods by agreement with employee unions is one of long standing, and has allowed all parties the flexibility to deal with employees on an individual basis. Most employees serve six or twelve month probationary periods. In instances where correctional officers or state trooper recruits are involved, the Alaska Police Standards Council allows up to 14 months probation.

A recent trial court decision found that AS 39.25.150(7), the legal requirement for probationary periods, was inflexible in its definition and application. Further, the Court found that even collectively bargained extensions were invalid if such an extension made the probationary period longer than 12 months.

This bill does not seek to change the requirement for, or the standard lengths of, probationary periods. The language change proposed by this bill provides for only the flexibility to extend a probationary period beyond 12 months in cases where such an extension is warranted and agreed upon by the parties involved.

#### **Sectional Analysis:**

Sec. 1. Allows an exception to AS 39.25.150(7), of the State Personnel Act, Personnel Rules. The change would allow an extended period of probation if set out in a collective bargaining agreement under AS 23.40; which defines labor organizations.

Sec. 2. Makes the change effective immediately.

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 458  
 (H) Publish Date: 4/16/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: All  
 Title "An Act relating to periods of BRU All  
probation for state employees..." Component All  
 Sponsor Rep. Hudson Component No. \_\_\_\_\_  
 Requester (H)State Affairs Component No. All

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation will not have a fiscal impact on the state. It will formalize a long-standing practice of allowing probationary period extensions beyond one year when advantageous to the State and the employee.

Prepared by: David Stewart  
 Division: Personnel  
 Approved by: Jim Duncan, Commissioner  
 Agency: Department of Administration

Phone 465-4431  
 Date/Time 4/10/02 1:39 PM  
 Date 4/10/2002

# Alaska State Legislature



REPRESENTATIVE BILL HUDSON  
House Finance Committee

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## MEMORANDUM

TO: *Cere* Senator Gene Therriault, Chairman  
Senate State Affairs Committee

FROM: Representative Bill Hudson, *Bill*  
Alaska State Legislature

SUBJECT: HB 458 Hearing Request

DATE: April 17, 2002

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I respectfully request that you schedule HB 458 before your committee at your earliest convenience.

I have enclosed a sponsor statement along with the committee report, the zero fiscal note from the Department of Administration, and a letter of explanation in response to the State Affairs Committee question regarding applicability to unrepresented employees.

If you have any questions regarding this request please contact my staff member handling this legislation, Melanie Lesh at 465-4230.

Thanks for your consideration.

