

LEG. FINANCE - BILLS 1985 - 1986 2350

HB 147 cont. - HB 153

2350

ACTION

RESPONSIBILITY

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| 3. Inform all employees in writing of the agency's commitment to Equal Employment Opportunity through Affirmative Action. | DEPARTMENT COMMISSIONER
Department EEO Representative |
| 4. Communicate to agency managers and supervisors the commitment of the agency to Equal Employment Opportunity through Affirmative Action. | DEPARTMENT COMMISSIONER |
| 5. Evaluate agency Affirmative Action efforts with top and middle management. | DEPARTMENT COMMISSIONER |
| 6. Develop training programs for Administrative Order Number 75 and federal and State laws and guidelines. | DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY |
| 7. Post and inspect Administrative Order Number 75 as well as federal and State EEO posters to insure that all employees and applicants for employment are aware of the State's commitment to Equal Employment Opportunity through Affirmative Action. | DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY
Department EEO Representative
Department Personnel Officer |
| 8. Provide a discussion of Affirmative Action in all new employee orientation programs. | DEPARTMENT COMMISSIONER
Department Personnel Officer |
| 9. Provide each new employee with a copy of Administrative Order Number 75. | DEPARTMENT PERSONNEL OFFICER |

EXTERNAL DISSEMINATION

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| 1. Advise all recruitment sources, in writing, of Administrative Order Number 75. | DIRECTOR OF PERSONNEL
Department Personnel Officer |
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ACTION

RESPONSIBILITY

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| 2. Inform, in writing, minority and women's organizations of Administrative Order Number 75. | DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY |
| 3. Insure that minorities and women employees are pictured in recruitment literature. | DIRECTOR OF PERSONNEL
Department Personnel Officer |
| 4. Advise secondary schools and colleges, in writing, of Administrative Order Number 75. | DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY |
| 5. Communicate to the public the desire to employ minorities and women. | DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY |

IV. ASSIGNMENT OF RESPONSIBILITY

The ultimate responsibility for Equal Employment Opportunity rests with the Governor as Chief Executive Officer of the State. Responsibility and authority for coordinating and monitoring Administrative Order Number 75 has been delegated to the Commissioner of Administration.

Advice concerning the legal aspects of the Administrative Order is the responsibility of the Attorney General's Office.

V. ADMINISTRATION OF ADMINISTRATIVE ORDER NUMBER 75

Division of Equal Employment Opportunity:

The Division of Equal Employment Opportunity has been established in the

Department of Administration to administer the State's equal employment opportunity program. The Division's specific assignments include, but are not limited to, the following:

- Prepare guidelines, review, audit, and make recommendations concerning department Affirmative Action Plans and programs to insure consistency between department plans and Administrative Order Number 75.
- Maintain current copies of all department Affirmative Action Plans.
- Identify problem areas by agency, department, or other organizational unit and make recommendations for correction.
- Advise the Governor and the Commissioner of Administration of developments within the areas of Equal Opportunity and Affirmative Action.
- Assist State officials in carrying out their responsibilities under Administrative Order Number 75.
- Accept, investigate and resolve complaints of discrimination by employees or applicants for employment as prescribed in the Internal Discrimination Complaint Procedure (Appendix A).
- Serve as the State's primary liaison with other government agencies, minority and women's organizations, and community groups concerned with the State's equal opportunity program.
- Develop audit and reporting systems to acquire statistical information concerning the composition of the State's work force to evaluate compliance with Administrative Order Number 75.
- Prepare the State's annual EEO-4 report and other reports concerning the composition of the State's work force by race, sex and age.
- Maintain access to all data, records, and reports that are required for execution of the Division's responsibilities.
- Monitor records of personnel actions such as applicant flow, referrals, hiring rate, placements, transfers, promotions, terminations, and other pertinent statistical data to insure that the Administrative Order is being implemented.

- Prepare an annual report to the Governor concerning the progress made and problem areas encountered in State government.
- Review and make recommendations concerning all collective bargaining contracts/agreements to insure consistency between contracts/agreements and Administrative Order Number 75.

Executive Branch Affirmative Action Advisory Committee:

The Executive Branch Affirmative Action Advisory Committee will be composed of the Chairs of the departments' Affirmative Action Advisory Committees and the Director of the Division of EEO, who will serve as Secretary to the Committee. Members of this Committee will meet at least semi-annually and are responsible for:

- Reporting Affirmative Action progress of the respective departments.
- Discussing mutual Affirmative Action/EEO problems and make recommendations to the Division of EEO.
- Promoting Affirmative Action/EEO in the Executive Branch.

State Departments:

Every State department will have a written Affirmative Action Plan for Equal Employment Opportunity. Guidelines for the preparation of departmental Affirmative Action Plans will be provided by the Division of Equal Employment Opportunity. All State departments which have written Affirmative Action Plans as a result of compliance with federal legislation, regulations, or this Administrative Order, will submit their plans for review to the Division of EEO before such plans are submitted to federal or State compliance agencies.

. The Division of EEO will serve to expedite all activities concerning department compliance with Affirmative Action. Federal agencies and the Alaska State Commission for Human Rights which have responsibility for monitoring department E.E.O. compliance as a result of federal or State legislation and regulation will bring all questions of compliance prior to any official or unofficial actions thereon to the State Director of EEO, who will brief the Commissioner of Administration and the Governor of such noncompliance. Where compliance reviews are undertaken by federal agencies or the Alaska State Commission for Human Rights, the State Director of EEO will be notified, and his or her designee will be present during all such reviews.

Department Commissioners:

The Department commissioners will implement the Administrative Order within their respective agencies. This responsibility will include, but not be limited to, the following:

- Insure that the intent and spirit of the Administrative Order is carried out by all managers, supervisors and employees, and that their compliance with the Administrative Order is considered as a factor in their performance evaluation.
- Insure that the agency has a written Affirmative Action Plan setting forth goals and timetables to eliminate the effects of any past or present discriminatory practices, conditions, and privileges of employment.
- Select an official of the agency at the level of director or above who is designated as the Equal Employment Opportunity Representative and supervises development and implementation of the agency's affirmative action plan and program.
- Initiate efforts to recruit, appoint and retain qualified minorities and women at all levels of employment.

- Establish an Affirmative Action Advisory Committee composed of agency employees.
- Appoint the Chairperson of the Affirmative Action Advisory Committee.

Affirmative Action Advisory Committee:

The Affirmative Action Advisory Committee meets at least semiannually to evaluate the department's overall affirmative action program and performance in attainment of goals and implementation of action programs. The Committee will make known to the Commissioner its evaluations and recommendations. Other duties include:

- Assist the EEO Representative;
- Prepare and submit Affirmative Action semiannual reports to the chief executive officer and to the Division of Equal Employment Opportunity;
- Make staffing and funding recommendations for inclusion in the department budget for affirmative action programs; and,
- Counsel employees on how to file internal complaints or bring potentially discriminatory problems to the attention of management;
- Disseminate information to employees on the department's affirmative action program; and,
- Maintain an updated knowledge of current developments in EEO and affirmative action through attendance at workshops, seminars, and conferences.

The Chair of the Affirmative Action Advisory Committee, in addition to having the same individual responsibilities as other Committee members, is responsible for:

- Convening semiannual and special meetings of the Committee;
- Establishing meeting agendas;
- Scheduling guest speakers and special presentations;
- Assuring that Committee actions or recommendations are clearly stated for the minutes;
- Conducting meetings in an orderly and effective manner; and
- Serve as a member of the Executive Branch Affirmative Action Advisory Committee.

Department Equal Employment Opportunity Representatives:

The Equal Employment Opportunity Representatives are delegated responsibility by the agency commissioners for administering the agency's affirmative action program. Their assignments include, but are not limited to, the following:

- Supervise the development and execution of the agency's written affirmative action plan and program.
- Consult with management, supervisors and employees to assist in the resolution of problems related to unlawful discrimination.
- Establish an internal audit and reporting system designed to
 - * measure the effectiveness of the program
 - * point out deficiencies and needs for remedial action
- Serve as liaison between the agency and Division of EEO, minority organizations and community action groups.
- Advise the Affirmative Action Committee members, the Commissioner, and the other agency management staff on the latest developments in the field of equal employment opportunity and affirmative action.

- Ensure that minorities, women, disabled veterans and veterans of the Vietnam Era, and handicapped employees have the opportunity to participate in all agency-sponsored educational, training, recreational and social activities.
- Supervise preparation of the agency Equal Employment Opportunity program annual budget.

VI. ACTION-ORIENTED PROGRAMS

RECRUITMENT

ACTION

RESPONSIBILITY

1. Post and periodically inspect all posters relating to Equal Employment Opportunity.
DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY
Department Personnel Officer
EEO Representative
2. Utilize minority, women, handicapped and veteran communications media to publicize State employment Opportunities.
DIRECTOR OF PERSONNEL
Department Personnel Officer
Information Officer
3. Include the phrase "An Equal Opportunity Employer" in all advertisements placed for the State of Alaska.
DIRECTOR OF PERSONNEL
Department Personnel Officer
4. Encourage State employees to refer minority and women applicants to State government.
DEPARTMENT COMMISSIONER
Director of Personnel
5. Recruit in schools and colleges including those with predominantly minority and female enrollments.
DIRECTOR OF PERSONNEL
Department Personnel Officer
6. Insure that recruitment advertisements, which contain photographs, include photos of minorities and women.
DIRECTOR OF PERSONNEL
Department Personnel Officer
Information Officer
7. Disseminate qualification standards on position vacancies to minority and women's organizations.
DIRECTOR OF PERSONNEL
Department Personnel Officer
8. List all recruitment opportunities with the State Division of Personnel and the Division of Equal Employment Opportunity.
DEPARTMENT COMMISSIONER
Department Personnel Officer
9. Review all employment application forms to insure against unlawful discriminatory questions or requests for information.
DIRECTOR OF PERSONNEL
Director of Equal Employment Opportunity

ACTION

RESPONSIBILITY

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| 10. Administer tests which measure abilities, aptitudes, specialized background knowledge, and/or skills <u>required</u> for the job. All tests must be job related and appropriately validated. | DIRECTOR OF PERSONNEL
Department Personnel Officer |
| 11. Advertise positions without regard to the sex of applicants except where sex is a bona fide occupational qualification. | STATE RECRUITMENT COORDINATOR,
DIVISION OF PERSONNEL
Department Personnel Officer |
| 12. Employ the affirmative action certification process for minorities and/or women for those job classes where they are determined to be under-utilized. | DEPARTMENT PERSONNEL OFFICER
Hiring Managers and Supervisors |

PROMOTION

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| 1. Post promotional opportunities within each State department so that all employees will have upgrade opportunities. | DEPARTMENT PERSONNEL OFFICER |
| 2. Establish career development program providing for:

a. Equal Opportunity for all employees for promotion.

b. Fair and uniform selection standards. | DEPARTMENT PERSONNEL OFFICER |

COMPENSATION

ACTION

RESPONSIBILITY

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| 1. Assure equal pay for equal work regardless of race, religion, color, national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood. | DIRECTOR OF PERSONNEL
Director Labor Relations |
| 2. Conduct periodic reviews of all positions to insure that position requirements are job related. | DEPARTMENT PERSONNEL OFFICER |
| 3. Analyze and review positions upon department request to establish the accuracy of position allocations. | DIRECTOR OF PERSONNEL |
| 4. Insure that qualification standards for all positions are based upon the minimum required to perform necessary duties and responsibilities. | DIRECTOR OF PERSONNEL |
| 5. Request position audits from the Division of Personnel when inequities in position classification are noted. | DEPARTMENT PERSONNEL OFFICER
Department Commissioner |

SUPERVISION

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| 1. Provide for department orientation programs stressing Equal Opportunity. | DEPARTMENT EEO REPRESENTATIVE
Department Personnel Officer |
| 2. Provide counseling, exit interviews and other career information opportunities to lessen employee turnover. | DEPARTMENT COMMISSIONER
Department EEO Representative |

ACTION

RESPONSIBILITY

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| 3. Assist employees and supervisors in discrimination complaint resolution. | DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY
Department Commissioner |
| 4. Provide a complaint procedure to administer employee complaints. | DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY |

TRAINING

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| 1. Provide a system of educational leave to train employees in work related specialties at all levels of employment. | DIRECTOR OF PERSONNEL |
| 2. Establish a method of informing employees at all levels of training opportunities. | DEPARTMENT COMMISSIONER
Director of Personnel
Director of Labor Relations
Director of EEO |
| 3. Provide on-the-job training to prepare employees to meet the full requirements of their position and provide for career growth at all levels of employment. | DEPARTMENT COMMISSIONER |
| 4. Develop training programs concerning Equal Employment Opportunity for management and employees. | DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY |
| 5. Provide an opportunity for employees to participate in training opportunities, particularly training opportunities leading to advancement. | DEPARTMENT COMMISSIONER
All levels of management |

BENEFITS

ACTION

RESPONSIBILITY

1. Assure that all benefits including but not limited to: retirement and health and life insurance are administered on an equal basis regardless of race, religion, color, or national origin, or because of age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood.

DIRECTOR OF RETIREMENT & BENEFITS

CONDITIONS

1. Assure that all conditions and privileges of employment including, but not limited to, personal leave, annual leave, sick leave, hours of work, discipline and performance evaluations are administered on an equal basis regardless of race, religion, color, or national origin, or because of age, physical handicap, marital status, changes in marital status, pregnancy or parenthood.

DIRECTOR OF PERSONNEL
Director of Labor Relations

APPENDIX A

INTERNAL DISCRIMINATION COMPLAINT PROCEDURE*

The State Division of Equal Employment Opportunity (EEO) will accept complaints of discrimination from both State employees and applicants for State employment which are based on race, religion, color, or national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood. Any complaint which is the subject of, or may affect, pending litigation will be referred to the Attorney General for advice or disposition.

Complaints must be related to a specific allegation of discrimination. State employees will be informed of other means of resolving discrimination complaints such as enforcement agencies, appeals, the State grievance procedure, and informal conciliation with management. If a complainant decides to file with the State Division of EEO, the following procedure will be used in investigating his or her complaint. The target for resolution of complaints is 90 calendar days after receipt. Multiple complaints or complaints which are particularly complex may take longer.

- 1) Each complaint must be filed formally on the "Complaint of Discrimination Form" available through agency personnel offices and the State Division of EEO office. Complainants have 90 calendar days from the date of the alleged discriminatory act to file their complaint with the Division of EEO.

* All complaints will remain confidential except to the extent necessary to conduct a review of the facts.

- 2) An investigator will be assigned to the complaint by the Division of EEO Complaint Administrator.
- 3) The Investigator will conduct an in-depth interview with the complainant.
- 4) A copy of the complaint will be sent to the agency involved with a request for specific information relevant to resolving the complaint.
- 5) The material supplied by the agency and by the complainant will be reviewed.
- 6) Further investigation will be conducted when necessary. This may include interviewing witnesses, confirming information and seeking additional information and/or documentation.
- 7) Where there are conflicts of opinion, meetings will be held with both sides and facts which are in dispute reviewed.
- 8) When the investigation is completed, a Preliminary Summary of Facts will be submitted to the Complaint Administrator. This summary includes background, facts, conclusions, and the preliminary recommendations of the investigator. The file will be submitted to the Complaint Administrator to accompany the Preliminary Summary of Facts.
- 9) The Complaint Administrator and the Investigator will review the case, and the Complaint Administrator will make his or her final decision on the merits of the complaint.
- 10) Where no discrimination is found, the complainant is informed, in detail, as to the Complaint Administrator's findings. In cases where the issues are particularly complex, the complainant will be given the opportunity to discuss the findings, and to provide additional information.
- 11) Where there is an indication of discrimination, the Complaint Administrator will discuss the findings and recommendations with the agency head (or designee). A letter outlining the Complaint Administrator's findings and legal assessment will be sent to the agency. If the agency head accepts the Complaint Administrator's conclusions and implements the recommendations, the complainant is informed of the recommendations and the facts which led to those recommendations. In cases where the agency head rejects the Complaint Administrator's conclusions and recommendations, a detailed memorandum outlining the facts and stating the grounds of rejection will be sent to the Complaint Review Committee. Their decision will be the final step of this internal complaint procedure. The complainant will be informed in writing of referral to the Complaint Review Committee.

The Complaint Review Committee will be appointed by the Commissioner of Administration for a term of one year. The Committee will be representative of occupational levels such as administrative, professional, technical and clerical, and will total at least five, and not more than seven, employees.

APPENDIX B

EXTERNAL DISCRIMINATION COMPLAINT PROCEDURE

The Equal Employment Opportunity Division, Department of Administration is the central contact between State Executive agencies and State or federal antidiscrimination law enforcement and compliance agencies, e.g., Alaska State Commission for Human Rights, Equal Employment Opportunity Commission (EEOC), and the Office of Federal Contract Compliance Programs (OFCCP).

These compliance agencies have been instructed to serve all charges of discrimination against any agency of the Executive Branch on the Division of Equal Employment Opportunity either in person or by certified mail with a copy to the respondent agency at the Commissioner level. Likewise, all investigations, on-site reviews, settlement efforts, requests for essential information, notice of resolution conference, determinations, settlement agreements, complaint amendments, public hearings, etc., will be coordinated through the Division of Equal Employment Opportunity.

Federal and State antidiscrimination law enforcement agencies or compliance agencies are not, under any circumstances, to contact Executive agencies directly. Further, all contacts with compliance agencies by agencies of the Executive Branch must be made through the Division of Equal Employment Opportunity.

The Complaint Administrator, Division of Equal Employment Opportunity, coordinates all activity between respondent agencies and the Alaska State Commission for Human Rights with the exception of those charges that do not involve employment situations. In such cases, the Alaska State Commission for Human Rights will follow procedures as outlined above to maintain consistency, however, the respondent agency will act on these complaints without assistance from the Division of Equal Employment Opportunity.

The Complaint Administrator will determine the merits of the case, advise the respondent department on actions to be taken, participate in resolution conferences, conciliation conference and public hearings with enforcement agencies.

When a charge of discrimination has been filed or a civil action brought against a State agency, all records relevant to the charge or action should be preserved until final disposition thereof.

BILL SHEFFIELD, GOVERNOR

AGENCY HEADQUARTERS
431 W. 7th AVENUE, SUITE 105
ANCHORAGE, ALASKA 99501
(907) 266-7474

NORTHERN REGION
675 SEVENTH AVENUE, STA H
FAIRBANKS, ALASKA 99701
(907) 452-1561

SOUTHCENTRAL REGION
431 W. 7th AVENUE, SUITE 101
ANCHORAGE, ALASKA 99501
(907) 274-4692

SOUTHEASTERN REGION
POUCH AH
314 GOLDSTEIN BUILDING
JUNEAU, ALASKA 99811
(907) 465-3560

HUMAN RIGHTS COMMISSION

March 29, 1985

MAR 29 1985

The Honorable Katie Hurley
Chair, State Affairs Committee
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Hurley:

On March 1, 1985 at their Annual Meeting, the Human Rights Commissioners considered HB 147 "An Act Creating a Division of Equal of Equal Employment Opportunity in the Department of Administration". At that time, the Commissioners directed me to furnish a resolution embodying their views on this bill to the Legislature. That resolution (attached) expresses support for this legislation creating the Division of Equal Employment Opportunity by statute. However, the Commissioners voiced two serious reservations in the areas of the power to adopt administrative regulations and the employment discrimination complaint section. The Commission is concerned that the section regarding employment discrimination complaints may create confusion between the role of the Division of EEO and the statutory mandate of the Human Rights Commission. Moreover, the capability to adopt administrative regulations is unclear with regard to the statutory power to conduct investigations under the employment discrimination section.

Shortly after the Commission meeting I shared these concerns with Commissioner of Administration, Lisa Rudd. Commissioner Rudd agreed at that time to eliminate Section 42.21.475 from the bill. The elimination of the employment discrimination complaints resolved our concerns with the administrative regulations section and basically relieved the Commission's concerns about full support of the bill.

On March 22, I received a communication from your office with the latest work draft of a committee substitute for HB 147. After consultation with our Chairperson Virgie King, the Commission offers the following amendments to the committee substitute: "Section 44.21.465 (9) accept, investigate and resolve internal complaints of discrimination from employees, previous employees, or applicants for employment; Section 41.21.465 (10) serve as primary liaison between the Executive Branch and state and federal agencies, minority and women's organizations and community groups concerned with equal opportunity and work to enhance equal opportunity in state government; and"

Excerpt from Minutes

Human Rights Commission Meeting
March 1, 1985

Jacqueline Lindauer moved that the Commission furnish a resolution to the Fourteenth Legislature which embodies the feelings of the Commission regarding House Bill 147, "an act creating a Division of Equal Employment Opportunity in the Department of Administration," to wit:

With two significant exceptions, the Alaska State Commission for Human Rights supports House Bill 147. The Commission supports the bills "spirit" and intent to breath statutory life into the Equal Employment Division. However, the Commission has two serious reservations with the bill as it is presently drafted. Those reservations are as follows:

Section 42.21.465. Administrative regulations.

Section 42.21.475. Employment discrimination complaints.

The Commission is concerned that the section regarding employment discrimination complaints may create confusion between the role of the state EEO and the Human Rights Commission. Additionally the language of House Bill 147 may create conflicts of interest or the appearance of a conflict of interest between the office of EEO and the Human Rights Commission because it seems to make it mandatory for the state employee to register his or her complaints with the state EEO office. Additionally, the EEO's capability to adopt administrative regulations is unclear with regard to the statutory powers granted to the Division by the bill.

FILIPINO COMMUNITY, INC.
251 S. Franklin St.
Juneau, Alaska 99801

1 RESOLUTION NO. I, Series of 1985

2 WHEREAS, House Bill No. 147 has been introduced in
3 the Legislature of the State of Alaska and pending action
4 by the Fourteenth Legislature - First Session.

5 WHEREAS, this proposed Bill is entitled: "An Act Creat-
6 ing a division of Equal Employment Opportunity in the De-
7 partment of Administration."

8 WHEREAS, the members and officers of the Filipino
9 Community, Inc., in Juneau, in a general membership meeting
10 this 9th day of February, 1985, unanimously acted by virtue
11 of a Motion duly Seconded, to strongly indorse and support
12 the enactment or passage of House Bill No. 147 with the
13 following suggested amendments and/or additions:

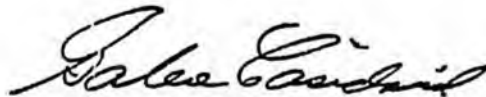
14 Sec. 44.21.460. Powers And Duties of The Division.
15 Add another paragraph: (5) conduct training sessions to
16 state employees as well as women, minority groups and handi-
17 cap persons in the areas of affirmative action in state
18 employment.

19 Sec. 44.21.475. Employment Discrimination Complaint.
20 (a) insert after the word about, the words: and direct the
21 immediate implementation of an informal resolution of com-
22 plaints duly investigated unless the findings thereof are
23 appealed to Superior Court within thirty (30) days from
24 receipt by the parties of copies of the Resolution.

25 NOW, THEREFORE, on Motion duly Seconded, it was resolved
26 as it is hereby resolved that the general membership and
27 officers strongly indorse the enactment or House Bill No. 147.

28 RESOLVED finally, that copies of this Resolution be fur-
29 nished and transmitted to the Speaker of the House, Senate
30 President, Chairmen, Vice-Chairmen and Members of the State
31 Affairs and Finance Committees, the Hon. Governor, Commis-
32 sioner of Administration, Director of EEO, and the various
33 Filipino/American organizations in the different cities
34 in the State of Alaska.

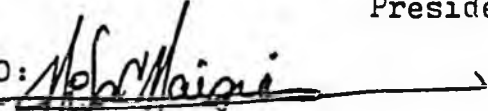
35 UNANIMOUSLY ADOPTED AND CARRIED by the general membership
36 and officers, this 9th day of February, 1985, in Juneau,
37 Alaska.


GALEO CASIDSID
President

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40 ATTESTED TO:

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MILLA C. MAJQUIS
Secretary

Offered: 4/ 3/85
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 147 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL
6 For an Act entitled: "An Act establishing an equal employment opportunity
7 program for the executive branch of state government
8 and creating a division of equal employment oppor-
9 tunity in the Department of Administration."

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

11 * Section 1. AS 44.21 is amended by adding new sections to read:

12 ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY.

13 Sec. 44.21.450. AFFIRMATIVE ACTION PLAN. The governor shall
14 establish an equal employment opportunity program and adopt annually
15 an affirmative action plan for the executive branch of state govern-
16 ment. The plan remains in effect until the governor adopts a subse-
17 quent plan.

18 Sec. 44.21.455. DIVISION CREATED. The division of equal employ-
19 ment opportunity is established in the Department of Administration.

20 Sec. 44.21.460. DIRECTOR. The commissioner shall appoint a
21 director to administer the division.

22 Sec. 44.21.465. POWERS AND DUTIES OF THE DIVISION. (a) The
23 division shall administer the equal employment opportunity program for
24 the executive branch of state government to ensure compliance with
25 AS 44.21.450 - 44.21.490 and shall

26 (1) assist state officials to carry out their equal employ-
27 ment opportunity responsibilities, including promoting the recruit-
28 ment, employment, training, and retention of members of protected
29 classes, and recommend solutions to any problems identified;

- 1 (2) train state managers and supervisors in their equal
2 employment opportunity and affirmative action responsibilities and
3 offer orientation programs to employees to inform them of their rights
4 and responsibilities under AS 44.21.450 - 44.21.495;
- 5 (3) monitor records of personnel actions, develop auditing
6 and reporting systems to acquire statistical information, and prepare
7 federal and state reports concerning the composition of the work
8 force;
- 9 (4) prepare and submit the affirmative action plan for
10 employment in the executive branch of state government to the gover-
11 nor;
- 12 (5) prepare guidelines for the affirmative action programs
13 of agencies and review, audit and make recommendations concerning the
14 programs;
- 15 (6) ensure that agencies comply with the affirmative action
16 plan and with the agency affirmative action program;
- 17 (7) implement standards by which performance evaluations of
18 supervisors reflect compliance with affirmative action plans and
19 objectives, including the granting or denial of merit increases;
- 20 (8) enforce equal employment opportunity by filing a legal
21 action against a state officer or employee who violates affirmative
22 action standards and procedures; for purposes of a legal action under
23 this paragraph, the director may employ independent legal counsel not
24 associated with the Department of Law;
- 25 (9) assist the division of labor relations in collective
26 bargaining negotiations between the state and employee bargaining
27 organizations to ensure that each collective bargaining agreement
28 negotiated by the state ensures equal employment opportunity;
- 29 (10) inform the governor when an agency fails to comply with

1 its affirmative action program, the affirmative action plan, or state
2 or federal equal employment opportunity laws or regulations, and
3 recommend action to correct the noncompliance;

4 (11) accept, investigate, and resolve complaints of dis-
5 crimination from employees, previous employees, or applicants for
6 employment;

7 (12) serve as primary liaison between the executive branch
8 and state and federal agencies, minority and women's organizations,
9 and community groups concerned with equal employment opportunity, and
10 work to enhance equal employment opportunity in state employment; and

11 (13) prepare and submit an annual report to the governor and
12 the legislature by February 15 on the progress and problem areas in
13 the equal employment opportunity program and the implementation of the
14 affirmative action plan.

15 (b) The division may recommend legislative or administrative
16 action to the governor and the commissioner relating to equal employ-
17 ment opportunity and affirmative action matters.

18 Sec. 44.21.470. ADMINISTRATIVE REGULATIONS. The commissioner
19 shall adopt regulations under the Administrative Procedure Act
20 (AS 44.62) to carry out the division's duties.

21 Sec. 44.21.475. COMPLIANCE WITH AFFIRMATIVE ACTION PLAN. Each
22 agency shall comply with the affirmative action plan. Each commis-
23 sioner or executive head of an agency shall adopt an affirmative
24 action program to implement the plan within the agency. At the re-
25 quest of the division, a state official shall report to the division
26 about agency employment practices and activities to implement and
27 comply with the plan or program.

28 Sec. 44.21.480. EMPLOYMENT DISCRIMINATION COMPLAINTS. (a) The
29 division shall accept complaints of employment discrimination in the

1 executive branch of state government and shall confer with the com-
2 plainant and the agency involved to bring about an informal resolution
3 of the complaint. If the complainant agrees to comply with the
4 resolution proposed by the division, the agency involved shall imple-
5 ment it.

6 (b) An agency shall notify the division when the agency receives
7 a complaint alleging employment discrimination.

8 (c) The division may not make public the records of an inves-
9 tigation.

10 Sec. 44.21.485. RETALIATION PROHIBITED. (a) An agency, offi-
11 cer, or state employee may not directly or indirectly refuse to hire,
12 transfer or promote, or dismiss, demote, suspend, lay off, or other-
13 wise discipline for filing a complaint with the division for a failure
14 to comply with affirmative action or equal employment opportunity or
15 for assisting the division in an investigation of a complaint.

16 (b) A person who knowingly violates this section is liable for a
17 civil penalty of not more than \$1,000.

18 Sec. 44.21.490. ACCESS TO CONFIDENTIAL RECORDS. The division
19 may have access to all data, records, and reports necessary to carry
20 out its functions under AS 44.21.450 - 44.21.495. The division may
21 not make public information designated as confidential by AS 39.25.-
22 080 or another law. However, the division may make public statistical
23 information compiled from confidential records.

24 Sec. 44.21.495. DEFINITIONS. In AS 44.21.450 - 44.21.495,

25 (1) "agency" means a department, office, agency, public
26 corporation, board, commission, authority, or other organizational
27 unit of the executive branch;

28 (2) "commissioner" means the commissioner of administra-
29 tion;

1 (3) "division" means the division of equal employment
2 opportunity in the Department of Administration;

3 (4) "employment in the executive branch of state govern-
4 ment" includes employment as a permanent, probationary, provisional,
5 nonpermanent, or temporary employee in the classified, partially
6 exempt, or exempt services in the executive branch of state govern-
7 ment;

8 (5) "member of a protected class" means a person protected
9 by federal or state laws that prohibit discrimination in employment or
10 a person who experiences or has experienced difficulty in obtaining
11 employment or advancement in employment because of another factor not
12 related to merit.

13 * Sec. 2. This Act may not be applied to limit the right of a person to
14 file a complaint with the State Commission for Human Rights under AS 18.-
15 80.100.

Introduced: 1/30/85
Referred: State Affairs and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 147

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating a division of equal employment op-
7 portunity in the Department of Administration."

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

9 * Section 1. AS 44.21 is amended by adding new sections to read:

10 ARTICLE 9. DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY.

11 Sec. 44.21.450. DIVISION CREATED. The division of equal employ-
12 ment opportunity is established in the Department of Administration.

13 Sec. 44.21.455. DIRECTOR. The division must be administered by
14 a director appointed by the commissioner.

15 Sec. 44.21.460. POWERS AND DUTIES OF THE DIVISION. (a) The di-
16 vision shall

17 (1) establish and periodically review an affirmative action
18 plan for employment in the executive branch of state government;

19 (2) advise the division of personnel in the Department of
20 Administration, and other departments and agencies, on methods to
21 promote the recruitment of members of protected classes for employment
22 in the executive branch of state government;

23 (3) consult with equal employment opportunity officers in
24 other departments about equal employment opportunity, affirmative
25 action, and recruitment matters;

26 (4) meet and confer with minority groups and individuals
27 regarding employment with the state.

28 (b) The division may recommend legislative or administrative
29 action to the governor and the commissioner relating to equal

1 employment opportunity and affirmative action matters.

2 Sec. 44.21.465. ADMINISTRATIVE REGULATIONS. The commissioner
3 shall, in accordance with the Administrative Procedure Act (AS 44.62),
4 adopt regulations necessary to carry out the duties imposed on the
5 division by AS 44.21.450 -- 44.21.485.

6 Sec. 44.21.470. AFFIRMATIVE ACTION PLAN. (a) The division
7 shall annually develop and submit to the governor an affirmative ac-
8 tion plan for the executive branch of state government. The plan be-
9 comes effective upon the signature of the governor, and remains in
10 effect until a subsequent plan is approved by the governor.

11 (b) Each executive branch department and agency shall comply
12 with the affirmative action plan. Each commissioner or executive head
13 of an agency shall report to the division about activities to imple-
14 ment and comply with the plan.

15 (c) The division shall report annually to the governor and the
16 legislature on the content and implementation of the affirmative ac-
17 tion plan.

18 Sec. 44.21.475. EMPLOYMENT DISCRIMINATION COMPLAINTS. (a) The
19 division shall conduct an impartial investigation of each complaint of
20 employment discrimination in the executive branch of state government
21 reported to the division, and shall work with the complainant and the
22 department or agency involved to bring about an informal resolution of
23 the complaint.

24 (b) An equal employment opportunity officer in an executive
25 branch department or agency shall notify the division if the officer
26 receives a complaint alleging employment discrimination.

27 (c) The division may not make public the records of an ongoing
28 investigation. After a case is closed, the division shall, upon
29 request to do so, release information that is not otherwise

1 confidential, and shall, upon the party's request, return documents
2 furnished by a complainant or respondent.

3 Sec. 44.21.480. ACCESS TO CONFIDENTIAL RECORDS. The division
4 may have access to all records necessary to carry out its functions
5 under AS 44.21.450 -- 44.21.485. The division may not make public any
6 information designated as confidential by AS 39.25.080 or any other
7 statute. However, the division may make public any statistical infor-
8 mation compiled from confidential records.

9 Sec. 44.21.485. DEFINITIONS. In AS 44.21.450 -- 44.21.485,

10 (1) "commissioner" means the commissioner of the Department
11 of Administration;

12 (2) "division" means the division of equal employment
13 opportunity in the Department of Administration;

14 (3) "employment in the executive branch of state govern-
15 ment" includes employment as a permanent, probationary, provisional,
16 or nonpermanent employee in the classified, partially exempt, or
17 exempt services in the executive branch of state government;

18 (4) "member of a protected class" means a person protected
19 by federal or state laws that prohibit discrimination in employment.

COMMITTEE REPORT
SENATE

FURTHER:

5/7/85

Date 5/7/85

Mr. President

The Committee on FINANCE considered CSHB 147(Pin) establishing an equal employment opportunity program for the executive branch of state government and creating an office of equal employment opportunity in the Office of the Governor.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends Individual Recommendations
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature] No. RE.
[Signature] No. RE.

Chairman

Chairman recommendation

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

<u>REQUEST</u>	<u>SCS</u>	<u>FISCAL DETAIL</u>
Bill/Resolution No.: <u>CSHB 147(Fin)</u>	Agency Affected: <u>Governor's Office</u>	
Title: <u>Creating Office of</u>	Program Category Affected: _____	
<u>Equal Employment Opportunity</u>	General Government/Labor Relations	
Sponsor: <u>Governor</u>	BRU, Program or Subprogram(s) Affected: _____	
Requestor: <u>Senate Finance</u>	<u>Equal Employment Opportunity</u>	
Date of Request: <u>5/11/85</u>		

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING	0	0	0	0	0	0
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS	0	0	0	0	0	0
800 MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE						
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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						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: _____ Phone: 564-4523
 Division: Jan Faiks, Co-chairman Date: 5/11/85
Senate Finance Committee
 Approved by Commissioner: _____ Date: _____
 Agency: _____

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

7/1/84

Original sponsor: Rules/Governor

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IN THE HOUSE

BY THE FINANCE COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 147 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act establishing an equal employment opportunity program for the executive branch of state government and creating an office of equal employment opportunity in the Office of the Governor."

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

* Section 1. This Act establishes the office of equal employment opportunity in the Office of the Governor to ensure fair employment practices and eliminate barriers to employment in state government and to monitor the state's progress in accomplishing the goals set out in the state affirmative action plan and in reaching equal employment opportunity.

* Sec. 2. AS 44.19 is amended by adding new sections to read:

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY.

Sec. 44.19.441. OFFICE AND DIRECTOR. The office of equal employment opportunity is established in the Office of the Governor. The governor shall appoint a director to administer the office.

Sec. 44.19.442. POWERS AND DUTIES OF THE OFFICE. (a) The office shall administer the equal employment opportunity program for the executive branch of state government to ensure compliance with AS 44.19.441 - 44.19.449 and shall

(1) assist state officials to carry out their equal employment opportunity responsibilities, including promoting the recruitment, employment, training, and retention of members of protected classes, and recommend solutions to any problems identified;

(2) train state managers and supervisors in their equal

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employment opportunity and affirmative action responsibilities and offer orientation programs to employees to inform them of their rights and responsibilities under AS 44.19.441 - 44.19.449;

(3) monitor records of personnel actions, develop auditing and reporting systems to acquire statistical information, and prepare federal and state reports concerning the composition of the work force;

(4) prepare and submit the affirmative action plan for employment in the executive branch of state government to the governor;

(5) prepare guidelines for the affirmative action programs of agencies and review, audit and make recommendations concerning the programs;

(6) ensure that agencies comply with the affirmative action plan and with the agency affirmative action program;

(7) implement standards by which performance evaluations of supervisors reflect compliance with affirmative action plans and objectives, including the granting or denial of merit increases;

(8) assist the division of labor relations in collective bargaining negotiations between the state and employee bargaining organizations to ensure that each collective bargaining agreement negotiated by the state ensures equal employment opportunity;

(9) file quarterly reports with the governor and the legislature concerning agency compliance with and progress in its affirmative action program, the affirmative action plan, state and federal equal employment opportunity laws and regulations;

(10) accept, investigate, and resolve complaints of discrimination from employees, previous employees, or applicants for employment;

1
2 (11) serve as primary liaison between the executive branch
3 and state and federal agencies, minority and women's organizations,
4 and community groups concerned with equal employment opportunity; and

5 (12) prepare and submit an annual report to the governor and
6 the legislature by February 15 on the progress and problem areas in
7 the equal employment opportunity program and the implementation of the
8 affirmative action plan.

9 (b) The office may recommend legislative or administrative
10 action to the governor relating to equal employment opportunity and
11 affirmative action matters.

12 Sec. 44.19.443. ADMINISTRATIVE REGULATIONS. The director shall
13 adopt regulations under the Administrative Procedure Act (AS 44.62) to
14 carry out the office's duties.

15 Sec. 44.19.444. AFFIRMATIVE ACTION PLAN. The governor shall
16 establish an equal employment opportunity program and adopt annually
17 an affirmative action plan for the executive branch of state govern-
18 ment. The plan remains in effect until the governor adopts a subse-
19 quent plan.

20 Sec. 44.19.445. COMPLIANCE WITH AFFIRMATIVE ACTION PLAN. Each
21 agency shall comply with the affirmative action plan. Each commis-
22 sioner or executive head of an agency shall adopt an affirmative
23 action program to implement the plan within the agency. At the re-
24 quest of the office, a state official shall report to the office about
25 agency employment practices and activities to implement and comply
26 with the plan or program.

27 Sec. 44.19.446. EMPLOYMENT DISCRIMINATION COMPLAINTS. (a) The
28 office shall accept complaints of employment discrimination in the
29 executive branch of state government and shall confer with the com-
plainant and the agency involved to bring about an informal resolution

1 of the complaint.

2 (b) An agency shall notify the office when the agency receives a
3 complaint alleging employment discrimination.

4 (c) The office may not make public the records of a complaint or
5 investigation.

6 Sec. 44.19.447. RETALIATION PROHIBITED. (a) An agency, offi-
7 cer, or state employee may not directly or indirectly refuse to hire,
8 transfer or promote, or dismiss, demote, suspend, lay off, or other-
9 wise discipline a person for filing a complaint with the office for a
10 failure to comply with affirmative action or equal employment oppor-
11 tunity or for assisting the office in an investigation of a complaint.

12 (b) A person who knowingly violates this section is liable for a
13 civil penalty of not more than \$1,000.

14 Sec. 44.19.448. ACCESS TO CONFIDENTIAL RECORDS. The office may
15 have access to all data, records, and reports necessary to carry out
16 its functions under AS 44.19.441 - 44.19.449. The office may not make
17 public information designated as confidential by AS 39.25.080 or
18 another law. However, the office may make public statistical informa-
19 tion compiled from confidential records.

20 Sec. 44.19.449 DEFINITIONS. In AS 44.19.441 - 44.19.449,

21 (1) "agency" means a department, office, agency, public
22 corporation, board, commission, authority, or other organizational
23 unit of the executive branch;

24 (2) "employment in the executive branch of state
25 government" includes employment as a permanent, probationary, provi-
26 sional, nonpermanent, or temporary employee in the classified, par-
27 tially exempt, or exempt services in the executive branch of state
28 government;

29 (3) "member of a protected class" means a person protected

1 by federal or state laws that prohibit discrimination in employment or
2 a person who experiences or has experienced difficulty in obtaining
3 employment or advancement in employment because of another factor not
4 related to merit;

5 (4) "office" means the office of equal employment oppor-
6 tunity in the Office of the Governor.

7 * Sec. 3. This Act may not be applied to limit the right of a person to
8 file a complaint with the State Commission for Human Rights under AS 18.-
9 80.100.
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SECTIONAL ANALYSIS FOR HB 147

An Act establishing an equal employment opportunity program for the executive branch of state government and creating an office of equal employment opportunity in the Office of the Governor

Section 1

Sets forth the reasons for the establishment of the office of equal employment opportunity.

Section 2

Stipulates what functions and duties are to be carried out by this office. In general they are as follows:

- 1) Governor appoints the director
- 2) Office shall administer the equal employment opportunity program for the executive branch
- 3) Train managers and supervisors in their equal opportunity and affirmative action responsibilities.
- 4) Prepare and submit an affirmative action plan in the executive branch
- 5) File legal actions against any state officer that violates affirmative action standards and procedures
- 6) File quarterly reports with the Governor and Legislature on progress in affirmative action

The office shall adopt regulations under the Administrative Procedures Act.

The Governor shall establish an equal employment opportunity program and adopt annually an affirmative action plan for the executive branch which must be complied with by each state agency.

The office shall accept complaints of employment discrimination from employees. These complaints may not be used against the employee. The office may have access to all records concerning and employment discrimination complaint.

Section 3

This act does not limit a person's right to file a complaint with the State Commission on Human Rights.

There is a \$10,000 fiscal note.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

50-153

Revision Date: _____

REQUEST
Bill/Resolution No.: CSHB 147 (Finance)
Title: Creating a Division of
Equal Employment Opportunity
Sponsor: Governor Sheffield
Requestor: _____
Date of Request: _____

FISCAL DETAIL
Agency Affected: Governor's Office
Program Category Affected: _____
General Government/Labor Relations
BRU, Program or Subprogram(s) Affected:
Equal Employment Opportunity

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	0	10.0	10.0	10.0	10.0	10.0
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	10.0	10.0	10.0	10.0	10.0
FEDERAL FUNDS						
OTHER						
TOTAL	0	10.0	10.0	10.0	10.0	10.0

POSITIONS:	0	0	0	0	0	0
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Jim Duncan Representative Jim Duncan Phone: 465-4766
Division: _____ Date: 4/19/85

Approved by Commissioner: _____ Date: _____
Agency: _____

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

CSHB 147 (Finance) Page 2 of 2
April 19, 1985

CSHB 147 (Finance), Section 44.19.442 (8) empowers the Division of Equal employment Opportunity to enforce compliance with equal employment opportunity regulations by employing independent legal counsel not associated with the Department of Law. The Department estimates that the number of incidents where such enforcement action would occur would be no more than one or two per fiscal year. At the current estimates of hourly rates for legal services provided by the Department of Law of \$100/hr., the total amount of contractual hours required in FY 86 would be 100 hours. This would total \$10,000 in contractual services.

The Legislature intends that the additional \$10,000 in contractual funds be used only to enforce the provisions of AS 44.19.442 (8) and should not be spent on any other budgetary items.

Offered: 4/22/85
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 147 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act establishing an equal employment opportunity

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program for the executive branch of state government

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and creating an office of equal employment oppor-

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tunity in the Office of the Governor."

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

11

* Section 1. This Act establishes the office of equal employment oppor-

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tunity in the Office of the Governor to ensure fair employment practices

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and eliminate barriers to employment in state government and to monitor the

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state's progress in accomplishing the goals set out in the state

15

affirmative action plan and in reaching equal employment opportunity.

16

* Sec. 2. AS 44.19 is amended by adding new sections to read:

17

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY.

18

Sec. 44.19.441. OFFICE AND DIRECTOR. The office of equal

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employment opportunity is established in the Office of the Governor.

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The governor shall appoint a director to administer the office.

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Sec. 44.19.442. POWERS AND DUTIES OF THE OFFICE. (a) The

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office shall administer the equal employment opportunity program for

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the executive branch of state government to ensure compliance with

24

AS 44.19.441 - 44.19.449 and shall

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(1) assist state officials to carry out their equal employ-

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ment opportunity responsibilities, including promoting the recruit-

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ment, employment, training, and retention of members of protected

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classes, and recommend solutions to any problems identified;

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(2) train state managers and supervisors in their equal

1 employment opportunity and affirmative action responsibilities and
2 offer orientation programs to employees to inform them of their rights
3 and responsibilities under AS 44.19.441 - 44.19.449;

4 (3) monitor records of personnel actions, develop auditing
5 and reporting systems to acquire statistical information, and prepare
6 federal and state reports concerning the composition of the work
7 force;

8 (4) prepare and submit the affirmative action plan for
9 employment in the executive branch of state government to the gover-
10 nor;

11 (5) prepare guidelines for the affirmative action programs
12 of agencies and review, audit and make recommendations concerning the
13 programs;

14 (6) ensure that agencies comply with the affirmative action
15 plan and with the agency affirmative action program;

16 (7) implement standards by which performance evaluations of
17 supervisors reflect compliance with affirmative action plans and
18 objectives, including the granting or denial of merit increases;

19 (8) enforce equal employment opportunity by filing a legal
20 action against a state officer or employee who violates affirmative
21 action standards and procedures; for purposes of a legal action under
22 this paragraph, the director may employ independent legal counsel not
23 associated with the Department of Law;

24 (9) assist the division of labor relations in collective
25 bargaining negotiations between the state and employee bargaining
26 organizations to ensure that each collective bargaining agreement
27 negotiated by the state ensures equal employment opportunity;

28 (10) file quarterly reports with the governor and the legis-
29 lature concerning agency compliance with and progress in its

1 affirmative action program, the affirmative action plan, state and
2 federal equal employment opportunity laws and regulations;

3 (11) accept, investigate, and resolve complaints of dis-
4 crimination from employees, previous employees, or applicants for
5 employment;

6 (12) serve as primary liaison between the executive branch
7 and state and federal agencies, minority and women's organizations,
8 and community groups concerned with equal employment opportunity; and

9 (13) prepare and submit an annual report to the governor and
10 the legislature by February 15 on the progress and problem areas in
11 the equal employment opportunity program and the implementation of the
12 affirmative action plan.

13 (b) The office may recommend legislative or administrative
14 action to the governor relating to equal employment opportunity and
15 affirmative action matters.

16 Sec. 44.19.443. ADMINISTRATIVE REGULATIONS. The director shall
17 adopt regulations under the Administrative Procedure Act (AS 44.62) to
18 carry out the office's duties.

19 Sec. 44.19.444. AFFIRMATIVE ACTION PLAN. The governor shall
20 establish an equal employment opportunity program and adopt annually
21 an affirmative action plan for the executive branch of state govern-
22 ment. The plan remains in effect until the governor adopts a subse-
23 quent plan.

24 Sec. 44.19.445. COMPLIANCE WITH AFFIRMATIVE ACTION PLAN. Each
25 agency shall comply with the affirmative action plan. Each commis-
26 sioner or executive head of an agency shall adopt an affirmative
27 action program to implement the plan within the agency. At the re-
28 quest of the office, a state official shall report to the office about
29 agency employment practices and activities to implement and comply

1 with the plan or program.

2 Sec. 44.19.446. EMPLOYMENT DISCRIMINATION COMPLAINTS. (a) The
3 office shall accept complaints of employment discrimination in the
4 executive branch of state government and shall confer with the com-
5 plainant and the agency involved to bring about an informal resolution
6 of the complaint.

7 (b) An agency shall notify the office when the agency receives a
8 complaint alleging employment discrimination.

9 (c) The office may not make public the records of a complaint or
10 investigation.

11 Sec. 44.19.447. RETALIATION PROHIBITED. (a) An agency, offi-
12 cer, or state employee may not directly or indirectly refuse to hire,
13 transfer or promote, or dismiss, demote, suspend, lay off, or other-
14 wise discipline a person for filing a complaint with the office for a
15 failure to comply with affirmative action or equal employment oppor-
16 tunity or for assisting the office in an investigation of a complaint.

17 (b) A person who knowingly violates this section is liable for a
18 civil penalty of not more than \$1,000.

19 Sec. 44.19.448. ACCESS TO CONFIDENTIAL RECORDS. The office may
20 have access to all data, records, and reports necessary to carry out
21 its functions under AS 44.19.441 - 44.19.449. The office may not make
22 public information designated as confidential by AS 39.25.080 or
23 another law. However, the office may make public statistical informa-
24 tion compiled from confidential records.

25 Sec. 44.19.449 DEFINITIONS. In AS 44.19.441 - 44.19.449,

26 (1) "agency" means a department, office, agency, public
27 corporation, board, commission, authority, or other organizational
28 unit of the executive branch;

29 (2) "employment in the executive branch of state

1 government" includes employment as a permanent, probationary, provi-
2 sional, nonpermanent, or temporary employee in the classified, par-
3 tially exempt, or exempt services in the executive branch of state
4 government;

5 (3) "member of a protected class" means a person protected
6 by federal or state laws that prohibit discrimination in employment or
7 a person who experiences or has experienced difficulty in obtaining
8 employment or advancement in employment because of another factor not
9 related to merit;

10 (4) "office" means the office of equal employment oppor-
11 tunity in the Office of the Governor.

12 * Sec. 2. This Act may not be applied to limit the right of a person to
13 file a complaint with the State Commission for Human Rights under AS 18.-
14 80.100.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 30, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill creating a division of equal employment opportunity in the Department of Administration. This bill will provide the division with statutory responsibility for equal employment opportunity that will transcend administrations and provide continuity in equal employment opportunity within the executive branch of state government.

The bill establishes the division of equal employment opportunity by adding AS 44.21.450 -- 44.21.485 to AS 44.21, relating to the Department of Administration. The division's powers and duties, which include advising and consulting with other departments and divisions about equal employment opportunity, affirmative action, and recruitment matters, are set out in AS 44.21.460. Most significantly, the division is under a mandate to develop an affirmative action plan for the executive branch of state government, to be submitted to the governor on an annual basis. The plan becomes effective once signed by the governor, and the head of each executive agency or department must report to the division about activities undertaken to implement the plan. The division reports annually to the governor and legislature on the plan's content and implementation. AS 44.21.470.

The bill requires the division to conduct an impartial

investigation of every complaint of employment discrimination in the executive branch of state government. The division will work with the complainant and the agency involved to informally resolve the complaint. AS 44.21.475. Another feature of the bill is that it gives the division access to all records necessary to carry out its functions, although information that is confidential under AS 39.25.080 or other statutes may not be made public. AS 44.21.480.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield". The signature is written in dark ink and is positioned above the typed name and title.

Bill Sheffield
Governor

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

4/29/85

Date May 7, 1985

Mr. President

The Committee on State Affairs considered CSHB 147(Fin) establishing an equal employment opportunity program for the executive branch of state government and creating an office of equal employment opportunity in the Office of the Governor.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without ^{as follows:} ~~recommendation~~
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

W. Fischer
Bill Ray

MEMBERS HAVING
OTHER RECOMMENDATIONS

Edw. de Vin To Be

Mike Reed
Chairman

To Be
Chairman recommendation

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

2/15/85

Date: 2-27-85

Mr. Speaker:

The Committee on FINANCE has had HR 153

"An Act relating to state employment."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HR 153 (SA) same title
- and recommends No Recommendation new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- 2-11-85 Administration
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

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CHAIRMAN

Offered: 2/15/85
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 153 (State Affairs)
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 state employment."

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

8 * Section 1. AS 39.20.225(c) is amended to read:

9 (c) Each officer and employee shall, during each 12-month per-
10 iod, take at least five days of personal leave. If the officer or
11 employee does not take at least five days of personal leave during a
12 12-month period, the difference between five days and the amount of
13 personal leave taken shall be canceled without pay unless the offi-
14 cer's or employee's department or agency head certifies in writing
15 that the officer or employee was denied the opportunity to take five
16 days of personal leave during the 12-month period. This subsection
17 does not apply to part-time officers or employees.

18 * Sec. 2. AS 39.20.240 is amended to read:

19 Sec. 39.20.240. ACCUMULATION OF PERSONAL LEAVE. Except as
20 provided in AS 39.20.225(c), [PERSONAL LEAVE THAT IS NOT TAKEN BY] an
21 officer or employee may accumulate personal leave that is not taken
22 during a 12-month period [ACCUMULATES] for use in succeeding 12-month
23 periods, or the employee may request the cash value of the leave under
24 procedures established by the commissioner.

25 * Sec. 3 AS 39.20.256(f) is amended to read:

26 (f) Upon an officer's or employee's separation from state ser-
27 vice, the officer's or employee's banked medical leave shall be can-
28 celed without pay. However, if the separation is caused by the offi-
29 cer's or employee's death, the banked medical leave shall be treated

1 as unpaid compensation in accordance with AS 39.20.360.

2 * Sec. 4. AS 39.25.130 is amended by adding a new subsection to read:

3 (d) When the personnel board changes the positions included in
4 the partially exempt service under (a) of this section, the commis-
5 sioner of administration shall submit to the lieutenant governor for
6 publication in the Alaska Administrative Code (AS 44.62.130) a list of
7 all positions included in the partially exempt service.

8 * Sec. 5. The commissioner of administration shall submit to the lieu-
9 tenant governor for publication in the Alaska Administrative Code (AS 44.-
10 62.130) a list of all positions included in the partially exempt service on
11 the effective date of this Act.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

February 14, 1985

Revision Date: _____

Page 1 of 2

REQUEST Page 1 of 2 No 1
 Bill/Resolution No.: CSHB 153(SA)
 Title: An act relating to State
employment
 Sponsor: Rules by request of Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL
 Agency Affected: Administration
 Program Category Affected: Centralized
Administrative Services
 BRU, Program or Subprogram(s) Affected:
Personnel

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
400 SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
800 MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	-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	-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)

Prepared By: Frank Rave *Frank Rave* Phone: 465-4430
 Division: Personnel Date: 2/14/85

Approved by Commissioner: Lisa Rudd *Lisa Rudd* Date: 2-14-85
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies) 2/4K1/1101-09

No 1
CSHB 153(SA) Page 2 of 2
Fiscal Note Analysis
Prepared by Division of Personnel
Department of Administration

Date: February 14, 1985

This bill has no fiscal impact.

Two sections of this bill have the potential of causing minor changes in the way in which the Personal Services line item is spent, but will not require additional funding. They are described in this Analysis to avoid any suggestion that this bill does have a fiscal impact.

Section 2 of this bill has the potential of shifting the expense associated with the use of personal leave to an earlier period. For example, an employee who might take a long vacation in FY 86 and be paid for use of personal leave may instead "cash in" some of the leave during FY 85 and have it paid at the FY 85 pay rate. There is no net effect in the present value cost to the state for such a transfer. No additional appropriation is needed to fund this provision.

Section 3 of this bill would extend the payment for unused banked medical leave upon death to employees not covered by collective bargaining. Only employees employed continuously since July 1, 1978, and not covered by a collective bargaining agreement, or employees who changed from collective bargaining coverage to coverage of this statute will be eligible. At the beginning of 1984 there were only 264 employees to whom this change in statute would apply. The number is likely to decrease over time.

Data from the Division of Retirement and Benefits indicates a death rate among state employees of 1.4 per thousand per year. Therefore for the potentially eligible employees, the annual death rate is less than .4 employees per year. For purposes of calculation, one death per year is used.

The average hours of banked medical leave for potentially eligible employees is 207 hours. The average pay range is range 23.

The estimated annual costs are:

$$1 \text{ employee} \times 207 \text{ hours} \times \$25.66 \text{ per hour} = \$5,321.$$

The actual costs will be borne from existing budgets in a similar manner as payments for sick or terminal leave. No additional appropriation is required.

HR 153

HOUSE BILL NO. 153 by the Rules Committee by request of the Governor, entitled:

"An Act relating to state employment."

was read the first time and referred to the State Affairs and Finance Committees.

Two zero fiscal notes with analysis were attached and appear in House Journal Supplement No. 11.

The Governor's transmittal letter dated January 30, 1985, appears below:

"Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to state employment. The bill amends the state's leave statutes in three respects, primarily affecting state officers and employees who are not covered by a collective bargaining agreement.

Section 1 of the bill addresses the requirement that nearly all non-covered state officers and employees take at least five days of personal leave per year. See AS 39.20.225(c). The amendment would make clear that part-time employees are not subject to that requirement.

Section 2 permits non-covered state employees annually to cash in accumulated leave. Under existing law the accumulated leave may be used in later years but no cash-in option is provided.

Section 3 of the bill amends AS 39.20.245(b), concerning the donation of personal or annual leave by one state worker for use as sick leave by another. Currently, the law speaks only to legislative employees. The amendment would allow the same charitable act to be accomplished by executive and judicial branch non-covered workers. State employees covered by a collective bargaining agreement are already allowed to donate sick leave in this way. The amendment also allows covered and noncovered employees and officers to donate leave to each other for use as sick leave.

Alaska
Legislature

HR 153

The amendment to AS 39.20.256(f) in sec. 4 of the bill allows the beneficiary of a state worker who dies to collect the monetary equivalent of the decedent's unused, banked sick leave. Currently, unused, banked sick leave is cancelled upon the separation from service of a state worker, regardless of the cause. State employees covered by a collective bargaining agreement are already provided this benefit.

Sections 5 and 6 of the bill amend AS 39.20.310(8) and (9), respectively, to clarify that employees covered by a collective bargaining agreement are excluded from AS 39.20.200 -- 39.20.330 "except as expressly provided by law." This provides consistency with the amendment in sec. 4.

Section 7 requires the commissioner of administration to submit to the lieutenant governor for publication in the Alaska Administrative Code a list of all positions to which the partially exempt service has been extended by the personnel board under AS 39.25.130. No official, comprehensive list is currently published to inform the public of which positions are included in the partially exempt service.

Sincerely,

/s/

Bill Sheffield
Governor"

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

OFFICE OF THE ATTORNEY GENERAL

February 1, 1985

Honorable Katie Hurley, Chair
House State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: HB 153 (state employment)
Our file: 377-042-85

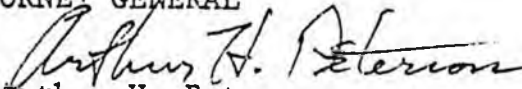
Dear Representative Hurley:

HB 153, introduced at the request of the governor January 30, has been referred to your committee. Now that HB 70 am (donation of leave) has been passed by the legislature, secs. 3, 5, and 6 of HB 153 should be deleted. They are on exactly the same point as HB 70 am.

Thank you for your consideration of this matter.

Yours truly,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Arthur H. Peterson
Assistant Attorney General

NCG:AHP:md

cc: Hon. Lisa Eudd, Commissioner
Dept. of Administration

Ray Gillespie
Legislative Assistant
Governor's Office

(3) "official travel" means travel inside or outside the state on official business of the state, for which payment or reimbursement is expected or authorized;

(4) "per diem allowance" means a daily flat rate of payment instead of actual expenses;

(5) "state agency," "agency," or "department" means department, office, institution, board, commission, bureau, division, or other administrative unit forming the state government;

(6) "subsistence" means lodging, meals, and other necessary expenses incidental to the personal sustenance or comfort of the traveler;

(7) "traveler" means the official or employee engaged in official travel for the state. (§ 3 ch 60 SLA 1957)

Article 3. Leaves of Absence.

Section	Section
200. Computation of personal leave	290. Definition of days of leave
210. Determining years of service	295. Special regulations on leave period
220. Requirement that employment be continuous	300. Personal and banked medical leave transfers with officer or employee
225. Use of personal leave	310. Exceptions
240. Accumulation of personal leave	320. Adoption of regulations
245. Donation of personal leave	330. Departments to keep leave records
250. Terminal leave	340. Leave of absence for reserve or auxiliary members of armed forces
255. Conversion of accrued annual leave to personal leave	350. Restoration of reserve members to former positions
256. Transfer of accrued medical leave	
270. Court leave	

Sec. 39.20.200. Computation of personal leave. Officers and employees of the state are entitled to personal leave with pay that accrues as follows:

(1) two days for each full monthly pay period in the case of officers and employees with less than two years of service;

(2) two and one-quarter days for each full monthly pay period in the case of officers and employees with two but less than five years of service;

(3) two and one-half days for each full monthly pay period in the case of officers and employees with five but less than 10 years of service;

(4) three days for each full monthly pay period in the case of officers and employees with 10 years or more service. (§ 11-5-6 a ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 10 ch 148 SLA 1976; am § 1 ch 136 SLA 1978)

NOTES TO DECISIONS

Cited in *State v. Worden*, 7 Alas. L.J.
No. 9, p. 641 (Sept., 1969).

Collateral references. — 63 Am. Jur.
2d, *Public Officers and Employees*, §§ 158,
403.

Sec. 39.20.210. Determining years of service. In determining years of service for the purpose of computing personal leave, all service with the Territory and State of Alaska is included. A change in the rate of accrual of personal leave by an officer or employee takes effect upon the beginning of the monthly pay period following the monthly pay period in which the officer or employee completes the prescribed period of service. (§ 11-5-6 b ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 2 ch 136 SLA 1978)

Sec. 39.20.220. Requirement that employment be continuous. Notwithstanding AS 39.20.200, an officer or employee is entitled to personal leave only after having been employed currently for a continuous period of 30 days under one or more appointments without break in service. When an officer or employee completes a period of continuous employment of 30 days, an amount of personal leave is credited to the officer or employee equal to the amount which, but for this section, would have accrued under AS 39.20.200 during the period. (§ 11-5-6 c ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 3 ch 136 SLA 1978)

Sec. 39.20.225. Use of personal leave. (a) An officer or employee may take personal leave at any time business permits upon permission by the head of the department or agency for which the officer or employee works.

(b) An officer or employee may take personal leave for medical reasons, regardless of whether business permits, upon permission by the head of the department or agency for which the officer or employee works. A department or agency head shall grant personal leave for medical reasons if the department or agency head is satisfied that the officer or employee is absent for medical reasons. The taking of personal leave for medical reasons shall be reduced by the amount of wage continuation payments made under the Alaska Workers' Compensation Act (AS 23.30). The following constitute "medical reasons" and are subject to the conditions noted:

(1) Medical disability of an officer or employee is a medical reason for taking personal leave. A department or agency head may require a doctor's certificate showing the disability if the absence exceeds three consecutive working days.

(2) Medical disability of a member of an officer's or employee's immediate family is a medical reason for taking personal leave if the disability is such that the attendance of the officer or employee is required. A department or agency head may require a doctor's certificate showing the disability if the absence exceeds three consecutive working days.

(3) A medical condition of an officer or employee that makes presence at work a danger to the health of fellow employees is a medical reason for taking personal leave. A department or agency head may require a doctor's certificate showing the condition if the absence exceeds three consecutive working days.

(4) Pregnancy and childbirth is a medical reason for a female officer or employee to take personal leave. A female officer or employee, otherwise qualified for a leave of absence, is entitled to take a maximum of nine weeks leave immediately preceding and following childbirth. If the officer's or employee's accrued personal leave is insufficient for this purpose, the officer or employee is entitled to take leave without pay for the balance of the nine-week period.

(5) Death of a member of an officer's or employee's immediate family is a medical reason for taking personal leave. No more than five days of personal leave may be taken for this purpose.

(c) Each officer and employee shall, during each 12-month period, take at least five days of personal leave. If the officer or employee does not take at least five days of personal leave during a 12-month period, the difference between five days and the amount of personal leave taken shall be canceled without pay unless the department or agency head certifies in writing that the officer or employee was denied the opportunity to take five days of personal leave during the 12-month period. (§ 4 ch 136 SLA 1978)

Sec. 39.20.230. When annual leave may be taken. [Repealed, § 15 ch 136 SLA 1978. For current law see AS 39.20.225.]

Sec. 39.20.240. Accumulation of personal leave. Except as provided in AS 39.20.225(c) personal leave that is not taken by an officer or employee during a 12-month period accumulates for use in succeeding 12-month periods. (§ 11-5-6 e ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 1 ch 37 SLA 1967; am § 1 ch 31 SLA 1971; am § 1 ch 151 SLA 1972; am § 5 ch 136 SLA 1978)

Sec. 39.20.245. Donation of personal leave. (a) An officer or employee may donate one or more days of personal leave a year to the memorial scholarship revolving loan fund, or to a scholarship account in the fund, under AS 14.43.250 — 14.43.325. The commissioner of administration shall pay to the account of the memorial scholarship revolving loan fund, or to a scholarship account in the fund, an amount equal to the value of the day or days of personal leave contributed by the officer or employee.

(b) An employee of the legislature or of a legislative agency with the approval of the person authorizing the employment may donate accrued personal leave to another employee of the legislature or of a legislative agency only for use as leave for medical reasons. The official responsible for legislative employee accounts shall debit the donor's personal leave account and credit the donee's personal leave account, for medical reasons only, by converting the donated leave into cash value at the donor's rate of pay and reconvertng the cash value to hours of leave at the donee's rate of pay. Leave donated under this subsection is not leave taken by the donor for purposes of AS 39.20.225(c). (§ 2 ch 33 SLA 1969; am § 23 ch 136 SLA 1974; am § 6 ch 136 SLA 1978; am § 1 ch 75 SLA 1981)

Effect of amendments. — The 1981 amendment added subsection (b).

Sec. 39.20.250. Terminal leave. (a) Terminal leave for unused personal leave shall be allowed upon separation from service. The payment equals the compensation that the officer or employee would have received if the officer or employee had remained in the service until the expiration of the period of unused personal leave. A payment of terminal leave to an employee shall be made as a lump sum payment or in installments over a period of time, as the employee elects.

(b) If the officer or employee is re-employed in the state service before the expiration of the period covered by the balance of the unused leave payment, the officer or employee shall refund to the state an amount equal to the leave payment covering the period between the date of re-employment and the expiration of the unused leave period which has been paid. The leave represented by a refund shall be recredited to the officer or employee by the employing department or agency.

(c) The payment authorized by this section is not considered salary or compensation except for purposes of taxation. (§ 11-5-6 f ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 7 ch 136 SLA 1978; am § 1 ch 16 SLA 1979)

Sec. 39.20.255. Conversion of accrued annual leave to personal leave. An officer or employee who has accrued annual leave shall have that annual leave transferred to the officer's or employee's personal leave account. (§ 8 ch 136 SLA 1978)

Sec. 39.20.256. Transfer of accrued medical leave. (a) An officer or employee who has accrued medical leave shall have 40 per cent of that medical leave transferred to the officer's or employee's personal leave account and 60 per cent of that medical leave transferred to a medical leave bank. Banked medical leave may be taken only in accordance with this section.

(b) An officer or employee may not take any banked medical leave unless the officer or employee

- (1) has no accrued personal leave; and
- (2) has a medical disability exceeding 10 consecutive working days in duration; or
- (3) has a medical disability exceeding 30 consecutive working days in duration.

(c) Once the requirements of (b) and (d) of this section have been met, an officer or employee may take banked medical leave until the medical disability is terminated or the banked medical leave is exhausted. If an officer or employee qualifies for banked medical leave under (b)(3) of this section, the banked medical leave may be taken for all working days of the medical disability following the 10th working day of the disability.

(d) When leave is taken under (b)(1) and (2) of this section, a department or agency head may require a doctor's certificate showing the disability. When leave is taken under (b)(3) of this section, the officer or employee must submit a doctor's certificate showing the disability.

(e) The taking of leave under this section shall be reduced by the amount of wage continuation payments made under the Alaska Workers' Compensation Act (AS 23.30).

(f) Upon an officer's or employee's separation from state service, the officer's or employee's banked medical leave shall be canceled without pay. (§ 8 ch 136 SLA 1978; am §§ 1 — 3 ch 52 SLA 1979)

Legislative history reports. — For the intent on Senate Bill No. 116 (ch. 52, SLA House State Affairs Committee letter of 1979), see 1979 House Journal, p. 1052.

Sec. 39.20.260. Medical leave. [Repealed, § 15 ch 136 SLA 1978. For current law see AS 39.20.225 (b).]

Sec. 39.20.270. Court leave. Notwithstanding AS 39.20.310(7), court leave shall be granted to an employee who is classified as full time, whether permanent, nonpermanent, or temporary. An officer or employee called to serve as a juror or subpoenaed as a witness is entitled to administrative leave with pay, but compensation received by the employee or to which the employee is entitled, whichever is greater, for service as a juror or witness shall be deducted from pay to which the employee is entitled as a state officer or employee. (§ 11-5-6 h ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 1 ch 39 SLA 1984)

Effect of amendments. — The 1984 amendment, in the first sentence, added "Notwithstanding AS 39.20.310(7)" at the beginning, inserted "nonpermanent" near the end, and, in the second sentence, substituted "the employee" for "him" in the first place it occurs and for "he" in the last two places it occurs.

Sec. 39.20. current law s

Sec. 39.20. provided for i officer or emp exclusive of ho am § 1 ch 14

Sec. 39.20.: with the proc Administratio uniform begin periods applic employees of s

Sec. 39.20.: with officer c employment w state governm tution, or age: accumulated p and shall be cr ment, office, in 182 SLA 1957

Sec. 39.20.: apply to

(1) members governor, and and of the cour may be constru by reason of al

(2) magistra

(3) officers, University of ,

(4) [Repeale

(5) persons e and special inq nor, the legisla

(6) members otherwise emp

(7) temporar months;

(8) persons c masters and me are covered by 23.40.040.

Sec. 39.20.280. Maternity leave. [Repealed. § 2 ch 67 SLA 1974. For current law see AS 39.20.225 (b) (4).]

Sec. 39.20.290. Definition of days of leave. The days of leave provided for in AS 39.20.200 — 39.20.330 mean days upon which an officer or employee would otherwise work and receive pay, and are exclusive of holidays. (§ 11-5-6 j ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960)

Sec. 39.20.295. Special regulations on leave period. In accord with the procedures established in AS 39.20.320, the Department of Administration shall adopt regulations defining and establishing a uniform beginning and a uniform concluding date for the 12-month periods applicable to leave use and accumulation by officers and employees of state government. (§ 2 ch 151 SLA 1972)

Sec. 39.20.300. Personal and banked medical leave transfers with officer or employee. When an officer or employee terminates employment with one department, office, institution, or agency of the state government and is employed by another department, office, institution, or agency of the state government without break in service, accumulated personal leave and banked medical leave also transfer and shall be credited to the officer or employee in the employing department, office, institution, or agency. (§ 11-5-6 k ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 9 ch 136 SLA 1978)

Sec. 39.20.310. Exceptions. AS 39.20.200 — 39.20.330 do not apply to

(1) members of the state legislature, the governor, the lieutenant governor, and justices and judges of the supreme and superior courts and of the court of appeals, but nothing in AS 39.20.200 — 39.20.330 may be construed to diminish the salaries fixed by law for these officers by reason of absence from duty on account of illness or otherwise;

(2) magistrates serving the state on less than a full-time basis;

(3) officers, members of the teaching staff, and employees of the University of Alaska;

(4) *[Repealed by § 76 ch 59 SLA 1982.]*

(5) persons employed in a professional capacity to make a temporary and special inquiry, study, or examination as authorized by the governor, the legislature, or a legislative committee;

(6) members of boards, commissions, and authorities who are not otherwise employed by the state;

(7) temporary employees hired for periods of less than 12 consecutive months;

(8) persons employed by the division of marine transportation as masters and members of the crews operating the state ferry system who are covered by collective bargaining agreements as provided in AS 23.40.040.

(9) persons employed by the state who are covered by collective bargaining agreements as provided in AS 23.40.210. (§ 11-5-61 ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 1 ch 134 SLA 1961; am § 4 ch 93 SLA 1962; am § 3 ch 24 SLA 1966; am § 1 ch 62 SLA 1972; am § 10 ch 136 SLA 1978; am § 26 ch 12 SLA 1980; am § 76 ch 59 SLA 1982)

Revisor's notes. — In this section "secretary of state" has been changed to "lieutenant governor" in conformity with the 1970 Alaska constitutional amendment (SJR 2) changing the designation of that office.

Effect of amendment. — The 1980 amendment inserted "and of the court of appeals" following "superior courts" near the middle of paragraph (1).

The 1982 amendment repealed paragraph (4).

NOTES TO DECISIONS

The thrust of the exemptions in the State Personnel Act, AS 39.25.110, the Public Employees Retirement System, former AS 39.35.680 (5)(c), and the statutory leave provisions for state employees is

to provide for those public employees who are not susceptible to ordinary recruiting and examining procedures. *Halling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Sec. 39.20.320. Adoption of regulations. The director of the division of personnel in the Department of Administration shall prepare and submit regulations necessary to carry out the intent of AS 39.20.200 — 39.20.330. These regulations shall include provisions for crediting and, if necessary, converting accrued leave when an officer or employee transfers, without break in service, between a department or agency of the state government where the officer or employee is subject to AS 39.20.200 — 39.20.330 and a department or agency of the state government where the officer or employee is not subject to AS 39.20.200 — 39.20.330. These regulations shall be submitted to the commissioner of administration. The commissioner of administration shall review the regulations and submit them to the personnel board. The regulations, or any part of the regulations, have the force and effect of law 30 days after they are submitted to the personnel board if not disapproved by the personnel board. Amendments to the regulations shall be prepared and submitted in the same manner, and have the force and effect of law 30 days after they are submitted to the personnel board, if not disapproved by the personnel board. The regulations adopted under AS 39.20.200 — 39.20.330 relate to the internal management of state agencies and their adoption is not subject to the provisions of the Administrative Procedure Act (AS 44.62). (§ 11-5-6 m ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 11 ch 136 SLA 1978; am § 77 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment deleted "and labor relations" following "division of personnel" in the

first sentence, and, deleted "within 60 days of July 9, 1978" following "commissioner of administration" in the third sentence.

Sec. 39.20. department, keep for its f and employee Administrati approval by tl tion. (§ 11-5-t SLA 1960; an

Sec. 39.20. bers of armc subdivision, w who is a mem States Armed pay, time or ef ordered to train or at field exer control in the p of absence may (b) If an em employee other days leave of ab ch 20 SLA 195. am § 1 ch 49 S

Revisor's notes. 1976 changed "12-1 "calendar year" in tl

Sec. 39.20.35 tions. A membe Forces employec corporation with by proper author position the emp:

Article 4. P

Section 360. Order of payment 370. Inapplicability t tain benefits, fi

Sec. 39.20.360. to a deceased emp to the person or pe order of precedenc person of amount: (1) to the benefi

Sec. 39.20.330. Departments to keep leave records. Each department, office, institution, or agency of the state government shall keep for its files a complete leave record, covering each of its officers and employees, on forms prepared and supplied by the Department of Administration. These records are subject to annual audit and approval by the director of personnel of the Department of Administration. (§ 11-5-6 n ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 12 ch 136 SLA 1978)

Sec. 39.20.340. Leave of absence for reserve or auxiliary members of armed forces. (a) An employee of the state, or a political subdivision, with the approval of the city council or borough assembly, who is a member of a reserve or auxiliary component of the United States Armed Forces is entitled to a leave of absence without loss of pay, time or efficiency rating on all days during which the employee is ordered to training duty, as distinguished from active duty, with troops or at field exercises, or for instruction, or when under direct military control in the performance of a search and rescue mission. The leave of absence may not exceed 16½ working days in any 12-month period.

(b) If an employee is called to active duty by the governor, an employee otherwise qualified in (a) of this section is entitled to five days leave of absence without loss of pay, time, or efficiency rating. (§ 1 ch 20 SLA 1951; am § 1 ch 154 SLA 1970; am § 4 ch 151 SLA 1972; am § 1 ch 49 SLA 1976)

Revisor's notes. — Chapter 49, SLA 1976 changed "12-month period" back to "calendar year" in the last sentence of sub-

section (a). As this change was the result of drafting error, "12-month period" has been retained.

Sec. 39.20.350. Restoration of reserve members to former positions. A member of a reserve component of the United States Armed Forces employed by the state, a political subdivision, or a municipal corporation with the approval of the city council, who is ordered to duty by proper authority, shall, when relieved from duty, be restored to the position the employee held when ordered to duty. (§ 2 ch 20 SLA 1951)

Article 4. Payments Due to Deceased State Employees.

Section

360. Order of payment
370. Inapplicability of provisions to certain benefits, funds, or interest

Section

380. Change or revocation of designation
390. Employees to be informed
400. Definitions

Sec. 39.20.360. Order of payment. All unpaid compensation due to a deceased employee of the state at the time of death shall be paid to the person or persons surviving at the date of death, in the following order of precedence, and the payment is a bar to recovery by any other person of amounts so paid:

(1) to the beneficiary or beneficiaries designated by the employee in

Introduced: 1/30/85
Referred: State Affairs
and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 153

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 state employment."

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

8 * Section 1. AS 39.20.225(c) is amended to read:

9 (c) Each officer and employee shall, during each 12-month per-
10 iod, take at least five days of personal leave. If the officer or
11 employee does not take at least five days of personal leave during a
12 12-month period, the difference between five days and the amount of
13 personal leave taken must [SHALL] be canceled without pay unless the
14 officer's or employee's department or agency head certifies in writing
15 that the officer or employee was denied the opportunity to take five
16 days of personal leave during the 12-month period. This subsection
17 does not apply to part-time officers or employees.

18 * Sec. 2. AS 39.20.240 is amended to read:

19 Sec. 39.20.240. ACCUMULATION OF PERSONAL LEAVE. Except as
20 provided in AS 39.20.225(c), personal leave that is not taken by an
21 officer or employee during a 12-month period accumulates for use in
22 succeeding 12-month periods, or the employee may request the cash
23 value of the leave under procedures established by the commissioner.

24 * Sec. 3. AS 39.20.245(b) is amended to read:

25 (b) An officer or employee, [OF THE LEGISLATURE OR OF A LEGISLA-
26 TIVE AGENCY] with the approval of the person authorizing the employ-
27 ment, may donate accrued personal or annual leave to another officer
28 or employee [OF THE LEGISLATURE OR OF A LEGISLATIVE AGENCY] only for
29 use as leave for medical reasons. The official responsible for

1 [LEGISLATIVE] employee accounts shall debit the donor's personal leave
2 account and credit the donee's personal leave account, for medical
3 reasons only, by converting the donated leave into cash value at the
4 donor's rate of pay and reconverting the cash value to hours of leave
5 at the donee's rate of pay. Leave donated under this subsection is
6 not leave taken by the donor for purposes of AS 39.20.225(c). An
7 employee who is covered by a collective bargaining agreement may
8 donate leave to or receive donations of leave from an employee or
9 officer who is not covered by a collective bargaining agreement,
10 notwithstanding AS 39.20.310(8) and (9).

11 * Sec. 4. AS 39.20.256(f) is amended to read:

12 (f) Upon an officer's or employee's separation from state ser-
13 vice, the officer's or employee's banked medical leave must [SHALL] be
14 canceled without pay. However, if the separation is caused by the
15 officer's or employee's death, the banked medical leave must be
16 treated as unpaid compensation in accordance with AS 39.20.360.

17 * Sec. 5. AS 39.20.310(8) is amended to read:

18 (8) persons employed by the division of marine transporta-
19 tion as masters and members of the crews operating the state ferry
20 system who are covered by collective bargaining agreements as provided
21 in AS 23.40.040, except as expressly provided by law;

22 * Sec. 6. AS 39.20.310(9) is amended to read:

23 (9) persons employed by the state who are covered by col-
24 lective bargaining agreements as provided in AS 23.40.210, except as
25 expressly provided by law.

26 * Sec. 7. AS 39.25.130 is amended by adding a new subsection to read:

27 (d) The commissioner of administration shall submit to the
28 lieutenant governor for publication in the Alaska Administrative Code
29 (AS 44.62.130) a list of all positions to which the partially exempt

1 service is extended under (a) of this section. As changes in the list
2 are adopted, the commissioner shall submit that information to the
3 lieutenant governor for publication.