

SCOMM

#51:12

Introduced: 3/22/79
Referred: State Affairs,
Finance and Labor & Management

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
COUNCIL (for the Commission
on the State Personnel Act)

1 IN THE SENATE

2 SENATE BILL NO. 256

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating a Department of Employee Relations;
7 amending the state personnel laws; and providing for an
8 effective date."

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

10 * Section 1. AS 44 is amended by adding a new chapter to read:

11 CHAPTER 22. DEPARTMENT OF EMPLOYEE RELATIONS.

12 Sec. 44.22.010. COMMISSIONER OF EMPLOYEE RELATIONS. The principal
13 executive officer of the Department of Employee Relations is the commis-
14 sioner of employee relations. The commissioner of employee relations
15 shall have experience in both personnel administration and labor rela-
16 tions, either in the public or private sector. His combined experience
17 in these fields must total at least five years of full-time experience.

18 Sec. 44.22.020. DIVISIONS OF THE DEPARTMENT. (a) The Department
19 of Employee Relations shall include the following divisions:

- 20 (1) labor relations;
21 (2) personnel;
22 (3) equal employment opportunity.

23 (b) The head of the division of labor relations is the director of
24 labor relations, appointed by the commissioner of employee relations.
25 The director of labor relations shall have at least three years of
26 full-time experience in labor relations, either in the public or private
27 sector.

28 (c) The head of the division of personnel is the director of
29 personnel, appointed by the commissioner of employee relations. The

1 director of personnel shall have at least three years of full-time
2 experience in personnel administration, either in the public or private
3 sector.

4 (d) The head of the division of equal employment opportunity is
5 the director of equal employment opportunity, appointed by the commis-
6 sioner of employee relations.

7 Sec. 44.22.030. POWERS AND DUTIES OF DEPARTMENT. The Department
8 of Employee Relations shall

9 (1) administer a statewide personnel program, including
10 central personnel services such as recruitment, examination, position
11 classification, training, employee development, and pay administration;

12 (2) represent the state as an employer in collective bargain-
13 ing and grievance resolution under the Public Employment Relations Act
14 (AS 23.40.070 - 23.40.260), except to the extent those functions are
15 performed by the Board of Regents of the University of Alaska;

16 (3) coordinate safety programs for state employees;

17 (4) coordinate all executive branch activities involving
18 equal employment opportunity in state government;

19 (5) perform other functions as provided by law.

20 * Sec. 2. AS 23.40.212 is amended to read:

21 Sec. 23.40.212. AGREEMENT WITH THE BOARD OF REGENTS. (a) The
22 Board of Regents of the University of Alaska may delegate to the Depart-
23 ment of Employee Relations [ADMINISTRATION] its authority under AS 23.-
24 40.070 - 23.40.260 to negotiate with an organization for an agreement.

25 (b) The Department of Employee Relations [ADMINISTRATION] shall
26 participate in the negotiations between the Board of Regents and an
27 organization. An agreement between the board and an organization re-
28 quires the approval of the department.

29 * Sec. 3. AS 39.20.295 is amended to read:

1 Sec. 39.20.295. SPECIAL REGULATIONS ON LEAVE PERIOD. In accord
2 with the procedures established in AS 39.20.320, the Department of
3 Employee Relations [ADMINISTRATION] shall adopt regulations [PROMULGATE
4 RULES] defining and establishing a uniform beginning and a uniform
5 concluding date for the 12 month periods applicable to leave use and
6 accumulation by officers and employees of state government.

7 * Sec. 4. AS 39.20.320 is amended to read:

8 Sec. 39.20.320. ADOPTION OF REGULATIONS. The director of the
9 division of personnel [AND LABOR RELATIONS] in the Department of
10 Employee Relations [ADMINISTRATION] shall prepare and submit regulations
11 necessary to carry out the intent of AS 39.20.200 - 39.20.330. These
12 regulations shall include provisions for crediting and, if necessary,
13 converting accrued leave when an officer or employee transfers, without
14 break in service, between a department or agency of the state government
15 where he is subject to AS 39.20.200 - 39.20.330 and a department or
16 agency of the state government where he is not subject to AS 39.20.200 -
17 39.20.330. These regulations shall be submitted to the commissioner of
18 employee relations [ADMINISTRATION WITHIN 60 DAYS OF JULY 9, 1978]. The
19 commissioner of employee relations [ADMINISTRATION] shall review the
20 regulations and submit them to the personnel board. The regulations, or
21 any part of the regulations, have the force and effect of law 30 days
22 after they are submitted to the personnel board if not disapproved by
23 the personnel board. Amendments to the regulations shall be prepared
24 and submitted in the same manner, and have the force and effect of law
25 30 days after they are submitted to the personnel board, if not dis-
26 approved by the personnel board. [THE REGULATIONS ADOPTED UNDER AS 39.-
27 20.200 - 39.20.330 RELATE TO THE INTERNAL MANAGEMENT OF STATE AGENCIES
28 AND THEIR ADOPTION IS NOT SUBJECT TO THE PROVISIONS OF THE ADMINISTRA-
29 TIVE PROCEDURE ACT (AS 44.62).]

1 * Sec. 5. AS 39.20.330 is amended to read:

2 Sec. 39.20.330. DEPARTMENTS TO KEEP LEAVE RECORDS. Each depart-
3 ment, office, institution, or agency of the state government shall keep
4 for its files a complete leave record, covering each of its officers and
5 employees, on forms prepared and supplied by the Department of Adminis-
6 tration. These records are subject to annual audit and approval by the
7 director of personnel of the Department of Employee Relations [ADMINIS-
8 TRATION].

9 * Sec. 6. AS 39.23.010 is amended to read:

10 Sec. 39.23.010. CREATION OF COMMISSION; COMPOSITION. There is
11 established in the Department of Employee Relations [ADMINISTRATION] the
12 Alaska Salary Commission consisting of five members appointed by the
13 governor. No member of the commission may be a public officer or em-
14 ployee.

15 * Sec. 7. AS 39.23.030 is amended to read:

16 Sec. 39.23.030. OFFICERS; STAFF. The commission shall select a
17 chairman from among its members annually. The director [OF THE DIVI-
18 SION] of personnel [AND LABOR RELATIONS] serves as ex officio secretary
19 to the commission and provides research, technical and administrative
20 services.

21 * Sec. 8. AS 39.25.030 is amended to read:

22 Sec. 39.25.030. [DIVISION OF] PERSONNEL [AND] BOARD. [THERE IS
23 ESTABLISHED WITHIN THE DEPARTMENT OF ADMINISTRATION A DIVISION OF PER-
24 SONNEL.] There is established within the division of personnel in the
25 Department of Employee Relations a personnel board.

26 * Sec. 9. AS 39.25.130(a) is amended to read:

27 (a) After June 30, 1979 [JUNE 30, 1961], the personnel board, upon
28 written recommendation of the commissioner of employee relations [ADMIN-
29 ISTRATION], may extend the partially exempt service to include any

1 position which was in the classified service on June 30, 1979 [APRIL 19,
2 1960], which in the judgment of the board:

3 (1) involves principal responsibility for the determination
4 of policy;

5 (2) involves principal responsibility for the way in which
6 policies are carried out; or

7 (3) involves responsibilities and duties of a type not sus-
8 ceptible to the ordinary recruiting and examining procedures.

9 * Sec. 10. AS 39.25.130(c) is amended to read:

10 (c) After June 30, 1979 [JUNE 30, 1961], the personnel board, upon
11 written recommendation of the commissioner of employee relations [ADMIN-
12 ISTRATION], may extend the classified service to include any position
13 which was in the partially exempt service on June 30, 1979 [APRIL 19,
14 1960].

15 * Sec. 11. AS 39.25.130 is amended by adding a new subsection to read:

16 (d) An action taken under this section may not alter a collective
17 bargaining unit determined under AS 23.40.090. An action taken under
18 this section may be superseded by a determination of a collective bar-
19 gaining unit under AS 23.40.090.

20 * Sec. 12. AS 39.25.140(a) is amended to read:

21 (a) The director of personnel shall prepare and submit to the
22 commissioner of employee relations [ADMINISTRATION] any proposed amend-
23 ments to the personnel rules for all positions and employees subject to
24 this chapter.

25 * Sec. 13. AS 39.25.140(b) is amended to read:

26 (b) The commissioner of employee relations [ADMINISTRATION] shall
27 review the amendments and submit them to the personnel board.

28 * Sec. 14. AS 39.25.140(c) is amended to read:

29 (c) At the time he submits the amendments to the personnel board,

1 the commissioner of employee relations [ADMINISTRATION] shall, by
2 posting in public buildings throughout the state, give notice that the
3 personnel board has the amendments under consideration. The amendments
4 have the effect of law 30 days after they are submitted to the personnel
5 board if not disapproved by the personnel board. The personnel board,
6 if requested, may hold public hearings on the amendments.

7 * Sec. 15. AS 39.25.150(1) is amended to read:

8 (1) the preparation, maintenance, and revision by the direc-
9 tor of personnel, subject to approval by the commissioner of employee
10 relations [ADMINISTRATION] and the personnel board, of a position classi-
11 fication plan for all positions in the classified and partially exempt
12 services; in the position classification plan all positions shall be
13 grouped together into classes on the basis of duties and responsibili-
14 ties; the position classification plan shall include for each class of
15 position an appropriate title, a description of the duties and responsi-
16 bilities, training and experience qualifications, and other necessary
17 position specifications;

18 * Sec. 16. AS 39.25.153(b) is amended to read:

19 (b) The personnel officers specified in (a) of this section are
20 authorized to adopt regulations providing for the activities specified
21 in AS 39.25.150(1) - (10), (13) - (18), (20) and (22) for those classes
22 of employees which are unique to the respective departments specified in
23 (a) of this section. The initial determination as to which classes of
24 employees are unique within the respective departments shall be made by
25 the personnel officer in consultation with the commissioner of his
26 department and subject to the approval of the director of personnel
27 within the Department of Employee Relations [ADMINISTRATION. REGULA-
28 TIONS ADOPTED UNDER THIS SUBSECTION RELATE TO THE INTERNAL MANAGEMENT OF
29 STATE AGENCIES AND THEIR ADOPTION IS NOT SUBJECT TO THE ADMINISTRATIVE

1 PROCEDURE ACT (AS 44.62)].

2 * Sec. 17. AS 39.35.050(a) is amended to read:

3 (a) The commissioner shall appoint an administrator in charge of
4 the detailed affairs of the system. [THE COMMISSIONER MAY APPOINT THE
5 PERSONNEL DIRECTOR OF THE PERSONNEL DIVISION OF THE DEPARTMENT OF ADMIN-
6 ISTRATION AS THE ADMINISTRATOR.]

7 * Sec. 18. AS 44.15.010 is amended by adding a new paragraph to read:

8 (18) Department of Employee Relations.

9 * Sec. 19. AS 44.17.070 is amended to read:

10 Sec. 44.17.070. REORGANIZATION BY DEPARTMENT HEADS. Subject to
11 state personnel laws and the approval of the commissioner of employee
12 relations [ADMINISTRATION], the principal executive officer of each
13 department may, in the interest of improved management, abolish unneces-
14 sary offices and positions, transfer officers and employees between
15 positions, and change the duties, titles, and compensation of existing
16 offices and positions.

17 * Sec. 20. Regulations formerly adopted under AS 39.20.200 - 39.20.330
18 and AS 39.25, including the personnel rules, shall be published in the Alaska
19 Administrative Register and Code as they exist on June 30, 1979 and are con-
20 sidered to have been adopted in accordance with the Administrative Procedure
21 Act (AS 44.62) and this Act. After June 30, 1979, the adoption of regula-
22 tions and amendments to regulations under AS 39.20.200 - 39.20.330 and
23 AS 39.25 is subject to the Administrative Procedure Act.

24 * Sec. 21. TRANSFER OF FUNCTIONS. (a) The Department of Employee Rela-
25 tions is vested with the powers and duties formerly held by the division of
26 personnel and labor relations and the division of equal employment oppor-
27 tunity in the Department of Administration.

28 (b) Appropriations, records, equipment, and other property of the
29 division of personnel and labor relations and the division of equal employ-

1 ment opportunity in the Department of Administration are transferred to the
2 Department of Employee Relations.

3 (c) All litigation, hearings, investigations, and other proceedings
4 pending under a law amended or repealed by this Act, or in connection with
5 powers and duties transferred by this Act, continue in effect and may be
6 continued and completed notwithstanding an amendment, repeal, or transfer
7 made by this Act. Regulations, rules, and orders adopted under a law amended
8 or repealed by this Act remain in effect until they expire by their own terms
9 or until revoked, vacated, or otherwise modified as provided by law. Con-
10 tracts existing on July 1, 1979 which were made by a state agency whose
11 powers and duties have been transferred to the Department of Employee Rela-
12 tions remain in effect according to their terms.

13 * Sec. 22. AS 39.25.040, 39.25.140(e), and AS 44.21.020(9) are repealed.

14 * Sec. 23. This Act takes effect July 1, 1979.

Original sponsors: Ferguson and Rodey

Offered: 4/12/79
Referred: Rules

IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 198

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the hiring of nonpermanent employees in the state personnel system; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that certain inconsistencies and abuses in the hiring of nonpermanent employees have jeopardized the integrity and efficiency of the merit system as well as the morale of employees. The legislature intends to curb the widespread administrative practice of using nonpermanent state employment to evade departmental accountability and mask poor planning. The legislature further intends that nonpermanent employees be used only to the extent that it is impractical to meet the need with permanent employees and that the burden of proof shall fall upon the department or agency which proposes nonpermanent hire.

* Sec. 2. AS 39.25.150(9) is amended to read:

(9) nonpermanent [TEMPORARY] appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200 [WHICH ARE DETERMINED TO BE OF A SEASONAL OR TEMPORARY NATURE];

* Sec. 3. AS 39.35.680(21)(C)(iii) is amended to read:

(iii) casual or [,] emergency [OR TEMPORARY]
workers or nonpermanent employees as defined in AS 39.25.200;

* Sec. 4. AS 39.25 is amended by adding new sections to article 6 to read:

Sec. 39.25.195. APPOINTMENT OF NONPERMANENT EMPLOYEES. (a) An individual may not be appointed as a nonpermanent employee in the state

1 service without prior written approval of the director except as an
2 emergency employee.

3 (b) Every appointment to state service except an emergency appoint-
4 ment, shall be made from an applicable eligible list or dispatching
5 register unless in appropriate circumstances the director has waived
6 this requirement.

7 (c) No appointment of a nonpermanent employee may be made unless
8 the request for authorization is approved by the director, adequate
9 money is available for the anticipated duration of the appointment, and
10 the director determines that

11 (1) the hiring department or agency has certified that the
12 legislature has appropriated money for the work in question knowing that
13 it is to be performed by a nonpermanent employee;

14 (2) the hiring department or agency has certified that there
15 is an immediate need to fill an authorized, permanent position and it is
16 impractical either to establish the position or to make certification
17 within a reasonable time;

18 (3) the hiring department or agency has certified that an
19 immediate need exists and the director determines that the hiring depart-
20 ment or agency could not reasonably have been expected to anticipate and
21 meet through the creation of a permanent position; or

22 (4) the hiring department or agency has certified that a
23 program or project exists and the director determines that the needs for
24 employees can most appropriately be met through the use of program or
25 project employees.

26 (d) The director may not authorize the appointment of a nonperma-
27 nent employee if he determines that

28 (1) the need for the nonpermanent employee can practicably be
29 met through establishing and filling an authorized permanent position;

1 (2) the need for the nonpermanent employee would be more
2 appropriately met through an emergency appointment; or

3 (3) the need for the nonpermanent employee is not immediate
4 and could reasonably have been anticipated and met by the appointing
5 authority through the creation and filling of a permanent position.

6 (e) A nonpermanent employee may not be placed on the state payroll
7 unless the director has first approved the personnel action for the
8 employee's appointment.

9 (f) Nothing in this section prevents the director from adopting
10 regulations to provide for timely substitution for permanent employees
11 on medical or personal leave or other situations in which the appoint-
12 ment of an emergency or permanent employee would be inappropriate or
13 when delay in making a temporary replacement would cause serious interrup-
14 tion.

15 (g) A department or agency may not use nonpermanent employees to
16 perform a given work assignment for more than 120 calendar days in a
17 12-month period. A department or agency may not employ any individual
18 as a nonpermanent employee for more than 120 calendar days in a 12-month
19 period. In appropriate circumstances the director may authorize an
20 extension of the limit imposed by this subsection if he finds that there
21 is an immediate need for the extension. The limit imposed by this
22 subsection does not apply to program or project employees or to substi-
23 tutes appointed under (f) of this section.

24 (h) The director shall present a report on nonpermanent and emer-
25 gency hire practices in state government to the legislature within the
26 first 10 days of each regular legislative session. A hiring department
27 or agency shall certify to the director within 15 working days following
28 the appointment its reasons for appointing an emergency employee. The
29 report shall include information on the number of nonpermanent employees

1 authorized under this section and the number of emergency employees
2 hired in each department, a description of the procedures used in autho-
3 rizing the hiring of nonpermanent employees, and any recommendations for
4 legislation required to implement the intent of this section.

5 Sec. 39.25.197. TERMINATION OF NONPERMANENT EMPLOYEES. When the
6 director determines that an employee has been appointed as a result of a
7 false certification under AS 39.25.195, he shall immediately notify the
8 head of the affected department or agency in writing and the department
9 or agency shall terminate the employee from state service within one
10 working day after receipt of notice.

11 Sec. 39.25.198. CIVIL LIABILITY. A person who makes a false
12 certificate under AS 37.25.195 is personally liable in a civil action to
13 an individual terminated under AS 37.25.197 for any resultant damages
14 and for punitive damages of an amount not to exceed three times the gross
15 monthly salary at which the nonpermanent employee was appointed.

16 Sec. 39.25.200. DEFINITIONS. In AS 39.25.195 - 39.25.200,

17 (1) "certified" means signed by the head of a department or
18 agency or by a responsible person designated by him;

19 (2) "director" means the director of the division of person-
20 nel and labor relations;

21 (3) "emergency employee" means an employee appointed for
22 period not to exceed 30 calendar days, whose appointment was made under
23 conditions requiring immediate action to carry on work that is required
24 in the public interest;

25 (4) "nonpermanent employee" means a person who is employed in
26 state service in a position which is not in the exempt or partially
27 exempt service and who is not a permanent or an emergency employee;

28 (5) "permanent employee" means an employee who has been
29 appointed to an authorized, permanent full-time or part-time or perma-

1 nent seasonal position in the classified service and who is in the
2 process of completing or has successfully completed the required proba-
3 tionary service in that position;

4 (6) "program or project employee" means a nonpermanent em-
5 ployee, including a student intern, who is employed in state service
6 with prior written understanding that employment in that position will
7 continue for at most the duration of a specified program or project
8 which is not a regular and continuing function of a department or agency
9 and which has an established probable date of termination.

10 * Sec. 5. This Act takes effect January 1, 1980.

Original sponsors: Ferguson and Rodey

Offered: 3/15/79
Referred: Rules

IN THE SENATE

BY THE LABOR AND
MANAGEMENT COMMITTEE

CS FOR SENATE BILL NO. 198 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the hiring of non-permanent employees in the state personnel system; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that certain inconsistencies and abuses in the hiring of employees in the state personnel system have jeopardized the integrity and efficiency of the merit system as well as the morale of employees. The legislature intends to curb the widespread administrative practice of using non-permanent state employment to evade departmental accountability and mask poor planning. The legislature further intends that non-permanent employees be used only to the extent that it is impractical to meet the need with permanent employees and that the burden of proof shall fall upon the department or agency which proposes non-permanent hire.

* Sec. 2. AS 39.25.150(9) is amended to read:

(9) non-permanent [TEMPORARY] appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200 [WHICH ARE DETERMINED TO BE OF A SEASONAL OR TEMPORARY NATURE];

* Sec. 3. AS 39.35.680(21)(C)(iii) is amended to read:

(iii) casual or [,] emergency [OR TEMPORARY]
workers or non-permanent employees as defined in AS 39.25.200;

* Sec. 4. AS 39.25 is amended by adding new sections to Article 6 to read:

Sec. 39.25.195. APPOINTMENT OF NON-PERMANENT EMPLOYEES. (a) An individual may not be appointed as a non-permanent employee in the state

1 service without prior written approval of the director except as pro-
2 vided in this section.

3 (b) Every appointment to state service except an emergency
4 appointment shall be made from the appropriate eligible list or dis-
5 patching register unless in exceptional circumstances the director has
6 waived this requirement.

7 (c) The director may authorize the appointment of a non-permanent
8 employee if the request for authorization is accompanied by evidence of
9 available funds for the anticipated duration of that hire and the direc-
10 tor determines that

11 (1) there is specific legislative authorization that the work
12 in question be performed by non-permanent employees and funds have been
13 made available on that condition;

14 (2) there is an urgent need to fill an authorized, permanent
15 position and it is impractical to establish the position or to make
16 certification within a reasonable time because of a lack of individuals
17 on the eligible lists for that position;

18 (3) an urgent program need exists which the appointing auth-
19 ority could not reasonably have been expected to anticipate and meet
20 through the creation of a permanent position; or

21 (4) a program or project exists and the needs for employees
22 can most appropriately be met through the use of program or project
23 employees.

24 (d) The director may not authorize the appointment of a non-
25 permanent employee if after consideration he determines that

26 (1) the need for the non-permanent employee can reasonably be
27 met through the creation and filling of a permanent position;

28 (2) the need for the non-permanent employee would be more
29 appropriately met through an emergency appointment; or

1 (3) the need for the non-permanent employee is not urgent and
2 could reasonably have been anticipated and met by the appointing autho-
3 rity through the creation and filling of a permanent position.

4 (e) To insure compliance with the intent of this section the
5 director may require a department or agency to obtain prior approval for
6 emergency appointments.

7 (f) The director shall adopt regulations implementing this sec-
8 tion. The regulations shall include consideration of the need for
9 timely substitution for permanent employees on medical or personal leave
10 and other situations in which the appointment of an emergency or perma-
11 nent employee would be inappropriate and when delay in hiring would
12 cause serious disruption.

13 (g) A work assignment may not be performed by a non-permanent em-
14 ployee for more than 180 calendar days in a 12-month period. A non-
15 permanent employee may not be employed by any one department for more
16 than 120 calendar days in a 12-month period. In extraordinary circum-
17 stances the director may authorize an extension of the limit imposed by
18 this subsection if he finds that there is an urgent need for the exten-
19 sion. The limit imposed by this subsection does not apply to program or
20 project employees.

21 (h) The director shall present a report on non-permanent and
22 emergency hire practices in state government to the legislature within
23 the first 10 days of each regular legislative session. The report shall
24 include information on the number of non-permanent employees authorized
25 under this section and the number of emergency employees hired in each
26 department, a description of the procedures used in authorizing the
27 hiring of non-permanent employees, and any recommendations for legisla-
28 tion required to implement the intent of this section.

29 Sec. 39.25.197. TERMINATION OF NON-PERMANENT EMPLOYEES. When the

1 director determines that a non-permanent employee has been appointed in
2 violation of AS 39.25.195, he shall immediately notify the appointing
3 authority in writing and the appointing authority shall immediately
4 terminate the non-permanent employee from state service.

5 Sec. 39.25.198. CIVIL LIABILITY. An appointing authority who
6 knowingly violates AS 37.25.195 is liable in a civil action to an
7 individual terminated under AS 37.25.197 as a result of that violation.
8 The damages recoverable under this section are presumed to be three
9 times the gross monthly salary at which the non-permanent employee was
10 hired by the appointing authority.

11 Sec. 39.25.200. DEFINITIONS. In AS 39.25.195 - 39.25.200,

12 (1) "director" means the director of the division of person-
13 nel and labor relations;

14 (2) "emergency employee" means an employee appointed for a
15 period not to exceed 30 calendar days, whose appointment was made under
16 conditions requiring immediate action to carry on work that is required
17 in the public interest;

18 (3) "non-permanent employee" means a person who is employed
19 in state service in a position which is not in the exempt or partially
20 exempt service and who is not a permanent or an emergency employee;

21 (4) "permanent employee" means an employee who has been
22 appointed to an authorized, permanent part-time or permanent seasonal
23 position in the classified service and who is in the process of complet-
24 ing or has successfully completed the required probationary service in
25 that position;

26 (5) "program or project employee" means a non-permanent em-
27 ployee who is employed in state service with prior written understanding
28 that employment in that position will continue for at most the duration
29 of a specified program or project which is not a regular and continuing

1 function of a department or agency and which has an established probable
2 date of termination.

3 * Sec. 5. This Act takes effect September 30, 1979.
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Original sponsors: Ferguson and Rodey

Offered: 3/15/79
Referred: Rules

1 IN THE SENATE

BY THE LABOR AND
MANAGEMENT COMMITTEE

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4 ELEVENTH LEGISLATURE - FIRST SESSION

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11 declares that certain inconsistencies and abuses in the hiring of employees
12 in the state personnel system have jeopardized the integrity and efficiency
13 of the merit system as well as the morale of employees. The legislature
14 intends to curb the widespread administrative practice of using non-permanent
15 state employment to evade departmental accountability and mask poor planning.
16 The legislature further intends that non-permanent employees be used only to
17 the extent that it is impractical to meet the need with permanent employees
18 and that the burden of proof shall fall upon the department or agency which
19 proposes non-permanent hire.

20 * Sec. 2. AS 39.25.150(9) is amended to read:

21 (9) non-permanent [TEMPORARY] appointments to positions in
22 the state service in accordance with AS 39.25.195 - 39.25.200 [WHICH ARE
23 DETERMINED TO BE OF A SEASONAL OR TEMPORARY NATURE];

24 * Sec. 3. AS 39.35.680(21)(C)(iii) is amended to read:

25 (iii) casual or [,] emergency [OR TEMPORARY]
26 workers or non-permanent employees as defined in AS 39.25.200;

27 * Sec. 4. AS 39.25 is amended by adding new sections to Article 6 to read:

28 Sec. 39.25.195. APPOINTMENT OF NON-PERMANENT EMPLOYEES. (a) An
29 individual may not be appointed as a non-permanent employee in the state

1 service without prior written approval of the director except as pro-
2 vided in this section.

3 (b) Every appointment to state service except an emergency
4 appointment shall be made from the appropriate eligible list or dis-
5 patching register unless in exceptional circumstances the director has
6 waived this requirement.

7 (c) The director may authorize the appointment of a non-permanent
8 employee if the request for authorization is accompanied by evidence of
9 available funds for the anticipated duration of that hire and the direc-
10 tor determines that

11 (1) there is specific legislative authorization that the work
12 in question be performed by non-permanent employees and funds have been
13 made available on that condition;

14 (2) there is an urgent need to fill an authorized, permanent
15 position and it is impractical to establish the position or to make
16 certification within a reasonable time because of a lack of individuals
17 on the eligible lists for that position;

18 (3) an urgent program need exists which the appointing auth-
19 ority could not reasonably have been expected to anticipate and meet
20 through the creation of a permanent position; or

21 (4) a program or project exists and the needs for employees
22 can most appropriately be met through the use of program or project
23 employees.

24 (d) The director may not authorize the appointment of a non-
25 permanent employee if after consideration he determines that

26 (1) the need for the non-permanent employee can reasonably be
27 met through the creation and filling of a permanent position;

28 (2) the need for the non-permanent employee would be more
29 appropriately met through an emergency appointment; or

1 (3) the need for the non-permanent employee is not urgent and
2 could reasonably have been anticipated and met by the appointing autho-
3 rity through the creation and filling of a permanent position.

4 (e) To insure compliance with the intent of this section the
5 director may require a department or agency to obtain prior approval for
6 emergency appointments.

7 (f) The director shall adopt regulations implementing this sec-
8 tion. The regulations shall include consideration of the need for
9 timely substitution for permanent employees on medical or personal leave
10 and other situations in which the appointment of an emergency or perma-
11 nent employee would be inappropriate and when delay in hiring would
12 cause serious disruption.

13 (g) A work assignment may not be performed by a non-permanent em-
14 ployee for more than 120 calendar days in a 12-month period. A non-
15 permanent employee may not be employed by any one department for more
16 than 120 calendar days in a 12-month period. In extraordinary circum-
17 stances the director may authorize an extension of the limit imposed by
18 this subsection if he finds that there is an urgent need for the exten-
19 sion. The limit imposed by this subsection does not apply to program or
20 project employees.

21 (h) The director shall present a report on non-permanent and
22 emergency hire practices in state government to the legislature within
23 the first 10 days of each regular legislative session. The report shall
24 include information on the number of non-permanent employees authorized
25 under this section and the number of emergency employees hired in each
26 department, a description of the procedures used in authorizing the
27 hiring of non-permanent employees, and any recommendations for legisla-
28 tion required to implement the intent of this section.

29 Sec. 39.25.197. TERMINATION OF NON-PERMANENT EMPLOYEES. When the

1 director determines that a non-permanent employee has been appointed in
2 violation of AS 39.25.195, he shall immediately notify the appointing
3 authority in writing and the appointing authority shall immediately
4 terminate the non-permanent employee from state service.

5 Sec. 39.25.198. CIVIL LIABILITY. An appointing authority who
6 violates AS 37.25.195 is liable in a civil action to an individual
7 terminated under AS 37.25.197 as a result of that violation. The
8 damages recoverable under this section are presumed to be three times
9 the gross monthly salary at which the non-permanent employee was hired
10 by the appointing authority.

11 Sec. 39.25.200. DEFINITIONS. In AS 39.25.195 - 39.25.200,

12 (1) "director" means the director of the division of person-
13 nel and labor relations;

14 (2) "emergency employee" means an employee appointed for a
15 period not to exceed 30 calendar days, whose appointment was made under
16 conditions requiring immediate action to carry on work that is required
17 in the public interest;

18 (3) "non-permanent employee" means a person who is employed
19 in state service in a position which is not in the exempt or partially
20 exempt service and who is not a permanent or an emergency employee;

21 (4) "permanent employee" means an employee who has been
22 appointed to an authorized, permanent part-time or permanent seasonal
23 position in the classified service and who is in the process of complet-
24 ing or has successfully completed the required probationary service in
25 that position;

26 (5) "program or project employee" means a non-permanent em-
27 ployee who is employed in state service with prior written understanding
28 that employment in that position will continue for at most the duration
29 of a specified program or project which is not a regular and continuing

1 function of a department or agency and which has an established probable
2 date of termination.

3 * Sec. 5. This Act takes effect September 30, 1979.
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Introduced: 2/13/79
Referred: Labor and Manage-
ment and Finance

1 IN THE SENATE

BY FERGUSON AND RODEY

2

SENATE BILL NO. 198

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to unemployment insurance."

7

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

8

* Section 1. AS 23.20.370 is amended to read:

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Sec. 23.20.370. BENEFITS OF DECEDENT OR INCOMPETENT. Benefits due
and payable to a deceased or judicially declared incompetent person
shall be paid, in accordance with regulations adopted [PRESCRIBED] by
the department, to persons in the following order: spouse, child, [OR]
parent, sister or brother, aunt or uncle, payment to whom the department
finds will best carry out the purposes of this chapter. The regulations
need not conform to the statutes applicable to the descent and distri-
bution of decedents' estates. A receipt from the person to whom the
department makes payment fully discharges the fund and the department
from liability for the benefits.

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BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL (for
the Commission on the State
Personnel Act)

1 IN THE SENATE

2 SENATE BILL NO. 253

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the hiring of non-permanent employ-
7 ees in the state personnel system; and providing for an
8 effective date."

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

10 * Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and
11 declares that certain inconsistencies and abuses in the hiring of employees
12 in the state personnel system have jeopardized the integrity and efficiency
13 of the merit system as well as the morale of employees. The legislature
14 intends to curb the widespread administrative practice of using non-permanent
15 state employment to evade departmental accountability and mask poor planning.
16 The legislature further intends that non-permanent employees be used only to
17 the extent that it is impractical to meet the need with permanent employees
18 and that the burden of proof shall fall upon the department or agency which
19 proposes non-permanent hire.

20 * Sec. 2. AS 39.25.150(9) is amended to read:

21 (9) non-permanent [TEMPORARY] appointments to positions in
22 the state service in accordance with AS 39.25.195 - 39.25.200 [WHICH ARE
23 DETERMINED TO BE OF A SEASONAL OR TEMPORARY NATURE];

24 * Sec. 3. AS 39.35.680(21)(C)(iii) is amended to read:

25 (iii) casual or [,] emergency [OR TEMPORARY]
26 workers or non-permanent employees as defined in AS 39.25.200;

27 * Sec. 4. AS 39.25 is amended by adding new sections to Article 6 to read:

28 Sec. 39.25.195. APPOINTMENT OF NON-PERMANENT EMPLOYEES. (a) An
29 individual may not be appointed as a non-permanent employee in the state

1 service without prior written approval of the director except as pro-
2 vided in this section.

3 (b) Every appointment to state service except an emergency
4 appointment shall be made from the appropriate eligible list or dis-
5 patching register unless in exceptional circumstances the director has
6 waived this requirement.

7 (c) The director may authorize the appointment of a non-permanent
8 employee if the request for authorization is accompanied by evidence of
9 available funds for the anticipated duration of that hire and the direc-
10 tor determines that

11 (1) there is specific legislative authorization that the work
12 in question be performed by non-permanent employees and funds have been
13 made available on that condition;

14 (2) there is an urgent need to fill an authorized, permanent
15 position and it is impractical to establish the position or to make
16 certification within a reasonable time because of a lack of individuals
17 on the eligible lists for that position;

18 (3) an urgent program need exists which the appointing auth-
19 ority could not reasonably have been expected to anticipate and meet
20 through the creation of a permanent position; or

21 (4) a program or project exists and the needs for employees
22 can most appropriately be met through the use of program or project
23 employees.

24 (d) The director may not authorize the appointment of a non-
25 permanent employee if after consideration he determines that

26 (1) the need for the non-permanent employee can reasonably be
27 met through the creation and filling of a permanent position;

28 (2) the need for the non-permanent employee would be more
29 appropriately met through an emergency appointment; or

1 (3) the need for the non-permanent employee is not urgent and
2 could reasonably have been anticipated and met by the appointing autho-
3 rity through the creation and filling of a permanent position.

4 (e) To insure compliance with the intent of this section the
5 director may require a department or agency to obtain prior approval for
6 emergency appointments.

7 (f) The director shall adopt regulations implementing this sec-
8 tion. The regulations shall include consideration of the need for
9 timely substitution for permanent employees on medical or personal leave
10 and other situations in which the appointment of an emergency or perma-
11 nent employee would be inappropriate and when delay in hiring would
12 cause serious disruption.

13 (g) A work assignment may not be performed by a non-permanent em-
14 ployee for more than 120 calendar days in a 12-month period. A non-
15 permanent employee may not be employed by any one department for more
16 than 120 calendar days in a 12-month period. In extraordinary circum-
17 stances the director may authorize an extension of the limit imposed by
18 this subsection if he finds that there is an urgent need for the exten-
19 sion. The limit imposed by this subsection does not apply to program or
20 project employees.

21 (h) The director shall present a report on non-permanent and
22 emergency hire practices in state government to the legislature within
23 the first 10 days of each regular legislative session. The report shall
24 include information on the number of non-permanent employees authorized
25 under this section and the number of emergency employees hired in each
26 department, a description of the procedures used in authorizing the
27 hiring of non-permanent employees, and any recommendations for legisla-
28 tion required to implement the intent of this section.

29 Sec. 39.25.197. TERMINATION OF NON-PERMANENT EMPLOYEES. When the

1 director determines that a non-permanent employee has been appointed in
2 violation of AS 39.25.195, he shall immediately notify the appointing
3 authority in writing and the appointing authority shall immediately
4 terminate the non-permanent employee from state service.

5 Sec. 39.25.198. CIVIL LIABILITY. An appointing authority who
6 violates AS 37.25.195 is liable in a civil action to an individual
7 terminated under AS 37.25.197 as a result of that violation. The
8 damages recoverable under this section are presumed to be three times
9 the gross monthly salary at which the non-permanent employee was hired
10 by the appointing authority.

11 Sec. 39.25.200. DEFINITIONS. In AS 39.25.195 - 39.25.200,

12 (1) "director" means the director of the division of person-
13 nel and labor relations;

14 (2) "emergency employee" means an employee appointed for a
15 period not to exceed 30 calendar days, whose appointment was made under
16 conditions requiring immediate action to carry on work that is required
17 in the public interest;

18 (3) "non-permanent employee" means a person who is employed
19 in state service in a position which is not in the exempt or partially
20 exempt service and who is not a permanent or an emergency employee;

21 (4) "permanent employee" means an employee who has been
22 appointed to an authorized, permanent part-time or permanent seasonal
23 position in the classified service and who is in the process of complet-
24 ing or has successfully completed the required probationary service in
25 that position;

26 (5) "program or project employee" means a non-permanent em-
27 ployee who is employed in state service with prior written understanding
28 that employment in that position will continue for at most the duration
29 of a specified program or project which is not a regular and continuing

1 function of a department or agency and which has an established probable
2 date of termination.

3 * Sec. 5. This Act takes effect September 30, 1979.
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