

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

CSSB 56 thru SB 61 23

CSSB

56

Original sponsors: Kerttula, Halford  
and Fischer

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
2 HOUSE CS FOR CS FOR SENATE BILL NO. 56 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL  
6 For an Act entitled: "An Act amending and making effective an annuity  
7 program and amendments to the longevity bonus program  
8 and the permanent fund dividend program provided for  
9 in secs. 2 - 18, ch. 99, SLA 1985; and providing for  
10 an effective date."

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

12 \* Section 1. AS 43.23.110(a) is amended to read:

13 (a) The annuity investment fund is established as a separate  
14 fund in the state treasury. The annuity investment fund consists of  
15 money transferred from the dividend fund, cash contributions under  
16 AS 43.23.125, and income earned by the annuity investment fund.  
17 Notwithstanding AS 37.13.145, an amount equal to the permanent fund  
18 dividends taken as annuity credits under this chapter shall be annual-  
19 ly transferred from the dividend fund to the annuity investment fund.

20 \* Sec. 2. AS 43.23 is amended by adding a new section to read:

21 Sec. 43.23.125. CASH CONTRIBUTIONS. An individual who is eligi-  
22 ble to receive the permanent fund dividend as an annuity credit under  
23 AS 43.23.005(d) but does not elect to do so or who elects to receive  
24 only a portion of the permanent fund dividend as an annuity credit may  
25 make a cash contribution to that individual's annuity account. The  
26 total amount credited and contributed to an annuity account in a year  
27 may not exceed the amount of the permanent fund dividend for that  
28 year.

29 \* Sec. 3. AS 43.23.130(a) is amended to read:

1           (a) An individual with one or more annuity credits or cash  
2           contributions under AS 43.23.125 may receive an annuity upon reaching  
3           the age of 65.

4       \* Sec. 4. AS 43.23.130(e) is amended to read:

5           (e) If a person elects to credit a permanent fund dividend or  
6           make a cash contribution to an annuity account in a particular year,  
7           that person may make an irrevocable choice regarding death benefits  
8           with respect to that credit or contribution. If a person dies before  
9           age 65 and that person has selected death benefits in at least one  
10          year, a lump sum payment shall, subject to appropriation, be paid to  
11          the surviving spouse by right of survivorship unless a different  
12          beneficiary was designated. When no spouse survives and no benefi-  
13          ciary is designated, the lump sum shall be paid to the decedent's  
14          estate. The lump sum payment includes all dividends credited to the  
15          person's annuity account in years in which death benefits were select-  
16          ed and interest on those dividends. Dividends credited and cash  
17          contributed to a person's annuity account in years for which death  
18          benefits were not selected and interest on those dividends and contri-  
19          butions shall, if the person dies before age 65, be distributed equi-  
20          tably among the annuity accounts of all individuals for which death  
21          benefits were not selected.

22       \* Sec. 5. AS 43.23 is amended by adding a new section to read:

23           Sec. 43.23.135. EMERGENCY WITHDRAWALS. An individual may make a  
24           withdrawal from that individual's annuity account before reaching the  
25           age of 65 if the individual establishes to the satisfaction of the  
26           commissioner that the withdrawal is necessary to meet an unforeseeable  
27           emergency. The amount withdrawn may not exceed the total amount in  
28           the individual's annuity account or the amount actually necessary to  
29           meet the emergency, whichever is less. The commissioner shall define

1 the term "unforeseeable emergency" by regulation. An individual may  
2 only make one withdrawal under this section and may pay it back with  
3 interest under terms established by the commissioner.

4 \* Sec. 6. AS 47.45.015(a) is amended to read:

5 (a) Except as provided in (b) and (c) of this section, the  
6 monthly longevity bonus is equal to \$225 [\$250], minus the maximum  
7 possible straight life annuity [FOR A PERSON 65 YEARS OF AGE] under  
8 the annuity program (AS 43.23.110 - 43.23.130), as determined by the  
9 commissioner of administration. The maximum possible straight life  
10 annuity equals the amount a person would receive if that person became  
11 65 on January 2, 1988, and contributed 100 percent of all permanent  
12 fund dividends or the cash equivalency to the annuity program for  
13 every year after December 31, 1987. However, for purposes of this  
14 section the maximum possible straight life annuity may not exceed the  
15 amount that a person turning 65 in the current year would receive if  
16 that person had contributed 100 percent of all permanent fund divi-  
17 dends or the cash equivalency to the annuity program for every year  
18 after December 31, 1987.

19 \* Sec. 7. AS 47.45.015 is amended by adding a new subsection to read:

20 (c) Notwithstanding (a) of this section, the monthly longevity  
21 bonus in a fiscal year for a person who is 65 years of age after  
22 January 1, 1988, may not exceed the monthly longevity bonus amount for  
23 that fiscal year set out in case B, table 1, of the Alaska State  
24 Legislature, House of Representatives, Research Agency memorandum  
25 dated May 15, 1987, entitled "Projected Costs of the Longevity Bonus  
26 Program Under Senate Bill 56; Research Request 87.303 (Supplemental  
27 Information)."

28 \* Sec. 8. Section 1, ch. 99, SLA 1985, is repealed.

29 \* Sec. 9. Chapter 99, SLA 1985, and secs. 1 - 6 of this Act apply only

1 to permanent fund dividends for years beginning after December 31, 1987.  
2 Notwithstanding the amendments to AS 43.23 made by ch. 99, SLA 1985, and  
3 this Act, permanent fund dividends for 1987 and prior years shall be made  
4 under the law as it existed before the effective date of this Act.

5 \* Sec. 10. This Act takes effect immediately under AS 01.10.070(c).

Original sponsor: Coghill

1 IN THE SENATE BY THE LABOR AND COMMERCE COMMITTEE  
2 HOUSE CS FOR CS FOR SENATE BILL NO. 108 (L&C)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to decisions of the commissioner of  
7 natural resources regarding the eligibility of an  
8 applicant for a pipeline right-of-way permit."  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
10 \* Section 1. AS 38.35.100 is amended to read:  
11 Sec. 38.35.100. DECISION ON APPLICATION. (a) The commissioner  
12 shall promptly determine, in a written finding, on an application  
13 filed under AS 38.35.050, whether the applicant is fit, willing, and  
14 able to perform the transportation or other acts proposed in a manner  
15 that will be required by the present or future public interest. In  
16 making a determination the commissioner shall consider whether or not  
17 (1) the proposed use of the right-of-way will unreasonably  
18 conflict with existing uses of the land involving a superior public  
19 interest;  
20 (2) the applicant has the technical and financial capabil-  
21 ity to protect state and private property interests;  
22 (3) the applicant has the technical and financial capabil-  
23 ity to take action to the extent reasonably practical to  
24 (A) prevent any significant adverse environmental  
25 impact, including but not limited to, erosion of the surface of  
26 the land and damage to fish and wildlife and their habitat;  
27 (B) undertake any necessary restoration or revegeta-  
28 tion; and  
29 (C) protect the interests of individuals living in the

1           general area of the right-of-way who rely on fish, wildlife, and  
2           biotic resources of the area for subsistence purposes;

3           (4) the applicant has the financial capability to pay  
4           reasonably foreseeable damages for which the applicant may become  
5           liable on claims arising from the construction, operation, mainte-  
6           nance, or termination of the pipeline;

7           (5) the applicant has agreed that in the construction and  
8           operation of a pipeline within the right-of-way the applicant will  
9           comply with, and require contractors and their subcontractors to  
10           comply with, applicable and valid laws and regulations regarding the  
11           hiring of residents of the state then in effect or that take effect  
12           subsequently.

13           (b) If the commissioner makes the [THESE] determinations under  
14           (a) of this section favorably to the applicant, then the commissioner  
15           may grant the whole or part of the application. If the commissioner  
16           makes the determinations under (a)(1) - (5) of this section favorably  
17           to the applicant but determines that the applicant is not then fit,  
18           willing, and able to perform under the application, the commissioner  
19           may grant the application under a conditional lease subject to con-  
20           ditions established by the commissioner that will ensure that the  
21           applicant will, within a prescribed period of time not exceeding 10  
22           years, establish that the applicant is fit, willing, and able, under  
23           (a) of this section, to perform the transportation or other acts that  
24           will be required by the present or future public interest. An appli-  
25           cant is not entitled to a notice or authorization to proceed to con-  
26           struction, or its equivalent, under a conditional lease until the  
27           commissioner determines in writing that the applicant has satisfac-  
28           torily established that the applicant is then fit, willing, and able  
29           to perform under (a) of this section. Otherwise, the commissioner

1 shall deny the application.

2 (c) The commissioner may offer the applicant a lease or a condi-  
3 tional lease under this section. If the applicant does not accept a  
4 lease offered under this section within 30 days, the lease offered is  
5 withdrawn [IN ORDER TO GRANT THE WHOLE OR PART OF THE APPLICATION THE  
6 COMMISSIONER SHALL OFFER A LEASE TO THE APPLICANT FOR ITS ACCEPTANCE  
7 THROUGH SIGNING OF THE LEASE AND AGREEING TO COMPLY WITH ITS TERMS,  
8 CONDITIONS, AND OBLIGATIONS. ONLY UPON PROPER ACCEPTANCE OF OFFERED  
9 LEASE BY THE APPLICANT WITHIN 30 DAYS AFTER ITS HAVING BEEN PRESENTED  
10 IS THE GRANT OF THE APPLICATION CONSUMMATED].

11 \* Sec. 2. AS 38.35.100 is amended by adding new subsections to read:

12 (d) The commissioner shall include in a conditional lease each  
13 requirement and condition of the covenants established under AS 38.-  
14 35.120. The commissioner may also require that the lessee agree to  
15 additional conditions that the commissioner finds to be in the public  
16 interest. In place of the covenant established under AS 38.35.-  
17 120(a)(9), the commissioner shall require the lessee to agree that it  
18 will not transfer, assign, pledge, or dispose of in any manner, di-  
19 rectly or indirectly, its interest in a conditional right-of-way lease  
20 or a pipeline subject to the conditional lease, unless the commis-  
21 sioner, after considering the public interest and issuing written  
22 findings to substantiate a decision to allow the transfer, authorizes  
23 the transfer. The commissioner shall also require the lessee to agree  
24 not to allow the transfer of control of the lessee without the  
25 approval of the commissioner; as used in this subsection, "transfer of  
26 control of the lessee" means the transfer of 30 percent or more, in  
27 the aggregate, of ownership interest in the lessee in one or more  
28 transactions to one or more persons by one or more persons.

29 (e) The commissioner shall require a conditional lessee to agree

1       that

2               (1) in the absence of the approval of the commissioner, a  
3 transfer may not relieve the lessee of an obligation assumed under the  
4 lease;

5               (2) a transfer, including the transfer of lessee, that  
6 occurs without the approval of the commissioner is ineffective to  
7 transfer interests in and obligations under the lease; and

8               (3) a transfer constitutes a default under the lease.

9               (f) In an application for the approval under (d) of this section  
10 of a transfer of an interest, the commissioner shall consider whether  
11 the proposed transferee will be fit, willing, and able to perform the  
12 transportation or other acts proposed under the conditions established  
13 in the conditional lease and whether the transfer is in the public  
14 interest. In approving the transfer of an interest under (d) of this  
15 section and this subsection, the commissioner may impose any condition  
16 on the transfer that the commissioner considers in the public inter-  
17 est.

18               (g) If, during the term of a conditional lease, the commissioner  
19 determines under (a) of this section that the applicant is fit, will-  
20 ing, and able to perform the transportation or other acts proposed in  
21 a manner that will be required by the present or future public inter-  
22 est, the commissioner may amend the conditional right-of-way lease to  
23 insert the covenant established in AS 38.35.120(a)(9) in place of the  
24 covenant against a transfer established under (d) and (e) of this  
25 section.

26               (h) The issuance of a conditional lease does not prevent the  
27 commissioner from issuing other conditional or unconditional leases  
28 for the same right-of-way. A conditional lease may be revoked at any  
29 time that the commissioner determines that the applicant or

1 conditional lessee will not be fit, willing, and able to perform  
2 during the term of the lease or when another applicant or conditional  
3 lessee is determined to be fit, willing, and able to perform under an  
4 application or lease for all or part of the right-of-way. An appli-  
5 cant or conditional lessee accrues no rights, including preference or  
6 priority rights, to a particular right-of-way until the commissioner  
7 makes a determination that the applicant or conditional lessee is then  
8 fit, willing, and able to perform the transportation or other acts  
9 proposed under (a) of this section.

10 (i) The commissioner shall insert a provision implementing the  
11 requirements of (a)(5) of this section into each agreement entered  
12 into by the commissioner for the construction and operation of a  
13 pipeline within the state.

Original sponsors: Kerttula, Halford  
and Fischer

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
2 CS FOR SENATE BILL NO. 56 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL  
6 For an Act entitled: "An Act amending and making effective an annuity  
7 program and amendments to the longevity bonus program  
8 and the permanent fund dividend program provided for  
9 in secs. 2 - 18, ch. 99, SLA 1985; and providing for  
10 an effective date."

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

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14 fund in the state treasury. The annuity investment fund consists of  
15 money transferred from the dividend fund, cash contributions under  
16 AS 43.23.125, and income earned by the annuity investment fund.  
17 Notwithstanding AS 37.13.145, an amount equal to the permanent fund  
18 dividends taken as annuity credits under this chapter shall be annual-  
19 ly transferred from the dividend fund to the annuity investment fund.

20 \* Sec. 2. AS 43.23 is amended by adding a new section to read:

21 Sec. 43.23.125. CASH CONTRIBUTIONS. An individual who is eligi-  
22 ble to receive the permanent fund dividend as an annuity credit under  
23 AS 43.23.005(d) but does not elect to do so or who elects to receive  
24 only a portion of the permanent fund dividend as an annuity credit may  
25 make a cash contribution to that individual's annuity account. The  
26 total amount credited and contributed to an annuity account in a year  
27 may not exceed the amount of the permanent fund dividend for that  
28 year.

29 \* Sec. 3. AS 43.23.130(a) is amended to read:

1 (a) An individual with one or more annuity credits or cash  
2 contributions under AS 43.23.125 may receive an annuity upon reaching  
3 the age of 65.

4 \* Sec. 4. AS 43.23.130(e) is amended to read:

5 (e) If a person elects to credit a permanent fund dividend or  
6 make a cash contribution to an annuity account in a particular year,  
7 that person may make an irrevocable choice regarding death benefits  
8 with respect to that credit or contribution. If a person dies before  
9 age 65 and that person has selected death benefits in at least one  
10 year, a lump sum payment shall, subject to appropriation, be paid to  
11 the surviving spouse by right of survivorship unless a different  
12 beneficiary was designated. When no spouse survives and no benefi-  
13 ciary is designated, the lump sum shall be paid to the decedent's  
14 estate. The lump sum payment includes all dividends credited to the  
15 person's annuity account in years in which death benefits were select-  
16 ed and interest on those dividends. Dividends credited and cash  
17 contributed to a person's annuity account in years for which death  
18 benefits were not selected and interest on those dividends and contri-  
19 butions shall, if the person dies before age 65, be distributed equi-  
20 tably among the annuity accounts of all individuals for which death  
21 benefits were not selected.

22 \* Sec. 5. AS 43.23 is amended by adding a new section to read:

23 Sec. 43.23.135. EMERGENCY WITHDRAWALS. An individual may make a  
24 withdrawal from that individual's annuity account before reaching the  
25 age of 65 if the individual establishes to the satisfaction of the  
26 commissioner that the withdrawal is necessary to meet an unforeseeable  
27 emergency. The amount withdrawn may not exceed the total amount in  
28 the individual's annuity account or the amount actually necessary to  
29 meet the emergency, whichever is less. The commissioner shall define

1 the term "unforeseeable emergency" by regulation. An individual may  
2 only make one withdrawal under this section and may pay it back with  
3 interest under terms established by the commissioner.

4 \* Sec. 6. AS 47.45.015(a) is amended to read:

5 (a) Except as provided in (b) of this section, the monthly  
6 longevity bonus is equal to \$250, minus the maximum possible straight  
7 life annuity [FOR A PERSON 65 YEARS OF AGE] under the annuity program  
8 (AS 43.23.110 - 43.23.130), as determined by the commissioner of  
9 administration. The maximum possible straight life annuity equals the  
10 amount a person would receive if that person became 65 on January 2,  
11 1988, and contributed 100 percent of all permanent fund dividends or  
12 the cash equivalency to the annuity program for every year after  
13 December 31, 1987. However, for purposes of this section the maximum  
14 possible straight life annuity may not exceed the amount that a person  
15 turning 65 in the current year would receive if that person had  
16 contributed 100 percent of all permanent fund dividends or the cash  
17 equivalency to the annuity program for every year after December 31,  
18 1987.

19 \* Sec. 7. Section 1, ch. 99, SLA 1985, is repealed.

20 \* Sec. 8. Chapter 99, SLA 1985, and secs. 1 - 6 of this Act apply only  
21 to permanent fund dividends for years beginning after December 31, 1987.  
22 Notwithstanding the amendments to AS 43.23 made by ch. 99, SLA 1985, and  
23 this Act, permanent fund dividends for 1987 and prior years shall be made  
24 under the law as it existed before the effective date of this Act.

25 \* Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

Offered: 3/3/87  
Referred: Health, Education and  
Social Services, Judiciary  
and Finance

5-0363B

Original sponsors: Kerttula, Halford  
and Fischer

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR SENATE BILL NO. 56 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL  
6 For an Act entitled: "An Act amending and making effective an annuity  
7 program and amendments to the longevity bonus program  
8 and the permanent fund dividend program provided for  
9 in secs. 2 - 18, ch. 99, SLA 1985; and providing for  
10 an effective date."

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

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15 money transferred from the dividend fund, cash contributions under  
16 AS 43.23.125, and income earned by the annuity investment fund.  
17 Notwithstanding AS 37.13.145, an amount equal to the permanent fund  
18 dividends taken as annuity credits under this chapter shall be annual-  
19 ly transferred from the dividend fund to the annuity investment fund.

20 \* Sec. 2. AS 43.23 is amended by adding a new section to read:

21 Sec. 43.23.125. CASH CONTRIBUTIONS. An individual who is eligi-  
22 ble to receive the permanent fund dividend as an annuity credit under  
23 AS 43.23.005(d) but does not elect to do so or who elects to receive  
24 only a portion of the permanent fund dividend as an annuity credit may  
25 make a cash contribution to that individual's annuity account. The  
26 total amount credited and contributed to an annuity account in a year  
27 may not exceed the amount of the permanent fund dividend for that  
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1           (a) An individual with one or more annuity credits or cash  
2           contributions under AS 43.23.125 may receive an annuity upon reaching  
3           the age of 65.

4           \* Sec. 4. AS 43.23.130(e) is amended to read:

5           (e) If a person elects to credit a permanent fund dividend or  
6           make a cash contribution to an annuity account in a particular year,  
7           that person may make an irrevocable choice regarding death benefits  
8           with respect to that credit or contribution. If a person dies before  
9           age 65 and that person has selected death benefits in at least one  
10          year, a lump sum payment shall, subject to appropriation, be paid to  
11          the surviving spouse by right of survivorship unless a different  
12          beneficiary was designated. When no spouse survives and no benefi-  
13          ciary is designated, the lump sum shall be paid to the decedent's  
14          estate. The lump sum payment includes all dividends credited to the  
15          person's annuity account in years in which death benefits were select-  
16          ed and interest on those dividends. Dividends credited and cash  
17          contributed to a person's annuity account in years for which death  
18          benefits were not selected and interest on those dividends and contri-  
19          butions shall, if the person dies before age 65, be distributed equi-  
20          tably among the annuity accounts of all individuals for which death  
21          benefits were not selected.

22          \* Sec. 5. AS 43.23 is amended by adding a new section to read:

23                 Sec. 43.23.135. EMERGENCY WITHDRAWALS. An individual may make a  
24                 withdrawal from that individual's annuity account before reaching the  
25                 age of 65 if the individual establishes to the satisfaction of the  
26                 commissioner that the withdrawal is necessary to meet an unforeseeable  
27                 emergency. The amount withdrawn may not exceed the total amount in  
28                 the individual's annuity account or the amount actually necessary to  
29                 meet the emergency, whichever is less. The commissioner shall define

1       the term "unforeseeable emergency" by regulation. An individual may  
2       only make one withdrawal under this section and may pay it back with  
3       interest under terms established by the commissioner.

4       \* Sec. 6. Section 1, ch. 99, SLA 1985, is repealed.

5       \* Sec. 7. Chapter 99, SLA 1985, and secs. 1 - 5 of this Act apply only  
6       to permanent fund dividends for years beginning after December 31, 1987.  
7       Notwithstanding the amendments to AS 43.23 made by ch. 99, SLA 1985, and  
8       this Act, permanent fund dividends for 1987 and prior years shall be made  
9       under the law as it existed before the effective date of this Act.

10       \* Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

Introduced: 1/19/87  
Referred: Health, Education and  
Social Services, Judiciary  
and Finance

5-0363A

1 IN THE SENATE

BY KERTTULA, HALFORD,  
AND FISCHER

2

SENATE BILL NO. 56

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act making effective an annuity program and  
7 amendments to the longevity bonus program and the  
8 permanent fund dividend program provided for in secs.  
9 2 - 18, ch. 99, SLA 1985; and providing for an effec-  
10 tive date."

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

12 \* Section 1. Section 1, ch. 99, SLA 1985, is repealed.

13 \* Sec. 2. Chapter 99, SLA 1985, applies only to permanent fund  
14 dividends for years beginning after December 31, 1987. Notwithstanding the  
15 amendments to AS 43.23 made by ch. 99, SLA 1985, permanent fund dividends  
16 for 1987 and prior years shall be made under the law as it existed before  
17 the effective date of this Act.

18 \* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

SB 58

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of \_\_\_\_\_ 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER:

\*\*FISCAL NOTE(S) ATTACHED \_\_\_\_\_ \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

1/19/87

DATE TURNED INTO OFFICE \_\_\_\_\_

Mr. President:

FINANCE

Committee considered SR 58

appropriating the balance of the budget reserve fund to the  
general fund; efd,

and recommended:

replace with CS \_\_\_\_\_  same title  
 attached amendment(s) and  new title

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted and attached

\*\* Committee  attached or  adopted fiscal note(s)  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

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Chairman signature and recommendation

Committee Backup Attached

Introduced: 1/19/87  
Referred: Finance

5-0276A

Funding Information

General Fund     \$  
Other Funds        \_\_\_\_\_

- 0 -

1 IN THE SENATE

BY DUNCAN AND KERTTULA

2 SENATE BILL NO. 58

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act appropriating the balance of the budget  
7 reserve fund to the general fund; and providing for  
8 an effective date."

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

10 \* Section 1. The balance of the budget reserve fund (AS 37.05.156) on  
11 the effective date of this Act is appropriated to the general fund.

12 \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

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**ALASKA STATE LEGISLATURE**

15th Legislature 1st Session

SENATE BILL NO. 58  
By DUNCAN, KERTTULA

"An Act appropriating the balance of the budget reserve fund to the general fund; and providing for an effective date."

Introduced in the Senate 1/19, 1987

**HISTORY IN THE SENATE**

19	87	Read first time and referred to Committee on										
1	19	FINANCE										
		Reported back with recommendation that										
		Read second time and										
		Read third time and										
		<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
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Nays	Nays											
Absent	Absent											
Excused	Excused											
		Reconsideration										
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PASS	Effective Date											
Yeas	Yeas											
Nays	Nays											
Absent	Absent											
Excused	Excused											
		Reported correctly engrossed										
		Signed by President										
		Sent to House										
SECRETARY OF THE SENATE												

**HISTORY IN THE HOUSE**

19	Read first time and referred to Committee on										
	Reported back with recommendation that										
	Read second time and										
	Read third time and										
	<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
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	Reconsideration										
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Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	Reported correctly engrossed										
	Signed by Speaker										
	Returned to Senate										
CHIEF CLERK OF THE HOUSE											

**HISTORY IN THE SENATE**

19	Received from House
	To enrolling
	Reported correctly enrolled
	Sent to Governor
	..... by Governor
	Filed with Lt. Governor
	Chapter No. ....

SB 59

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of \_\_\_\_\_ 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER:

\*\*FISCAL NOTE(S) ATTACHED \_\_\_\_\_ \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

1/19/87 \_\_\_\_\_ DATE TURNED INTO OFFICE \_\_\_\_\_

Mr. President:

FINANCE \_\_\_\_\_ Committee considered SB 59

relating to appropriations from the budget reserve fund; efd,

and recommended:

replace with CS \_\_\_\_\_  same title  
 attached amendment(s) and  new title

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted and attached

\*\* Committee  attached or  adopted fiscal note(s)  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_

\_\_\_\_\_  
Chairman signature and recommendation

Committee Backup Attached

Introduced: 1/19/87  
Referred: Finance

5-0369A

1 IN THE SENATE

BY DUNCAN AND KERTTULA

2 SENATE BILL NO. 59

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to appropriations from the budget  
7 reserve fund; and providing for an effective date."

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

9 \* Section 1. AS 37.05.156(c) is amended to read:

10 (c) If the legislature determines that the money subject to the  
11 appropriation limit received by the state in a fiscal year is less  
12 than the maximum permitted to be appropriated under (b) of this sec-  
13 tion, up to 100 [25] percent of the balance of the budget reserve fund  
14 may be appropriated to the general fund.

15 \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).  
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S

**ALASKA STATE LEGISLATURE**

.15th.. Legislature ...1st.. Session

SENATE ...BILL..... NO. .59....

By DUNCAN, KERTTULA .....

"An Act relating to appropriations from the budget reserve fund; and providing for an effective date."

Introduced in the Senate ..1/19..., 19. 87

**HISTORY IN THE SENATE**

19 87

Read first time and referred to Committee on

1 19

FINANCE

Reported back with recommendation that

Read second time and

Read third time and

<b>PASS</b>	<b>Effective Date</b>
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

**Reconsideration**

<b>PASS</b>	<b>Effective Date</b>
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed  
Signed by President  
Sent to House

SECRETARY OF THE SENATE

**HISTORY IN THE HOUSE**

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

<b>PASS</b>	<b>Effective Date</b>
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

**Reconsideration**

<b>PASS</b>	<b>Effective Date</b>
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed  
Signed by Speaker  
Returned to Senate

CHIEF CLERK OF THE HOUSE

**HISTORY IN THE SENATE**

19

Received from House

To enrolling

Reported correctly enrolled

Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No. ....

SB 61

SENATE COMMITTEE REPORT

FURTHER:

5/17/87

DATE TURNED INTO OFFICE 3/23/88

Mr. President:

FINANCE Committee considered SB 61

rights of insured state employees.

and recommended:

replace with CS FOR \_\_\_\_\_ )  same title  
 or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ )  new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted \_\_\_\_\_

Committee  attached or  adopted fiscal note(s)

new  updated or  previous  
 zero (2)  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*Rich Halford*

*Paul Frank*

*DeSj*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Rich Halford do pass.*  
Chairman signature and recommendation

Committee Backup Attached

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Department of Administration  
 Title: "An Act relating to rights of injured state employees." BRU: Personnel  
 Sponsor: Szymanski Components: Centralized Administrative Services  
 Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
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)

There is no fiscal impact on the Division of Personnel. Any extra work that may be involved can be absorbed into normal workflow.

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

Approved by Commissioner: John M. Andrews Date: 1/25/88  
 Agency: Department of Administration

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

JAN 27 1988

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION : SB 61  
PUBLISH DATE : \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Labor  
 Title: " An Act relating to rights of  
injured state employees." BRU: Workers' Compensation  
 Sponsor: Szymanski & Kerttula Components: Workers' Compensation  
 Requestor: Senate Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Macquelyn McClintock Phone: 465-2790  
 Division: Workers' Compensation Date: 03/01/88  
 Approved by Commissioner: Jim Simpson Date: 03/01/88  
 Agency: Department of Labor

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

1 IN THE SENATE BY SZYMANSKI AND KERTTULA

2 SENATE BILL NO. 61

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to rights of injured state employ-  
7 ees."

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

9 \* Section 1. AS 23.40 is amended by adding a new section to read:

10 Sec. 23.40.075. ITEMS NOT SUBJECT TO BARGAINING. The parties  
11 may not negotiate terms contrary to the reemployment rights for in-  
12 jured state employees under AS 39.25.158.

13 \* Sec. 2. AS 39.25 is amended by adding new sections to read:

14 Sec. 39.25.157. POSITION DESCRIPTIONS. The division of person-  
15 nel, in consultation with the appropriate department or agency, shall  
16 require the preparation of and shall maintain a position description  
17 for each position in the classified service. The position description  
18 shall describe the essential functions of the position and the actual  
19 skills and abilities required to perform the tasks assigned to the  
20 position. A general requirement for physical abilities may not be  
21 imposed on a job classification unless each position within the class  
22 requires the use of the physical ability.

23 Sec. 39.25.158. REEMPLOYMENT RIGHTS FOR INJURED STATE EMPLOYEES.

24 (a) An injured employee is eligible for reemployment rights under  
25 this section if the employee requests to return to work for the state  
26 within 30 days after receipt of a release from a physician indicating  
27 that the employee is able to return to full or modified work.

28 (b) After an employee requests to return to work, the rehabili-  
29 tation administrator of the division of workers' compensation or the

1 director of vocational rehabilitation in the Department of Education  
2 shall review the request and certify that the employee is able to  
3 return to work under (c), (d), (e), or (f) of this section, or defer  
4 certification until the employee completes retraining under (f) of  
5 this section.

6 (c) If the rehabilitation administrator or the director of  
7 vocational rehabilitation certifies that the employee is able to  
8 perform the tasks assigned to the employee's former position, the  
9 agency shall reemploy the employee within 30 days after receipt of the  
10 certification unless the position no longer exists. If a permanent,  
11 probationary or provisional employee is currently employed in the  
12 position, the agency shall cause a vacancy under the layoff provisions  
13 of AS 39.25.150(13).

14 (d) If the employee is not eligible for reemployment under (c)  
15 of this section but is able to perform the essential functions of the  
16 position, then the agency shall reemploy the employee in the position  
17 after making a reasonable accommodation to the physical and mental  
18 limitations of the employee unless the position no longer exists.  
19 Reasonable accommodation may include imposing work restrictions on the  
20 tasks performed by the employee, making job or site modifications  
21 necessary to permit the employee to perform the tasks of the position,  
22 removing institutional and architectural barriers, and providing  
23 additional support services.

24 (e) If the employee is not eligible for reemployment under (c)  
25 or (d) of this section and if the agency has a vacant position for  
26 which the employee is qualified that is comparable in wage to the  
27 position the employee previously held, then the agency shall offer the  
28 employee the position. If the employee is unable to perform the  
29 essential functions of a comparable position within the agency, then

1 the employee is entitled to reemployment in a comparable position for  
2 which the employee is qualified with another agency if the position is  
3 vacant and the employee is able to perform the essential functions of  
4 that position.

5 (f) If the agency and other agencies in the state are unable to  
6 reemploy the employee in a position at a wage comparable to the em-  
7 ployee's previous wage, the employee may request reemployment at a  
8 lower wage or accept retraining under AS 23.30.041. After completing  
9 the training the employee may request reemployment in a position for  
10 which the employee has been retrained in the agency. If the agency  
11 cannot offer reemployment, the employee may request reemployment in a  
12 position for which the employee has been retrained with another agen-  
13 cy.

14 (g) An agency may refuse to reemploy or continue the employment  
15 of a former employee if reasonable accommodation imposes an undue  
16 hardship on the operation of the agency's program or if, after reason-  
17 able efforts at accommodation, the injured employee cannot perform the  
18 essential functions of the position in a manner that would not endan-  
19 ger the health or safety of

20 (1) the employee because the job imposes an imminent and  
21 substantial degree of risk to the employee; or

22 (2) others to a greater extent than if a nonhandicapped  
23 person performed the job.

24 (h) Factors an agency may consider in determining undue hardship  
25 under (g) of this section include the current number of employees in  
26 the section or office, number and type of facilities, size of budget,  
27 nature and cost of the accommodation needed, and the type, composi-  
28 tion, and structure of the work force.

29 (i) Notwithstanding any other provision of law, if an injured

1 employee requests reemployment under (e) or (f) of this section and if  
2 the employee is able to perform the essential functions of the posi-  
3 tion, the state may not hire another person for that position except  
4 an employee in layoff status for that job class.

5 (j) A collective bargaining agreement under AS 23.40.070 -  
6 23.40.260 may not include terms contrary to this section.

7 (k) In this section

8 (1) "agency" includes a department, division, office,  
9 agency, board, commission, authority, or other organizational unit of  
10 the executive branch of state government;

11 (2) "injured employee" or "employee" means a permanent,  
12 probationary, or provisional employee of an agency in the classified  
13 service whose injury is a compensable injury or condition under  
14 AS 23.30.

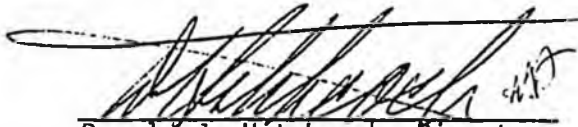
15 \* Sec. 3. Nothing in this Act modifies or terminates the terms of a  
16 collective bargaining agreement in existence on the effective date of this  
17 Act.

POSITION PAPER  
SB 61

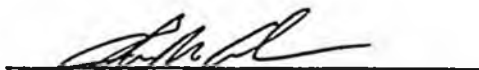
This bill deals with the return to work of employees who have been injured on the job and terminated from their positions after the injury.

The bill includes safeguards for the worker concerning his physical ability to return to work and serves to clarify the obligation of both the employer and employee in the "return to work" process.

While the Division of Risk Management is unable to provide a specific fiscal analysis, it is the consensus that statutory and clarifying rehire legislation will serve to reduce long term Workers' Compensation costs while benefiting the injured workers through suitable and gainful employment.

  
Donald J. Hitchcock, Director  
Division of Risk Management

3/3/88  
Date

  
Commissioner John M. Andrews  
Department of Administration

3/4/88  
Date

SB61

# Alaska State Legislature



Senator Mike Szymanski

## MEMORANDUM

Senate HESS Committee Members

While in Session:  
P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4978/4979

From: Senator Mike Szymanski

Date: February 9, 1987

Subject: Overview of Senate Bill 61, " An Act relating to the Rights of Injured State Workers."

Interim  
11920 Johns Rd.  
Anchorage, AK 99515  
(907) 349-3373

1024 W. 6th  
Anchorage, AK 99501  
(907) 276-6739

During the past two years, it became clear to me in discussions with professionals in the field of vocational rehabilitation that the current state procedures for reemployment of injured state workers are grossly inadequate. In fact, some have even suggested that the state is the worst offender in this area. In most organizations, injuries received in the line of duty call for support and rewards from the organization, not punishment.

Senate Bill 61, which I introduced last year as HB 318, incorporates recommendations from several state agencies and professional organizations who specialize in vocational rehabilitation. The objective of the legislation is three-fold:

1) The legislation would require detailed position descriptions to be kept for every state job. Such descriptions, by spelling out the responsibilities and physical requirements of each position, would greatly aid in the reemployment of injured state workers. Although an injured employee may not be able to perform all of the tasks required of a job class, in many cases the employee could perform the essential duties of a particular position within the class. With detailed position descriptions the placement of partially disabled employees would be easier.

2) The bill would establish procedures for granting injured state workers employment preference. Under this legislation, an injured state employee returning to the work force would be given preference for employment in open positions for which the employee is qualified. Such preference would enable injured workers to resume full or modified employment much sooner, thus saving the state thousands of dollars in disability benefits.

3) The legislation would establish clear guidelines for refusing to rehire or continue the employment of a former employee if the employment would impose an undue hardship on the operation of an agency. The onus would be on the agency to prove that the employee could not reasonably perform the essential duties of the position. No longer could an injured employee be refused work without justification, as has happened on occasion.

In contrast to most legislation, SB 61 would not only not require a state financial investment, but would result in substantial savings to the state in lessened disability payments and in training time and expense saved by continuing to utilize experienced workers. Just as importantly, the human dignity and self-respect which is thus preserved is immeasurable.



# Alaska State Legislature

Senator Mike Szymanski  
M E M O R A N D U M

Senator Paul Fischer, Chair  
Senate HESS Committee

From: Senator Mike Szymanski, Sponsor  
Senate Bill 61

Date: February 9, 1987

Subject: Scheduling of Hearing for SB 61

While in Session:  
P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4978/4979

Interim  
11920 Johns Rd.  
Anchorage, AK 99515  
(907) 349-3373

1024 W. 6th  
Anchorage, AK 99501  
(907) 276-6739

I would like to formally request that a hearing be scheduled for a bill of mine which is in your Committee as the Committee of first referral; that is, Senate Bill 61, "An Act Relating to Rights of Injured State Workers."

Passage of the bill would protect State employees who have been injured on the job in service to the state, by allowing them special consideration for return to their job once they have recovered from their injuries. It would also benefit the state (and could conceivably result in a negative fiscal note if research on it could be done in a cost-effective manner); because it would help to keep workers in the work force who bring depth of training and experience back to the job, so it is not lost.

The bill clearly spells out the rights and obligations for both the employer and employee, to ensure that particular cases are dealt with consistently.

During the 14th legislature, I submitted this bill in the House as HB 318. As you can see from the attached, this bill passed the House on a 38-0-1-1, and made it all the way through the Senate to Senate Rules, where it died in the logjam of bills in the final hours of last year's session.

The bill received the support of the Department of Labor and the Administration; and much work was done at the Committee level to take their requests and concerns, as well as the requests and concerns of many other groups, into account. As a result, SB 61 this year picks up the language of last year's bill and so the Department of Administration has come in with a zero fiscal note (see attached) and a position paper that is supportive.

I have a great deal of back-up information in my personal files from last year on this bill. If you need any more back-up, please feel free to contact my offices. Attached for your reference are:

- 1) Zero Fiscal Note from Dept. of Administration
- 2) Position paper of support from the DOA
- 3) A Sectional Analysis of the Bill
- 4) An Overview Letter to Senate HESS members on the bill
- 5) A House Research Agency paper on the subject
- 6) Last year's bill history on HB 318



# Alaska State Legislature

Senator Mike Szymanski

While in Session:  
P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4978/4979

Interim  
11920 Johns Rd.  
Anchorage, AK 99515  
(907) 349-3373

## SECTIONAL ANALYSIS -- SB 61

SECTION 1. Adds a new section to AS 23.40 to state that terms contrary to the provision of this legislation may not be negotiated. (Added at the request of the Division of Personnel, Department of Administration).

1024 W. 6th  
Anchorage, AK 99501  
(907) 276-6739

## SECTION 2.

### Subsection 39.25.157

Requires the Division of Personnel, in consultation with the appropriate department or agency, to develop and maintain a detailed position description for each position within the classified service.

Also disallows the imposition of general physical ability requirements on a job class unless each position within the class requires the use of the physical ability.

### Subsection 39.25.158

(a) Within 30 days after a physician's release to return to full or or modified work, an injured employee must request to return to work for the state in order to be eligible for reemployment rights.

(b) Once an employee requests to return to work, the employee will be certified as able to return under (c), (d), or (f) of this section by the Division of worker's compensation or the Director of Vocational Rehabilitation. Certification may be delayed until the employee is retrained under (f).

(c) Requires that a state agency offer an injured employee the employee's former position within 30 days, if the employee is certified able to perform the tasks assigned to the position and the position still exists. If another employee is employed in the position, the agency shall create a vacancy under AS 39.25.150(13).

(d) If an employee is not eligible for reemployment under (c), the agency is required to make efforts of reasonable accommodation (some examples of which are specified and defined in accordance with federal language) to the physical & mental limitations of the employee if they are no longer able to perform all of the tasks assigned to them.

(e) If the employee is not eligible under (c) or (d), and the agency has a vacant and comparable position, then the agency must offer that position to the employee. If the employee is no longer capable of filling that comparable position, then the employee is entitled to a similar and vacant position in another agency, if he is capable of performing the work.

(f) If the employee cannot be reemployed in a comparable position by an agency, then the employee may either i) request reemployment at a lower wage, or ii) accept retraining under AS 23.30.041. After retraining, the employee may request reemployment in his new field of training with the original agency, and if no positions are available, at a comparable position with another agency.

(g) Establishes guidelines for refusal by an agency to reemploy or continue the employment of a former employee, including undue hardship.

(h) Lists the factors the agency may take into consideration in determining undue hardship.

(i) Requires that an injured employee requesting and eligible for reemployment with an agency who is able to perform the essential functions of the position be the only person certified for that position (except employees in layoff status for that job class).

(j) Prevents collective bargaining agreements from negating any of the provisions of this bill;

(k) Definitions section.

### SECTION 3

Prevents this Act from altering in any way collective bargaining agreements already in existence on the effective date of the Act.

Bill No. Senate Bill 61  
Title "An Act relating to rights of injured  
state employees."

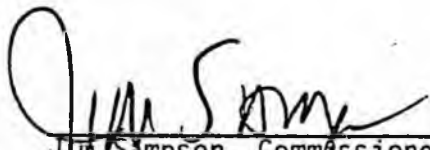
Date April 23, 1987  
Contact: Jacque McClintock  
465-2790

The Department of Labor supports this legislation which provides rehire rights for injured state employees.

Under the provisions of this bill, the state is required to reemploy an injured state employee in the former job position if the employee is medically able to perform the duties of the position or, if not medically able, to rehire the employee in a modified or comparable position. This bill applies to all state employees who have sustained an occupational injury or illness and who wish to return to work for the state.

This bill will afford return to work protection for injured state employees, and should, overall, reduce the state's costs of workers' compensation by returning injured and disabled employees to suitable gainful employment.

APPROVED:

  
Jim Sampson, Commissioner  
Department of Labor

POSITION PAPER  
SB 61

This bill deals with the return to work of those State employees who have been injured on the job and were terminated from their positions after that injury.

Passage of the bill will benefit the State in terms of the depth of training and experience the worker who was injured on the job will bring back to the workforce.

The bill makes the obligations of both the employer and the employee clear and it has built in safeguards which ensure that a State's expert in the field will determine the employee's readiness to return to work. This will ensure that the matter is dealt with in a consistent manner.

There is no fiscal impact on the Division of Personnel. Any extra work that may be involved can be absorbed into normal workflow.

The Division of Personnel supports the intent of this legislation.

---

*Diana DeSimone*  
Diana DeSimone, Director  
Division of Personnel

1/27/87  
Date

*Garrey Peska*  
Commissioner Garrey Peska  
Department of Administration

1/27/87  
Date



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch V. State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

RECEIVED OCT 11 1984

October 11, 1984

MEMORANDUM

TO: Representative Mike Szymanski

FROM: Sharnan Haley  
Legislative Analyst

RE: Priority Rehire For Disabled State Employees  
Research Request 35-025

You have asked about instituting a policy of preferential rehire for State employees who are forced to leave their jobs due to work-related disabilities. Short summaries of rehire policies in Washington, Oregon, and Idaho as well as the U.S. Postal Service and the Municipality of Anchorage are provided below. A discussion of policy alternatives for amending Alaska law along similar lines follows.

WASHINGTON

An employee of the State of Washington who becomes disabled cannot be terminated for at least sixty days. Supervisors have broad discretion to extend leave without pay to the injured employee and fill the position temporarily until the employee is able to resume his or her duties. If the injured employee is out longer than sixty days and is terminated from his or her position, the employee is eligible to be placed on the Reduction In Force (RIF) list for that job class when he or she is ready to return to work. Persons on the RIF list have the right of first hire when vacancies in that job class appear.

If the disabled employee is not able to resume the duties of his or her former job class and seeks reemployment in an alternate job class, the employee must go through the normal application and testing procedures to be certified to the register for the alternate job class. Once certified, the disabled employee is entitled to hiring preference over applicants on the open competitive register. If the alternate job class constitutes a promotion, the disabled employee has second hire priority after those on the RIF list. If the alternate job class is a demotion or lateral transfer, reemployment preference over open competitive candidates is at the discretion of the hiring authority.

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October 12, 1984  
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Under Washington law, a person whose disability keeps them out of work for more than 120 days is referred to a vocational rehabilitation counselor for evaluation and vocational rehabilitation planning. A person who is permanently disabled may qualify for the state's equal employment opportunity program for the handicapped. Washington State civil service rules allow handicapped persons to test for any job class for which they meet the minimum qualifications, whether or not that register is open for recruitment. State agencies have the option of using the list of qualified handicapped workers, in preference to the regular register when filling vacancies.

Incentive for state agencies (or any employer) to hire workers with occupational injuries is provided by the Preferred Worker Program, which excludes the worker from the computation of workers' compensation premiums for a period of three years. The benefits due the worker in the event of an injury during the three-year period are covered by the state's Second Injury Fund.

#### OREGON

Of the states contacted, Oregon has the strongest laws for rehiring injured employees. Oregon civil rights law provides that an injured employee has the right to reinstatement on demand in his or her former position, or in any other job, if a position is available and the worker able to perform the duties of the job. In the state system, responsibility for rehiring the injured employee falls on each agency. Oregon statutes also require "reasonable accommodation" for the special needs of handicapped workers. In the state personnel system, this may include some restructuring of the job.

#### IDAHO

Idaho personnel rules provide that when an employee is absent due to injury or illness, the job is held open for the employee and may not be declared vacant for at least six months. If the worker has not returned to work within six months and is terminated, for an additional 12 months the worker is eligible to be placed on the lay-off register for that agency if the doctor has cleared the employee for return to work. If the employee is not able to resume the same job duties, the agency has some discretion to modify work for the employee, but there is no program or policy to further accommodate workers who must change job classes.

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#### U.S. POSTAL SERVICE

The U.S. Postal Service goes beyond the requirements of federal law to return injured employees to work. Under federal law, an injured federal employee who is able to return to work within one year has the right to return to the same or an equivalent position in the same agency. If it takes longer than a year to return to work, the employee has the right to priority placement in the same or equivalent position in that or another federal agency. The returning federal employee is credited with wage step increases and other benefits based on length of service for the entire time he or she was out on disability compensation.

A partially or temporarily disabled postal employee is on leave status until the doctor certifies that the employee is able to return to work. The worker is either returned to his or her former job, with some modification of duties if needed, or transferred to an alternate job. In planning a placement, the post office considers the risk of reinjury and the potential compensation costs as well as the skills and abilities of the worker. Only if this assessment indicates that the worker will not be returned to federal service is the employee terminated.

The responsibility for finding or creating a job falls on the local postmaster. To encourage the placement of partially disabled workers, the salary of a partially disabled employee is not paid out of the operating unit's budget, nor are the hours worked by a partially disabled worker counted in computing the operating unit's productivity rating. Thus the operating units are able to show a higher productivity, for which they are rewarded, by utilizing partially disabled workers.

#### ANCHORAGE

The Municipality of Anchorage has implemented a modified work program for municipal employees injured on the job. The stated purposes of the program are to minimize long-term costs to the municipality and to return the employee to good health and productive employment at the earliest opportunity.

Under the modified work program, an injured worker who is able to resume partial duties will be placed in modified work for up to three months while the worker is in transition back to full duties. If rehabilitation requires a complete change in employment, participation in the modified work program may exceed three months. The worker is paid his or her full regular salary during the period of modified work. If the worker's permanent job placement is at a lower salary than his or her old job, two-thirds of the difference is paid to the employee through the city's workers compensation account. Workers whose disability precludes them from placement in a permanent position receive a worker's compensation settlement.

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While providing modified work is the responsibility of each municipal agency, a job placement coordinator for the municipality as a whole oversees the development of modified jobs and placements. According to Harry Sjoberg, Risk Manager for the municipality, the city's experience with the program has shown significant reductions in compensation claims and changes in the attitudes of supervisors and injured employees alike. Prior to institution of the modified work program, the prevailing pattern was that supervisors were not inclined to rehire an employee at anything less than 100 percent productivity. Employee morale suffered from prolonged periods off work. Mr. Sjoberg said that now less work time is lost, supervisors show more concern for the circumstances of their injured employees, and rehabilitation is quicker.

#### ALASKA

Under the Alaska personnel rules, leave without pay due to a disability is at the discretion of the supervisor, but in any case may not exceed the employees length of service or 24 months, whichever is shorter. The supervisor may cancel leave without pay upon notice to the absent employee. If the employee does not report for duty on the specified date, he or she may be terminated immediately.

A disabled classified employee terminated "in good standing" has rehire rights for two years from the date of termination. This means that they will be placed on the transfers and rehires list for that job class, which agencies may use in preference to the regular register when seeking applicants to fill vacancies. A few departments such as Health and Social Services have internal policies requiring agency heads to use the transfer and rehire list first, but most departments leave this to the discretion of the supervisor.

Injured State workers who are unable to resume the duties of their former job have few advantages in seeking other State jobs. They must go through the same process as anyone else of finding job classes for which they qualify, waiting for an open recruitment period for that class, taking applicable tests, getting on the job register, and successfully competing with other applicants. If the worker is fortunate enough to still be on leave and thus retain permanent employee status, he or she may be eligible for noncompetitive appointment at the discretion of the hiring authority.

State law provides that workers absent from work more than 90 days due to an on-the-job injury have a right to vocational rehabilitation evaluation. This includes an assessment of skills and abilities, aid in planning for training and rehabilitation, and job placement assistance.

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If the worker qualifies as severely handicapped and is a client of the Division of Vocational Rehabilitation, the worker may be referred to a State job and hired noncompetitively if the hiring authority chooses.

State workers whose occupational injuries disable them from resuming their former job duties qualify for a disability pension under the Public Employees Retirement System. The pension is terminated in one year, however, unless the recipient submits evidence that he or she meets the qualifications for federal Social Security disability income (SSI). Federal standards for SSI are stringent; the worker must be unable to hold any gainful employment, not merely his or her former job.

Policy alternatives to facilitate reemployment of injured State workers in Alaska, patterned after some of the preferential rehire programs in other jurisdictions, are listed below:

#### POLICY OPTIONS

1. Employees could be guaranteed the right to disability leave.
2. Injured workers returning to work could be placed on the lay-off list, which assures them priority placement within their former job class.
3. Injured workers unable to resume the duties of their former job class could be allowed to test for any other job class for which they meet the minimum qualifications, whether or not recruitment is open.
4. Hiring preference in alternate job classes for which the worker qualifies could be granted by making the worker eligible for the lay-off, promotion, or transfer and rehire lists. Eligibility for the lay-off list would guarantee the worker first priority placement, while the promotion and the transfer and rehire lists would give the worker preference only at the option of the hiring authority.
5. A modified work program could provide injured workers job duties tailored to their capabilities during a period of transition back to full duties or to a new job.
6. State agencies could be given incentives to rehire disabled State workers, such as omitting the disabled worker from the calculation of their worker's compensation assessment.
7. State employees injured in the course of their employment could be guaranteed State jobs when doctors certify that the employees

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are able to return to work. The employee would be reemployed in their original job class if they were able to perform the duties, in an alternate job class for which they qualify, in an alternate job class for which they may be retrained, or in a modified job tailored to their individual capabilities.

8. The injured worker could also be extended the right to receive pay no less than the pay he or she received prior to injury, regardless of the final job placement.

These policy changes could be effected by amending AS 39.25.150 to direct the Department of Administration to provide for these policies in the personnel rules. Alternatively, reemployment could be mandated for all employers in the state under the workers' compensation or civil rights laws. Copies of the Oregon law and the Postal Service policy manual, both of which are regarded by vocational rehabilitation professionals as model policies, are attached.

Because the State is a self-insurer and is liable for workers' compensation benefits as well as for the disability pension payments, it may be in the State's financial interests as well as the interests of the injured worker to implement a preferential rehire policy and return the worker to a job as quickly as possible. Approximately 1,200 injured State employees file worker's compensation claims per year, of which about 200 to 250 include a claim for wage loss due to being out of work more than three days. Compensation is also paid for loss of earning capacity if the injured worker's prospective employment pays less than his or her former job. Compensation for wage loss is generally calculated at two-thirds of the lost wages, but because workers' compensation is tax exempt, the take home compensation is worth more than two-thirds of net wages lost.

\* \* \* \* \*

I am still expecting some additional information from other states to come in the mail. If upon reviewing the material I find that it provides any significant information on this issue that I have not adequately covered here, I will forward it on to you with a supplemental memo. Meanwhile, I hope that this memorandum provides you with the information that you need.

If you have any further questions please call me.

SH

**659.410 Discrimination against workers applying for workers' compensation benefits prohibited.** It is an unlawful employment practice for an employer to discriminate against a workman with respect to hire or tenure or any term or condition of employment because the workman has applied for benefits or invoked or utilized the procedures provided for in ORS 656.001 to 656.794 and 656.802 to 656.824, or of 659.400 to 659.435 or has given testimony under the provisions of such sections. [1973 c.660 §4]

**659.415 Reinstatement of worker receiving compensable injuries; certificate of physician evidencing ability to work; effect of collective bargaining agreement.** (1) A worker who has sustained a compensable injury shall be reinstated by the worker's employer to the worker's former position of employment upon demand for such reinstatement, provided that the position is available and the worker is not disabled from performing the duties of such position. If the former position is not available, the worker shall be reinstated in any other position which is available and suitable. A certificate by a duly licensed physician that the physician approves the worker's return to the worker's regular employment shall be prima facie evidence that the worker is able to perform such duties.

(2) Such right of reemployment shall be subject to the provisions for seniority rights and other employment restrictions contained in a valid collective bargaining agreement between the employer and a representative of the employer's employees.

(3) Any violation of this section is an unlawful employment practice. [1973 c.660 §5; 1979 c.813 §3; 1981 c.874 §14]

**659.420 Employment of injured worker in other available and suitable work; certificate of physician; effect of collective bargaining agreement.** (1) A worker who has sustained a compensable injury and is disabled from performing the duties of the worker's former regular employment shall, upon demand, be reemployed by the worker's employer at employment which is available and suitable.

(2) A certificate of the worker's attending physician that the worker is able to perform described types of work shall be prima facie evidence of such ability.

(3) Such right of reemployment shall be subject to the provisions for seniority rights and other employment restrictions contained in a valid collective bargaining agreement between

the employer and a representative of the employer's employees.

(4) Any violation of this section is an unlawful employment practice. [1973 c.660 §6; 1979 c.813 §4]

**659.425 Discrimination against mentally or physically impaired persons in employment or public accommodation prohibited; mental disorder treatment not evidence of inability to work or manage property.** (1) For the purpose of ORS 659.400 to 659.435, it is an unlawful employment practice for any employer to refuse to hire, employ or promote, to bar or discharge from employment or to discriminate in compensation or in terms, conditions or privileges of employment because:

(a) An individual has a physical or mental impairment which, with reasonable accommodation by the employer, does not prevent the performance of the work involved;

(b) An individual has a record of a physical or mental impairment; or

(c) An individual is regarded as having a physical or mental impairment.

(2) It is an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise discriminate against, any individual because that individual is a handicapped person, or to classify or refer for employment any individual because that individual is a handicapped person.

(3) It is an unlawful employment practice for a labor organization, because an individual is a handicapped person, to exclude or to expel from its membership such individual or to discriminate in any way against such individual.

(4) It is an unlawful practice for any place of public accommodation, resort or amusement as defined in ORS 30.675, or any person acting on behalf of such place, to make any distinction, discrimination or restriction because a customer or patron is a handicapped person.

(5) Receipt or alleged receipt of treatment for a mental disorder shall not constitute evidence of a person's inability to perform the duties of a particular job or position, or of a person's inability to acquire, rent or maintain property. [1973 c.660 §7; 1979 c.640 §3]

**659.430 Discrimination against handicapped persons in real property transactions prohibited; advertising discriminatory preference prohibited; assisting discriminatory practices prohibited.** (1) No person because the purchaser, lessee or renter is a handicapped person shall:

LWOP for an initial period of up to 1 year from the date OWCP compensation began.

**.92 Extensions.** If the employee is unable to return to work at the end of the 1 year period on LWOP, the LWOP may be extended for successive additional periods of up to 6 months. Extensions are granted only if it appears that the employee is likely to return to work within the period of the extension.

**.93 Separations.** If it is not likely that the employee will be able to return to work at the end of one year of LWOP or during the authorized extended period, the employee may be separated. Before any employee who is on the rolls of the OWCP can be separated, the postal official must submit a comprehensive report to the General Manager, Employee Relations (Region), with appropriate recommendations and retain the employee on the rolls of the Postal Service pending a decision.

**.94 Deciding Appropriate Action.** In considering the action to take in matters involving extended leave, the installation head sends Form 2573, *Request for OWCP Claim Status*, in duplicate, to the appropriate OWCP district office; and, upon receiving a completed Form 2573 from OWCP, does one of the following:

- a. Extends LWOP for an additional period, at the end of which an additional determination must be made;
- b. Authorizes a fitness-for-duty examination by a medical officer as provided in 547.31, .32, and .33 if OWCP does not respond within a maximum of 60 days or if OWCP's response does not explain the situation; or
- c. Request permission to terminate LWOP as required in .93; and
- d. Terminates LWOP after receiving permission from the General Manager, Employee Relations (Region) as follows:

(1) If the employee has 5 or more years of creditable civilian service, inform the employee of retirement rights. Allow the employee 14 calendar days to file a retirement application under the Civil Service Retirement Act.

(2) If the employee does not file a retirement application within the 14 day period, terminate LWOP and take action to separate the employee as described in 365 and 568.

(3) If the employee has less than 5 years creditable civilian service, terminate LWOP and take action to separate the employee as described in 365.

## 546 Reemployment of Employees Injured On Duty

### 546.1 Law

**.11 General.** The USPS has legal responsibility to employees with job-related disabilities under 5 U.S.C. 8151 and the Office of Personnel Management's (OPM) regulations, as outlined below.

#### .12 Disability Fully Overcome Within 1 Year

**.121 Obligation.** When the injury or disability is fully overcome within one year after the commencement of compensation payments from OWCP, or after compensable disability recurs, the USPS must give an

employee the right to resume employment in the former or equivalent position.

**.122 Rights and Benefits.** Upon reemployment, all rights and benefits which an employee would have had or acquired in the former position, had there been no injury or disability, must be restored.

#### .13 Disability Fully Overcome More Than 1 Year

**.131 Obligation.** When the injury or disability is fully overcome more than one year after compensation began, the USPS must give an employee priority consideration for reemployment into the former position or an equivalent one.

**.132 Reemployment List.** The names of all former employees who fully recover from their compensable disabilities more than one year after compensation begins must be entered on a reemployment list in two groups. *Group one* will include all such former employees who are entitled to 10 point veteran preference. *Group two* will include all other such former employees. Persons in *group one* will be considered for employment before persons in *group two*, and persons in *group two* will be considered before other sources of recruitment, such as transfers from other agencies, reinstatements, or appointments from hiring registers.

**.133 Rights and Benefits.** The same as 546.122.

#### .14 Disability Partially Overcome

**.141 Current Employees.** When an employee has partially overcome a compensable disability, the USPS must make every effort toward assigning the employee to limited duty consistent with the employee's medically defined work limitation tolerances (see 546.32). In assigning such limited duty, the USPS should minimize any adverse or disruptive impact on the employee. The following considerations must be made in effecting such limited duty assignments:

a. To the extent that there is adequate work available within the employee's work limitation tolerances; within the employee's craft; in the work facility to which the employee is regularly assigned; and during the hours when the employee regularly works; that work shall constitute the limited duty to which the employee is assigned.

b. If adequate duties are not available within the employee's work limitation tolerances in the craft and work facility to which the employee is regularly assigned, within the employee's regular hours of duty, other work may be assigned within that facility.

c. If adequate work is not available at the facility within the employee's regular hours of duty, work outside the employee's regular schedule may be assigned as limited duty. However, all reasonable efforts shall be made to assign the employee to limited duty within the employee's craft and to keep the hours of limited duty as close as possible to the employee's regular schedule.

d. An employee may be assigned limited duty outside of the work facility to which the employee is normally assigned only if there is not adequate work available within the employee's work limitation tolerances at the employee's facility. In such instances, every effort will

be made to assign the employee to work within the employee's craft, within the employee's regular schedule, and as near as possible to the regular work facility to which normally assigned.

**.142 Former Employees.** When a former employee has partially recovered from a compensable injury or disability, the USPS must make every effort toward reemployment consistent with medically defined work limitation tolerances. Such an employee may be returned to any position for which qualified, including a lower grade position than that held when compensation began.

**.15 Employee Appeal Rights.** An employee who believes the proper consideration for reemployment was not received may appeal to the Merit Systems Protection Board, under 5 CFR, 353.

#### 546.2 Collective Bargaining Agreements

Reemployment under this section will be in compliance with applicable collective bargaining agreements. Individuals so reemployed will receive all appropriate rights and protection under the applicable collective bargaining agreement.

##### .21 Contractual Considerations

**.211 Scope.** Collective bargaining agreement provisions for filling job vacancies and promotions, and procedures relating to retreat rights due to reassignment, will be complied with before an offer of employment is made to a former postal employee on the OWCP rolls for more than 1 year.

**.212 Reemployment.** A former employee will be offered reemployment in a residual vacancy (a vacancy which has been posted for bid or application and for which there are no successful bidders or applicants), or may work as an unassigned regular or as a part-time flexible. Regional Directors, Employee and Labor Relations (APMG, Employee Relations, for Headquarters and Administrative Support Facilities (ASFs) may waive minimum qualification requirements (including written examinations) in individual cases for former employees injured on duty who are being considered for reemployment when there is evidence (including that submitted by the medical officer) that the employee can be expected to perform satisfactorily in the position within ninety days after assignment.

##### .22 Types of Appointments

**.221 Former career employees** will be reemployed as career full-time or part-time employees.

**.222 Former substitute rural carriers** will be reemployed as substitute rural carriers or in any other position for which they qualify.

**.223 Former casual and temporary employees** will be reemployed as casual or temporary employees. Upon satisfactory demonstration of ability to meet job requirements during two 90-day casual appointments or one 180-day temporary appointment, the employee's

status may be noncompetitively converted to a career appointment (NOA 501).

#### 546.3 OWCP Referrals

**.31 General.** OWCP will make referrals of current and former postal employees who may be candidates for reemployment.

**.32 Work Limitation Tolerances.** The individual's physician of record, or other physician selected by the individual or OWCP, will furnish OWCP with a definitive medical summary, clearly documenting the medical limitations that will have to be accommodated. The OWCP District Medical Director evaluates the work limitation tolerances, submitted by the physician of record, and upon concurrence, refers them to the USPS for consideration.

##### .33 USPS Medical Review

###### .321 Reemployment Physical Examination

**a.** The medical officer will evaluate fully all medical records referred to the USPS from the OWCP district offices.

**b.** A complete physical examination, paid for by the USPS, will be required by the appointing officer. The result of the physical examination will be documented on Form 2485, *Certificate of Medical Examination*.

**c.** The medical officer will make a statement of concurrence with the OWCP documented medical limitations, or further restrict the former employee's work limit tolerances. The medical officer can in no way liberalize the medical limitations tendered by the OWCP district offices.

###### .322 Special Considerations

**a.** An individual referred for reemployment consideration by OWCP may have some degree of concurrent disability, not caused by or related to the original job injury or disability. The medical officer should examine for any concurrent medical condition that might prevent the individual from performing the duties of the position for which the individual is being considered.

**b.** The medical officer will carefully evaluate all concurrent disabilities and include their potential impact in the recommendation for reemployment to the appointing official.

**c.** All former employees, now permanently, partially disabled, have some type of residual handicap. The medical officer, conducting the physical examination, will be responsible for assigning the correct handicap code as defined in Handbook P-11, *Personnel Operations*, Chapter 6.

#### 546.4 Restoration Rights

**.41 OPM Regulations.** OPM has responsibility for the implementing regulations of 5 USC 8151. These regulations are codified in 5 CFR Part 353. 5 USC 8151(a) provides that an individual, injured or disabled on duty, who resumes employment with the USPS is to be credited with the time during which compensation

was received for purposes of certain rights and benefits based upon length of service.

#### .42 Rights and Benefits upon Partial Recovery

**.421 Seniority.** Individuals, reemployed into bargaining unit positions will be credited with seniority in accordance with the collective bargaining agreement covering the position to which reemployed.

**.422 Probationary Period.** Reemployed individuals who have completed their probationary periods, or would have completed their probationary periods but for their compensable injuries, will not be required to serve a new probationary period.

**.423 Leave Credit.** Former employees who were eligible to accrue leave under ELM 510 will be credited with the total time compensation was received from OWCP for purposes of computing leave rate accrual upon reemployment.

**.424 Retirement.** Former employees who were covered by the Civil Service Retirement Act (see ELM 560) will be credited with the time spent on OWCP compensation in computing retirement credit.

**.425 Salary Determination.** The following salary restoration criteria must be met (*Note:* The term "Grade/Step," as used below, means "Grade/Salary" for individuals in a non-step salary schedule):

*a. Reemployment to the Former Grade/Step.* These individuals reemployed into a position with the same grade/step as held at the time of injury or disability will receive the current salary for that grade/step from the appropriate salary schedule.

*b. Reemployment to a Higher Grade.* Those individuals reemployed to a position with a grade higher than that of the position held at the time of injury or disability will be placed in the higher grade at the current salary for the grade/step held at the time of injury or disability. If that salary is between steps in the higher grade, the individual's salary will be increased to the next higher step.

*c. Reemployment to a Lower Grade/Step.*

*(1) Salary Below Maximum of Lower Grade.* The individual will be placed in any higher step in the lower grade which is less than one full step above the current salary for the grade/step of the position held at the time of injury or disability.

*(2) Salary Above Maximum of Lower Grade.* In those cases where the current salary for the grade/step held at the time of injury or disability exceeds the maximum salary of the lower grade position, the employee will be afforded a saved rate at the higher grade/step salary. These saved rate provisions apply for an indefinite period and are subject to the rules of the salary schedule to which assigned.

*d. Reemployment to a Position in a Different Salary Schedule.* When an individual is reemployed to a position in a salary schedule different from the schedule under which paid at the time of injury or disability, once reemployed, the individual will be treated under the rules applicable to the salary schedule to which reemployed:

*(1)* The individual will be reemployed at the grade appropriate for the position to which reemployed.

*(2)* The individual will be placed in any higher step in the new grade which is less than one full step above the current salary for the grade/step of the position held at the time of injury or disability.

*(3)* If reemployment is to a nonstep schedule, the individual will be placed at a salary equal to the current salary for the grade/step of the position held at the time of injury or disability.

*(4)* If the current salary for the grade/step held at the time of injury or disability exceeds the maximum salary of the new grade, the individual will be given a saved rate. These saved rate provisions apply for an indefinite period and are subject to the rules of the salary schedule to which assigned.

*e. Former Position Under Different Salary Schedule.* Where the position held at the time of injury or disability is no longer under the same salary schedule, the current salary for the former grade/step will be determined by:

*(1)* Regional Compensation Division, for field, district, and regional positions.

*(2)* Office of Compensation, Headquarters, for Headquarters and Headquarters-related positions.

*f. Step Increases.* Upon reemployment, permanently, partially disabled individuals begin a new waiting period for step increases.

**.43 Rights and Benefits Upon Full Recovery.**  
See 546.122.

#### 546.5 Retirement Considerations

**.51 Status.** Pursuant to the Civil Service Retirement Act, a former employee who applied for and received Civil Service disability retirement status will cease to be an annuitant upon reemployment and restoration of that individual's wage earning capacity.

#### .52 Reinstatement of Eligibility

**.521** If an annuitant, reemployed under the procedures in this section, is later found unable to successfully perform in the new position due to the original compensable injury or disability, and is again separated, the employee will be entitled to the restoration of disability retirement status under the Civil Service Retirement Act.

**.522** If an employee becomes disabled for the position due to a new injury or disability after entry into that position, the employee would have a right to apply for a new Civil Service disability retirement status.

**.53 Refunded Retirement Deductions.** A former employee who withdrew retirement deductions based on previous employment, may redeposit the amount refunded, plus interest, after reemployment to a position from which retirement deductions are withheld.

**.54 Notification.** Upon reemployment of a disability annuitant (or in advance, if possible), the appointing official must notify the Office of Personnel Management, Compensation Group, Room 3305, Attention: Annuitant

Services Division, Washington, DC 20415. The notification must include the individual's name, social security number, date of birth, Civil Service Annuity claim number (CSA-Civil Service Account), date of reemployment, Form 2485, Certificate of Medical Examination and whether retirement deductions will be made from the salary for the position to which reemployed.

#### 546.6 Relocation Considerations

**.61 Scope.** In some cases, former employees receiving OWCP compensation may have relocated to other geographic areas. Every effort must be made to reemploy these individuals within their current area of residence by treating them as if they had been employed at that office at the time of injury. Any offer to reemploy in a different location will be considered only after all reasonable attempts have been made to rehire within the area of the former employee's present domicile.

**.62 Expense.** Any relocation and travel expenses will be the responsibility of the former employee. However, under certain mitigating circumstances the SAPMG for E&LR, or the SAPMG's designee, may authorize relocation and travel expenses consistent with the provisions of Handbook M-9, *Travel*.

#### 546.7 Reemployment Procedures

##### .71 Offer of Appointment

**.711 Evaluation.** Upon receipt and evaluation of the OWCP referral containing documented medical limitations, and evaluation of the medical officer's recommendations, the appointing official will determine if a reemployment offer can be made.

**.712 Interview.** During the preemployment interview, the appointing officer will ensure that the individual receives the following information:

- a. In-depth analysis of medical limitations and the individual's responsibility to work within the prescribed work limitation tolerances.
- b. If applicable the status of injury compensation and disability retirement benefits and future eligibility.
- c. A full explanation of all restoration rights and benefits (see 546.4).
- d. Full particulars regarding the position, including title, duties, grade, salary, location of work assignment, and all other information required in a preemployment interview. (See Handbook P-11, 264.8 and 265.)
- e. Instructions for completion and submission of any required employment forms.

##### .713 Appeal

a. Those employees who fully recover in less than one year from the date on which OWCP compensation began, may appeal to the Merit Systems Protection Board (MSPB) if they believe a proposed offer of reemployment does not meet the requirements of Office of

Personnel Management regulations 5 CFR Part 353. The letter of appeal must be submitted within 20 days after the date of the offer or 20 days after the date of reemployment, whichever is later.

b. Those employees or former employees whose full recovery extends beyond one year, or whose partial recovery falls either within or beyond one year of compensation, may appeal to the Merit Systems Protection Board only when they have requested restoration through formal application to the installation head and restoration has been refused them. An appeal to the denial of restoration must be filed with MSPB within 20 days from the day the denial letter is received. Upon restoration, however, the employees are not given the right to appeal the nature of the restoration.

**.72 Refusal of Reemployment Offer.** When a former employee refuses an offer of suitable employment within the OWCP defined medical limitations, the appointing officer must do the following:

- a. Offer the individual an opportunity to sign a declination of employment.
- b. Advise the individual that the effect of such refusal may result in the termination or reduction of compensation benefits by the Department of Labor.
- c. Notify the OWCP district office by telephone of the declination and reasons given.
- d. Within 2 working days, forward a full written summary of the former employee's interview, including the signed declination, and medical evaluations or other pertinent information to the OWCP district office. OWCP has the responsibility to notify the Retirement and Insurance Division, Office of Personnel Management, when disability retirement status is to be evaluated.

**.73 Refusal to Reemploy.** The appointing official may not be able to accommodate the former employee for medical reasons or other considerations. If the former employee will not be reemployed, the appointing officer must:

- a. Notify the employee in writing of that fact, with a copy to the OWCP; and
- b. Include a paragraph informing the individual of the right to appeal to the Merit Systems Protection Board.

**.74 Processing Personnel Actions.** The reemployment of former employees injured or disabled on duty requires uniform information on Form 50-B, *Request for Personnel Action (Processing Copy for New Hires Only)*, before forwarding to the Employee and Labor Relations Information Center. (See 612.5 of Handbook P-11.)

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##### 547.1 Therapy Obligations

The installation head must ensure that an employee reports for scheduled therapy treatment. The employee

must be advised that failure to keep appointments with a physician or hospital is a form of absenteeism. Control office/control point personnel will report failures to keep appointments to the OWCP district office.

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.22 If not, this information is requested by the control office/control point from the attending physician or the OWCP district office by use of Form CA-17.

.23 If the attending physician submits a medical report, Form CA-17, indicating that the employee is medically capable of performing some of the normal duties for a limited number of hours, or other work of a different nature than the employee's former assignment, the installation head must make every reasonable effort to place the employee in an appropriate assignment.

#### 547.3 Fitness-For-Duty Determination

.31 **Determining Fitness.** The fact that an injured or ill employee is scheduled for a series of treatments or appointments with a physician or hospital does not, by itself, establish that the employee is not fit-for-duty in the interim. Control personnel will recommend, upon medical justification, to the installation head that any employee being treated by a physician or hospital be required to report to a USPS medical unit (or contract equivalent) for a fitness-for-duty examination. Only an installation head is authorized to approve a fitness-for-duty examination.

.32 **Examination Report.** This physical examination may include the parts of the anatomy being treated, provided the examination in no way disturbs or interferes with the treatment regimen. The results of this examination will be brought to the attention of the OWCP district office for consideration.

.33 **Physician Report Questioned.** If the medical officer questions the medical procedures and/or determination of the employee's attending physician, no administrative action may be taken to change the employee's compensation or employment status until the medical issue is settled.

.34 **Resolving Determination.** The following procedures apply only to fitness-for-duty determinations incident to an on-the-job injury or illness. Fitness-for-duty determinations for other purposes are not covered by this instruction.

a. The physician or hospital must, for each visit of the employee, make a professional statement, using Form CA-17, showing the employee either:

(1) Fit-for-duty; or

(2) Fit for limited duty, and the work tolerance limitations due to the injury; or

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b. If the physician or hospital is unable to predict an employee's fitness for duty on either a short-term or long-term basis, the control office/control point supervisor may request information from the OWCP by sending Form 2573, Request—OWCP Claim Status, in duplicate, to the OWCP district office. If OWCP does not respond within a maximum of 60 days, or if the OWCP response does not explain the situation, a fitness-for-duty examination may be recommended to the installation head as provided in 547.31, .32, and .33. However, a fitness-for-duty examination can be initiated at any time to determine the duty status of the injured employee.

c. If the results of the fitness-for-duty examination disagree with the findings of the attending physician, the matter, along with justification for the USPS position, is referred by the control office/control point supervisor to the OWCP Deputy Commissioner for resolution.

d. A fitness-for-duty determination is not limited to the employee's regular duties, but should be based on whether the employing installation has any temporary alternative duties available which the employee may safely perform.

**659.410 Discrimination against workers applying for workers' compensation benefits prohibited.** It is an unlawful employment practice for an employer to discriminate against a workman with respect to hire or tenure or any term or condition of employment because the workman has applied for benefits or invoked or utilized the procedures provided for in ORS 656.001 to 656.794 and 656.802 to 656.824, or of 659.400 to 659.435 or has given testimony under the provisions of such sections. [1973 c.660 §4]

**659.415 Reinstatement of worker receiving compensable injuries; certificate of physician evidencing ability to work; effect of collective bargaining agreement.** (1) A worker who has sustained a compensable injury shall be reinstated by the worker's employer to the worker's former position of employment upon demand for such reinstatement, provided that the position is available and the worker is not disabled from performing the duties of such position. If the former position is not available, the worker shall be reinstated in any other position which is available and suitable. A certificate by a duly licensed physician that the physician approves the worker's return to the worker's regular employment shall be prima facie evidence that the worker is able to perform such duties.

(2) Such right of reemployment shall be subject to the provisions for seniority rights and other employment restrictions contained in a valid collective bargaining agreement between the employer and a representative of the employer's employees.

(3) Any violation of this section is an unlawful employment practice. [1973 c.660 §5; 1979 c.813 §3; 1981 c.874 §14]

**659.420 Employment of injured worker in other available and suitable work; certificate of physician; effect of collective bargaining agreement.** (1) A worker who has sustained a compensable injury and is disabled from performing the duties of the worker's former regular employment shall, upon demand, be reemployed by the worker's employer at employment which is available and suitable.

(2) A certificate of the worker's attending physician that the worker is able to perform described types of work shall be prima facie evidence of such ability.

(3) Such right of reemployment shall be subject to the provisions for seniority rights and other employment restrictions contained in a valid collective bargaining agreement between

the employer and a representative of the employer's employees.

(4) Any violation of this section is an unlawful employment practice. [1973 c.660 §6; 1979 c.813 §4]

**659.425 Discrimination against mentally or physically impaired persons in employment or public accommodation prohibited; mental disorder treatment not evidence of inability to work or manage property.** (1) For the purpose of ORS 659.400 to 659.435, it is an unlawful employment practice for any employer to refuse to hire, employ or promote, to bar or discharge from employment or to discriminate in compensation or in terms, conditions or privileges of employment because:

(a) An individual has a physical or mental impairment which, with reasonable accommodation by the employer, does not prevent the performance of the work involved;

(b) An individual has a record of a physical or mental impairment; or

(c) An individual is regarded as having a physical or mental impairment.

(2) It is an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise discriminate against, any individual because that individual is a handicapped person, or to classify or refer for employment any individual because that individual is a handicapped person.

(3) It is an unlawful employment practice for a labor organization, because an individual is a handicapped person, to exclude or to expel from its membership such individual or to discriminate in any way against such individual.

(4) It is an unlawful practice for any place of public accommodation, resort or amusement as defined in ORS 30.675, or any person acting on behalf of such place, to make any distinction, discrimination or restriction because a customer or patron is a handicapped person.

(5) Receipt or alleged receipt of treatment for a mental disorder shall not constitute evidence of a person's inability to perform the duties of a particular job or position, or of a person's inability to acquire, rent or maintain property. [1973 c.660 §7; 1979 c.640 §3]

**659.430 Discrimination against handicapped persons in real property transactions prohibited; advertising discriminatory preference prohibited; assisting discriminatory practices prohibited.** (1) No person because the purchaser, lessee or renter is a handicapped person shall:

LWOP for an initial period of up to 1 year from the date OWCP compensation began.

**.92 Extensions.** If the employee is unable to return to work at the end of the 1 year period on LWOP, the LWOP may be extended for successive additional periods of up to 6 months. Extensions are granted only if it appears that the employee is likely to return to work within the period of the extension.

**.93 Separations.** If it is not likely that the employee will be able to return to work at the end of one year of LWOP or during the authorized extended period, the employee may be separated. Before any employee who is on the rolls of the OWCP can be separated, the postal official must submit a comprehensive report to the General Manager, Employee Relations (Region), with appropriate recommendations and retain the employee on the rolls of the Postal Service pending a decision.

**.94 Deciding Appropriate Action.** In considering the action to take in matters involving extended leave, the installation head sends Form 2573, *Request for OWCP Claim Status*, in duplicate, to the appropriate OWCP district office; and, upon receiving a completed Form 2573 from OWCP, does one of the following:

- a. Extends LWOP for an additional period, at the end of which an additional determination must be made;
- b. Authorizes a fitness-for-duty examination by a medical officer as provided in 547.31, .32, and .33 if OWCP does not respond within a maximum of 60 days or if OWCP's response does not explain the situation; or
- c. Request permission to terminate LWOP as required in .93; and
- d. Terminates LWOP after receiving permission from the General Manager, Employee Relations (Region) as follows:

(1) If the employee has 5 or more years of creditable civilian service, inform the employee of retirement rights. Allow the employee 14 calendar days to file a retirement application under the Civil Service Retirement Act.

(2) If the employee does not file a retirement application within the 14 day period, terminate LWOP and take action to separate the employee as described in 365 and 568.

(3) If the employee has less than 5 years creditable civilian service, terminate LWOP and take action to separate the employee as described in 365.

## 546 Reemployment of Employees Injured On Duty

### 546.1 Law

**.11 General.** The USPS has legal responsibility to employees with job-related disabilities under 5 U.S.C. 8151 and the Office of Personnel Management's (OPM) regulations, as outlined below.

#### **.12 Disability Fully Overcome Within 1 Year**

**.121 Obligation.** When the injury or disability is fully overcome within one year after the commencement of compensation payments from OWCP, or after compensable disability recurs, the USPS must give an

employee the right to resume employment in the former or equivalent position.

**.122 Rights and Benefits.** Upon reemployment, all rights and benefits which an employee would have had or acquired in the former position, had there been no injury or disability, must be restored.

#### **.13 Disability Fully Overcome More Than 1 Year**

**.131 Obligation.** When the injury or disability is fully overcome more than one year after compensation began, the USPS must give an employee priority consideration for reemployment into the former position or an equivalent one.

**.132 Reemployment List.** The names of all former employees who fully recover from their compensable disabilities more than one year after compensation begins must be entered on a reemployment list in two groups. *Group one* will include all such former employees who are entitled to 10 point veteran preference. *Group two* will include all other such former employees. Persons in *group one* will be considered for employment before persons in *group two*, and persons in *group two* will be considered before other sources of recruitment, such as transfers from other agencies, reinstatements, or appointments from hiring registers:

**.133 Rights and Benefits.** The same as 546.122.

#### **.14 Disability Partially Overcome**

**.141 Current Employees.** When an employee has partially overcome a compensable disability, the USPS must make every effort toward assigning the employee to limited duty consistent with the employee's medically defined work limitation tolerances (see 546.32). In assigning such limited duty, the USPS should minimize any adverse or disruptive impact on the employee. The following considerations must be made in effecting such limited duty assignments:

a. To the extent that there is adequate work available within the employee's work limitation tolerances; within the employee's craft; in the work facility to which the employee is regularly assigned; and during the hours when the employee regularly works; that work shall constitute the limited duty to which the employee is assigned.

b. If adequate duties are not available within the employee's work limitation tolerances in the craft and work facility to which the employee is regularly assigned, within the employee's regular hours of duty, other work may be assigned within that facility.

c. If adequate work is not available at the facility within the employee's regular hours of duty, work outside the employee's regular schedule may be assigned as limited duty. However, all reasonable efforts shall be made to assign the employee to limited duty within the employee's craft and to keep the hours of limited duty as close as possible to the employee's regular schedule.

d. An employee may be assigned limited duty outside of the work facility to which the employee is normally assigned only if there is not adequate work available within the employee's work limitation tolerances at the employee's facility. In such instances, every effort will

be made to assign the employee to work within the employee's craft, within the employee's regular schedule, and as near as possible to the regular work facility to which normally assigned.

**.142 Former Employees.** When a former employee has partially recovered from a compensable injury or disability, the USPS must make every effort toward reemployment consistent with medically defined work limitation tolerances. Such an employee may be returned to any position for which qualified, including a lower grade position than that held when compensation began.

**.15 Employee Appeal Rights.** An employee who believes the proper consideration for reemployment was not received may appeal to the Merit Systems Protection Board, under 5 CFR, 353.

#### 546.2 Collective Bargaining Agreements

Reemployment under this section will be in compliance with applicable collective bargaining agreements. Individuals so reemployed will receive all appropriate rights and protection under the applicable collective bargaining agreement.

##### .21 Contractual Considerations

**.211 Scope.** Collective bargaining agreement provisions for filling job vacancies and promotions, and procedures relating to retreat rights due to reassignment, will be complied with before an offer of employment is made to a former postal employee on the OWCP rolls for more than 1 year.

**.212 Reemployment.** A former employee will be offered reemployment in a residual vacancy (a vacancy which has been posted for bid or application and for which there are no successful bidders or applicants), or may work as an unassigned regular or as a part-time flexible. Regional Directors, Employee and Labor Relations (APMG, Employee Relations, for Headquarters and Administrative Support Facilities (ASFs) may waive minimum qualification requirements (including written examinations) in individual cases for former employees injured on duty who are being considered for reemployment when there is evidence (including that submitted by the medical officer) that the employee can be expected to perform satisfactorily in the position within ninety days after assignment.

##### .22 Types of Appointments

**.221 Former career employees** will be reemployed as career full-time or part-time employees.

**.222 Former substitute rural carriers** will be reemployed as substitute rural carriers or in any other position for which they qualify.

**.223 Former casual and temporary employees** will be reemployed as casual or temporary employees. Upon satisfactory demonstration of ability to meet job requirements during two 90-day casual appointments or one 180-day temporary appointment, the employee's

status may be noncompetitively converted to a career appointment (NOA 501).

#### 546.3 OWCP Referrals

**.31 General.** OWCP will make referrals of current and former postal employees who may be candidates for reemployment.

**.32 Work Limitation Tolerances.** The individual's physician of record, or other physician selected by the individual or OWCP, will furnish OWCP with a definitive medical summary, clearly documenting the medical limitations that will have to be accommodated. The OWCP District Medical Director evaluates the work limitation tolerances, submitted by the physician of record, and upon concurrence, refers them to the USPS for consideration.

##### .33 USPS Medical Review

###### .321 Reemployment Physical Examination

**a.** The medical officer will evaluate fully all medical records referred to the USPS from the OWCP district offices.

**b.** A complete physical examination, paid for by the USPS, will be required by the appointing officer. The result of the physical examination will be documented on Form 2485, *Certificate of Medical Examination*.

**c.** The medical officer will make a statement of concurrence with the OWCP documented medical limitations, or further restrict the former employee's work limit tolerances. The medical officer can in no way liberalize the medical limitations tendered by the OWCP district offices.

###### .322 Special Considerations

**a.** An individual referred for reemployment consideration by OWCP may have some degree of concurrent disability, not caused by or related to the original job injury or disability. The medical officer should examine for any concurrent medical condition that might prevent the individual from performing the duties of the position for which the individual is being considered.

**b.** The medical officer will carefully evaluate all concurrent disabilities and include their potential impact in the recommendation for reemployment to the appointing official.

**c.** All former employees, now permanently, partially disabled, have some type of residual handicap. The medical officer, conducting the physical examination, will be responsible for assigning the correct handicap code as defined in Handbook P-11, *Personnel Operations*, Chapter 6.

#### 546.4 Restoration Rights

**.41 OPM Regulations.** OPM has responsibility for the implementing regulations of 5 USC 8151. These regulations are codified in 5 CFR Part 353. 5 USC 8151(a) provides that an individual, injured or disabled on duty, who resumes employment with the USPS is to be credited with the time during which compensation,

was received for purposes of certain rights and benefits based upon length of service.

#### .42 Rights and Benefits upon Partial Recovery

**.421 Seniority.** Individuals, reemployed into bargaining unit positions will be credited with seniority in accordance with the collective bargaining agreement covering the position to which reemployed.

**.422 Probationary Period.** Reemployed individuals who have completed their probationary periods, or would have completed their probationary periods but for their compensable injuries, will not be required to serve a new probationary period.

**.423 Leave Credit.** Former employees who were eligible to accrue leave under ELM 510 will be credited with the total time compensation was received from OWCP for purposes of computing leave rate accrual upon reemployment.

**.424 Retirement.** Former employees who were covered by the Civil Service Retirement Act (see ELM 560) will be credited with the time spent on OWCP compensation in computing retirement credit.

**.425 Salary Determination.** The following salary restoration criteria must be met (*Note:* The term "Grade/Step," as used below, means "Grade/Salary" for individuals in a non-step salary schedule):

**a. Reemployment to the Former Grade/Step.** These individuals reemployed into a position with the same grade/step as held at the time of injury or disability will receive the current salary for that grade/step from the appropriate salary schedule.

**b. Reemployment to a Higher Grade.** Those individuals reemployed to a position with a grade higher than that of the position held at the time of injury or disability will be placed in the higher grade at the current salary for the grade/step held at the time of injury or disability. If that salary is between steps in the higher grade, the individual's salary will be increased to the next higher step.

**c. Reemployment to a Lower Grade/Step.**

**(1) Salary Below Maximum of Lower Grade.** The individual will be placed in any higher step in the lower grade which is less than one full step above the current salary for the grade/step of the position held at the time of injury or disability.

**(2) Salary Above Maximum of Lower Grade.** In those cases where the current salary for the grade/step held at the time of injury or disability exceeds the maximum salary of the lower grade position, the employee will be afforded a saved rate at the higher grade/step salary. These saved rate provisions apply for an indefinite period and are subject to the rules of the salary schedule to which assigned.

**d. Reemployment to a Position in a Different Salary Schedule.** When an individual is reemployed to a position in a salary schedule different from the schedule under which paid at the time of injury or disability, once reemployed, the individual will be treated under the rules applicable to the salary schedule to which reemployed:

**(1)** The individual will be reemployed at the grade appropriate for the position to which reemployed.

**(2)** The individual will be placed in any higher step in the new grade which is less than one full step above the current salary for the grade/step of the position held at the time of injury or disability.

**(3)** If reemployment is to a nonstep schedule, the individual will be placed at a salary equal to the current salary for the grade/step of the position held at the time of injury or disability.

**(4)** If the current salary for the grade/step held at the time of injury or disability exceeds the maximum salary of the new grade, the individual will be given a saved rate. These saved rate provisions apply for an indefinite period and are subject to the rules of the salary schedule to which assigned:

**e. Former Position Under Different Salary Schedule.** Where the position held at the time of injury or disability is no longer under the same salary schedule, the current salary for the former grade/step will be determined by:

**(1)** Regional Compensation Division, for field, district, and regional positions.

**(2)** Office of Compensation, Headquarters, for Headquarters and Headquarters-related positions.

**f. Step Increases.** Upon reemployment, permanently, partially disabled individuals begin a new waiting period for step increases.

**.43 Rights and Benefits Upon Full Recovery.** See 546.122.

#### 546.5 Retirement Considerations

**.51 Status.** Pursuant to the Civil Service Retirement Act, a former employee who applied for and received Civil Service disability retirement status will cease to be an annuitant upon reemployment and restoration of that individual's wage earning capacity.

#### .52 Reinstatement of Eligibility

**.521** If an annuitant, reemployed under the procedures in this section, is later found unable to successfully perform in the new position due to the original compensable injury or disability, and is again separated, the employee will be entitled to the restoration of disability retirement status under the Civil Service Retirement Act.

**.522** If an employee becomes disabled for the position due to a new injury or disability after entry into that position, the employee would have a right to apply for a new Civil Service disability retirement status.

**.53 Refunded Retirement Deductions.** A former employee who withdrew retirement deductions based on previous employment, may redeposit the amount refunded, plus interest, after reemployment to a position from which retirement deductions are withheld.

**.54 Notification.** Upon reemployment of a disability annuitant (or in advance, if possible), the appointing official must notify the Office of Personnel Management, Compensation Group, Room 3305, Attention: Annuitant

Services Division, Washington, DC 20415. The notification must include the individual's name, social security number, date of birth, Civil Service Annuity claim number (CSA-Civil Service Account), date of reemployment, Form 2485, Certificate of Medical Examination and whether retirement deductions will be made from the salary for the position to which reemployed.

#### 546.6 Relocation Considerations

.61 **Scope.** In some cases, former employees receiving OWCP compensation may have relocated to other geographic areas. Every effort must be made to reemploy these individuals within their current area of residence by treating them as if they had been employed at that office at the time of injury. Any offer to reemploy in a different location will be considered only after all reasonable attempts have been made to rehire within the area of the former employee's present domicile.

.62 **Expense.** Any relocation and travel expenses will be the responsibility of the former employee. However, under certain mitigating circumstances the SAPMG for E&LR, or the SAPMG's designee, may authorize relocation and travel expenses consistent with the provisions of Handbook M-9, *Travel*.

#### 546.7 Reemployment Procedures

##### .71 Offer of Appointment

.711 **Evaluation.** Upon receipt and evaluation of the OWCP referral containing documented medical limitations, and evaluation of the medical officer's recommendations, the appointing official will determine if a reemployment offer can be made.

.712 **Interview.** During the preemployment interview, the appointing officer will ensure that the individual receives the following information:

- a. In-depth analysis of medical limitations and the individual's responsibility to work within the prescribed work limitation tolerances.
- b. If applicable the status of injury compensation and disability retirement benefits and future eligibility.
- c. A full explanation of all restoration rights and benefits (see 546.4).
- d. Full particulars regarding the position, including title, duties, grade, salary, location of work assignment, and all other information required in a preemployment interview. (See Handbook P-11, 264.8 and 265.)
- e. Instructions for completion and submission of any required employment forms.

##### .713 Appeal

a. Those employees who fully recover in less than one year from the date on which OWCP compensation began, may appeal to the Merit Systems Protection Board (MSPB) if they believe a proposed offer of reemployment does not meet the requirements of Office of

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- a. Offer the individual an opportunity to sign a declination of employment.
- b. Advise the individual that the effect of such refusal may result in the termination or reduction of compensation benefits by the Department of Labor.
- c. Notify the OWCP district office by telephone of the declination and reasons given.
- d. Within 2 working days, forward a full written summary of the former employee's interview, including the signed declination, and medical evaluations or other pertinent information to the OWCP district office. OWCP has the responsibility to notify the Retirement and Insurance Division, Office of Personnel Management, when disability retirement status is to be evaluated.

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(2) Fit for limited duty, and the work tolerance limitations due to the injury; or

(3) Not fit for duty with an expected return-to-duty date.

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POSITION PAPER  
SB 61

This bill deals with the return to work of those State employees who have been injured on the job and were terminated from their positions after that injury.

Passage of the bill will benefit the State in terms of the depth of training and experience the worker who was injured on the job will bring back to the workforce.

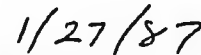
The bill makes the obligations of both the employer and the employee clear and it has built in safeguards which ensure that a State's expert in the field will determine the employee's readiness to return to work. This will ensure that the matter is dealt with in a consistent manner.

There is no fiscal impact on the Division of Personnel. Any extra work that may be involved can be absorbed into normal workflow.

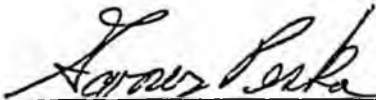
The Division of Personnel supports the intent of this legislation.



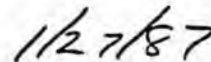
\_\_\_\_\_  
Diana DeSimone, Director  
Division of Personnel



\_\_\_\_\_  
Date



\_\_\_\_\_  
Commissioner Garrey Peska  
Department of Administration



\_\_\_\_\_  
Date

SENATE COMMITTEE REPORT

FURTHER: JUDICIARY  
FINANCE

5/9/87

DATE TURNED INTO OFFICE 5/13/87

Mr. President:

LABOR & COMMERCE Committee considered SB 61

rights of injured state employees.

and recommended:

[ ] replace with CS FOR \_\_\_\_\_ ) [ ] same title  
[ ] or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ ) [ ] new title

[ ] attached amendment(s) and

do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to \_\_\_\_\_

[ ] letter of intent adopted \_\_\_\_\_

Committee  attached or [ ] adopted fiscal note(s)

[ ] new  updated or  previous  
 zero [ ] fiscal impact

MEMBERS SIGNING DO PASS

*Rich Cook (Do Pass)*  
*Mike Symonetti*

OTHER RECOMMENDATIONS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Tim Kelly - Do Pass*  
Chairman signature and recommendation

[ ] Committee Backup Attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 4/22/87 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

\*\*FISCAL NOTE(S) ATTACHED 2 \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

FURTHER: LABOR & COMMERCE  
JUDICIARY  
FINANCE

1/19/87

DATE TURNED INTO OFFICE 5/18/87

Mr. President:

HESS

Committee considered SB 61

~~relating to~~ rights of injured state employees,

and recommended:

[ ] replace with CS \_\_\_\_\_ [ ] same title

[ ] attached amendment(s) and [ ] new title

do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to \_\_\_\_\_

[ ] letter of intent adopted and attached

\*\* Committee  attached or [ ] adopted fiscal note(s)  
2 ~~PA~~ zero [ ] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

\_\_\_\_\_  
*Joe P. Josephson*  
\_\_\_\_\_  
*[Signature]*  
\_\_\_\_\_  
*[Signature]*  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Paul Frick Do Pass  
Chairman signature and recommendation

[ ] Committee Backup Attached

B

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

· REQUEST: \_\_\_\_\_  
 Revision Date: \_\_\_\_\_  
 Title: "An Act relating to rights of  
 injured state employees."  
 Sponsor: Szymanski & Kerttula  
 Requestor: Senate HESS

Bill Version: SB 61  
 Publish Date: \_\_\_\_\_

Agency Affected: Labor  
 BRU: Workers' Compensation  
 Components: Workers' Compensation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

*Replaced by updated 1988 F/N.*

Prepared by: Jacquelyn McClintock Phone: 465-2790  
 Division: Workers' Compensation Date: 02/02/87

Approved by Commissioner: Jim Sampson Date: 02/02/87  
 Agency: Labor

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

RECEIVED

APR 28 1987

LEGISLATIVE FINANCE