

SCOMM

#51:15

Original sponsor: Rules/Legislative Council

Offered: 5/17/82
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 193 (Judiciary) am H

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending state personnel laws; and providing
7 for an effective date."

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

9 * Section 1. AS 39.25.040 is amended to read:

10 Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division
11 of personnel is the director of personnel appointed by the commissioner
12 of administration and responsible to the commissioner of administration
13 for the execution of the duties and responsibilities imposed by this
14 chapter and the rules adopted under this chapter. The director of
15 personnel shall [MUST] have at least three years of practical working
16 experience in the field of personnel administration.

17 * Sec. 2. AS 39.25.060(b) is amended to read:

18 (b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS
19 OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not
20 more than two members of the board may be members of the same political
21 party.

22 * Sec. 3. AS 39.25.070(1) is amended to read:

23 (1) approve or disapprove amendments to the personnel rules
24 in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM
25 WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DIS-
26 APPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE
27 BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD
28 THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

29 * Sec. 4. AS 39.25.070 is amended by adding a new paragraph to read:

1 (7) employ staff members, who shall be in the classified
2 service.

3 * Sec. 5. AS 39.25.080 is repealed and reenacted to read:

4 Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records,
5 including employment applications and examination materials, are confi-
6 dential and are not open to public inspection except as provided in
7 this section.

8 (b) The following information is available for public inspection,
9 subject to reasonable regulations on the time and manner of inspection:

- 10 (1) the names and position titles of all state employees;
11 (2) the position held by a state employee;
12 (3) prior positions held by a state employee;
13 (4) whether a state employee is in the classified, partially
14 exempt, or exempt service;

15 (5) the dates of appointment and separation of a state em-
16 ployee; and

17 (6) the compensation authorized for a state employee.

18 (c) A state employee has the right to examine his own personnel
19 files and may authorize others to examine his files.

20 (d) An applicant for state employment who appeals an examination
21 score may review written examination questions relating to the examina-
22 tion unless the questions are to be used in future examinations.

23 * Sec. 6. AS 39.25.090 is amended to read:

24 Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules
25 adopted under it apply to all positions in (1) the classified service,
26 and (2) the exempt and partially exempt service as specifically pro-
27 vided.

28 * Sec. 7. AS 39.25.110 is repealed and reenacted to read:

29 Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by

1 law, the following positions in the state service constitute the exempt
2 service and are exempt from the provisions of this chapter and the
3 rules adopted under it:

4 (1) persons elected to public office by popular vote or
5 appointed to fill vacancies in elected offices;

6 (2) justices, judges, magistrates, and employees of the
7 judicial branch including employees of the Judicial Council;

8 (3) employees of the state legislature and its agencies;

9 (4) the head of each principal department in the executive
10 branch;

11 (5) officers and employees of the University of Alaska;

12 (6) certificated teachers and noncertificated employees
13 employed by a regional educational attendance area established and
14 organized under AS 14.08.031 - 14.08.041 to teach in, administer, or
15 operate schools under the control of a regional educational attendance
16 area school board;

17 (7) certificated teachers employed by the Department of
18 Education as correspondence teachers or teachers in skill centers
19 operated by the Department of Education;

20 (8) patients and inmates employed in state institutions;

21 (9) persons employed in a professional capacity to make a
22 temporary or special inquiry, study or examination as authorized by the
23 governor;

24 (10) members of boards, commissions, or authorities;

25 (11) the officers and employees of the following boards,
26 commissions and authorities:

27 (A) Alaska Gas Pipeline Financing Authority;

28 (B) Alaska Permanent Fund Corporation;

29 (C) Alaska Energy Center;

1 (D) Alaska Industrial Development Authority;
2 (E) Alaska Commercial Fisheries Entry Commission;
3 (F) Alaska Commission on Postsecondary Education;
4 (G) Employees of the Citizens' Advisory Commission
5 on Federal Areas in Alaska (AS 41.37.010);

6 (12) the executive secretary and legal counsel of the Alaska
7 Municipal Bond Bank Authority;

8 (13) licensed physicians, as defined in AS 47.30.340(9)
9 employed by the state;

10 (14) petroleum engineers and petroleum geologists employed in
11 a professional capacity by the Department of Natural Resources and by
12 the Oil and Gas Conservation Commission; except for those employed in
13 the division of geological and geophysical surveys in the Department of
14 Natural Resources;

15 (15) officers, agents, and employees of the Alcoholic Beverage
16 Control Board granted limited peace officer powers by the Alcoholic
17 Beverage Control Board under AS 04.06.110;

18 (16) persons employed by the division of marine transporta-
19 tion as masters and members of the crews of vessels who operate the
20 state ferry system and who are covered by a collective bargaining
21 agreement provided in AS 23.40.040;

22 (17) officers and employees of the state who reside in
23 foreign countries;

24 (18) employees of the Alaska Seafood Marketing Insti-
25 tute;

26 (19) firefighters employed by the Department of Natural
27 Resources for a fire emergency;

28 (20) employees of the Office of the Governor and the office
29 of the lieutenant governor, including the staff of the governor's

1 mansion.

2 * Sec. 8. AS 39.25.120 is repealed and reenacted to read:

3 Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the
4 partially exempt service are included in the position classification
5 plan established under this chapter and are compensated according to the
6 pay plan (AS 39.27.011).

7 (b) A person holding a position in the partially exempt service is
8 not required to take an examination or qualify or earn a place on a
9 register, and is not eligible for a hearing by the personnel board in
10 case of dismissal, demotion, or suspension. Positions in the partially
11 exempt service are specifically exempt from the rules established under
12 AS 39.25.150(3) - (10), (13), (14), and (17).

13 (c) The following positions in the state service constitute the
14 partially exempt service:

15 (1) deputy and assistant commissioners of the principal
16 departments of the executive branch, including the assistant adjutant
17 general of the Department of Military Affairs;

18 (2) the directors of the major divisions of the principal
19 departments of the executive branch and the regional directors of the
20 Department of Transportation and Public Facilities;

21 (3) attorney members of the staff of the Department of Law
22 and of the public defender agency;

23 (4) one private secretary for each head of a principal de-
24 partment in the executive branch;

25 (5) employees of councils, boards, or commissions established
26 by statute in the Office of the Governor or the office of the lieutenant
27 governor, unless a different classification is provided by statute;

28 (6) the executive director, deputy director, hearing officers,
29 and administrative law judges of the Alaska Public Utilities Commission;

1 (7) the director, deputy director, staff legal counsel, and
2 hearing officers of the Alaska Transportation Commission;

3 (8) not more than two special assistants to the commissioner
4 of each of the principal departments of the executive branch, but the
5 number may be increased if the partially exempt service is extended
6 under AS 39.25.130 to include the additional special assistants;

7 (9) the principal executive officer of the following boards,
8 councils, or commissions:

9 (A) Alaska Public Broadcasting Commission;

10 (B) Professional Teaching Practices Commission;

11 (C) Parole Board;

12 (D) Board of Nursing;

13 (E) Real Estate Commission;

14 (F) Alaska Royalty Oil and Gas Development Advisory

15 Board;

16 (G) Alaska Historical Commission;

17 (H) Alaska State Council on the Arts;

18 (I) Alaska Police Standards Council;

19 (J) Council on Science and Technology;

20 (K) Older Alaskans Commission;

21 (10) Alaska Pioneers' Home managers;

22 (11) hearing examiners in the Department of Revenue;

23 (12) the comptroller in the division of treasury, Department
24 of Revenue;

25 (13) investment officers in the Department of Revenue;

26 (14) airport managers in the Department of Transportation and
27 Public Facilities employed at the Anchorage and Fairbanks International
28 Airports;

29 (15) the deputy director of the division of tourism and the

1 deputy director of the division of insurance in the Department of Com-
2 merce and Economic Development;

3 (16) the executive director and staff of the Alaska Public
4 Offices Commission.

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

6 (a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
7 recommendation of the commissioner of administration, may extend the
8 partially exempt service to include any position [WHICH WAS] in the
9 classified service [ON APRIL 19, 1960,] which, in the judgment of the
10 board:

11 (1) involves principal responsibility for the determination
12 of policy;

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

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

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

18 (c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
19 recommendation of the commissioner of administration, may extend the
20 classified service to include any position [WHICH WAS] in the partially
21 exempt service [ON APRIL 19, 1960].

22 * Sec. 11. AS 39.25.140(c) is repealed and reenacted to read:

23 (c) At least 30 days before the adoption, amendment, or repeal of
24 a personnel rule, the secretary to the personnel board shall provide
25 notice that the personnel board has the proposed action under considera-
26 tion. The notice shall be

27 (1) posted in public buildings throughout the state;

28 (2) published in one or more newspapers of general circulation
29 throughout the state;

1 (3) mailed to each person or group that filed a request for
2 notice of proposed action with the secretary to the personnel board;

3 (4) furnished to each member of the legislature and to the
4 Legislative Affairs Agency.

5 * Sec. 12. AS 39.25.140(e) is amended to read:

6 (e) The rules adopted under this chapter relate to the internal
7 management of state agencies and their adoption is not subject to the
8 Administrative Procedure Act. The rules shall [MAY] be published in the
9 Alaska Administrative Register and Code for informational purposes.

10 * Sec. 13. AS 39.25.140 is amended by adding new subsections to read:

11 (f) Failure to mail notice to a person as required in this section
12 does not invalidate an action taken by the personnel board.

13 (g) An amendment to the personnel rules takes effect 30 days after
14 it is approved by the personnel board. The board, if requested to do
15 so, may hold a public hearing on a proposed amendment.

16 * Sec. 14. AS 39.25.150 is repealed and reenacted to read:

17 Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall
18 provide for

19 (1) the preparation, maintenance, and revision by the direc-
20 tor of personnel, subject to approval of the commissioner of adminis-
21 tration and the personnel board, of a position classification plan for
22 all positions in the classified and partially exempt services; the
23 position classification plan shall include

24 (A) a grouping together of all positions into classes on
25 the basis of duties and responsibilities;

26 (B) an appropriate title, a description of the duties
27 and responsibilities, training and experience qualifications, and
28 other necessary specifications for each class of positions;

29 (2) the preparation, maintenance, revision and administration

1 by the director of personnel of a pay plan for all positions in the
2 classified and partially exempt services; the pay plan (A) shall be
3 based upon the position classification plan; (B) shall provide for fair
4 and reasonable compensation for services rendered, and reflect the
5 principle of like pay for like work; (C) may be amended, approved, or
6 disapproved by the legislature in regular or special session; after the
7 pay plan is in effect, a salary or wage payment may not be made to a
8 state employee covered by the plan unless the payment is in accordance
9 with this chapter and the rules adopted under this chapter or unless the
10 payment is in accordance with a valid agreement entered into in accor-
11 dance with AS 23.40;

12 (3) the use of employee selection methods, including open
13 competitive examinations, when appropriate, that will fairly test the
14 capacity and fitness of the person examined to discharge the duties of
15 the class in which employment is sought;

16 (4) the establishment and maintenance of eligible lists for
17 appointment and promotion providing the names of eligible candidates in
18 order of their relative performance in the examinations;

19 (5) the procedure for certifying eligible candidates; the
20 rule adopted under this paragraph may include procedures providing a
21 preference for certifying local residents when appropriate;

22 (6) promotions from within the state service when there are
23 qualified candidates in the state service; vacancies shall be filled by
24 promotion whenever practicable and in the best interest of the state
25 service and promotion shall be by competitive examination whenever
26 possible; in considering promotions, applicants' qualifications, per-
27 formance record, seniority, and conduct shall be evaluated;

28 (7) a period of probation not to exceed one year before an
29 appointment to a position becomes permanent, except that a permanent

1 employee receiving a promotional appointment retains permanent status in
2 the service and job class from which appointed for the duration of the
3 probationary period and may be demoted to a former class without right
4 of appeal, notwithstanding AS 39.25.170, but if the employee is dismissed
5 from the service the appeal rights under AS 39.25.170 apply;

6 (8) nonpermanent and emergency appointments to positions in
7 the state service in accordance with AS 39.25.195 - 39.25.200;

8 (9) provisional appointment without competitive examination
9 when appropriate eligible lists are not available;

10 (10) transfers from one department to another and from another
11 merit system jurisdiction to the state service;

12 (11) transfers from one area of the state to another;

13 (12) the reinstatement of a person who resigns in good stand-
14 ing;

15 (13) layoffs for reason of lack of money or work, abolition
16 of positions, or material changes in duties or organization; both
17 performance and seniority records shall be considered in the develop-
18 ment of layoff orders;

19 (14) the development, maintenance, and use of employee perfor-
20 mance records;

21 (15) the establishment of disciplinary measures which may
22 include disciplinary suspension without pay;

23 (16) the procedures for review of disputed personnel actions,
24 for resolving employee and interagency grievances, and for resolving
25 grievances of the general public concerning the operation of the state
26 personnel system;

27 (17) hours of work for all employees in the state service;

28 (18) methods and procedures covering overtime work and
29 pay;

1 (19) the granting of employment preference rights to a veteran
2 not within the area of promotion, when the veteran possesses the neces-
3 sary qualifications in the job classification applied for under this
4 chapter; in an examination to determine the qualification of applicants
5 for entrance into the classified service under merit system examination,
6 five additional points shall be added to the passing grade of a veteran
7 and ten additional points shall be added to the passing grade of a
8 disabled veteran, but the additional points may be used only the first
9 time the veteran obtains a position in the classified service; if a
10 position in the classified service is eliminated, employees shall be
11 released in accordance with rules which give due effect to all factors;
12 if all job qualifications are equal, the veteran shall be given pref-
13 erence over the nonveteran and the veteran shall be kept on the job;
14 this paragraph may not be interpreted to amend the terms of a collective
15 bargaining agreement; in this paragraph

16 (A) "veteran" means a person with 181 days or more
17 active service in the armed forces of the United States who has
18 been honorably discharged after having served during any period
19 between April 6, 1917, and December 1, 1919, between September 16,
20 1940, and December 31, 1947, or between June 27, 1950, and
21 November 7, 1975;

22 (B) "disabled veteran" means a veteran who is entitled
23 to compensation under laws administered by the United States
24 Veterans' Administration, or a person who was honorably discharged
25 or released from active duty because of a service-connected dis-
26 ability;

27 (20) the employment of persons in permanent positions on a
28 part-time basis of 15 hours or more a week, including the employment of
29 two persons to fill one permanent full-time position; these employees

1 shall be designated as permanent part-time employees;

2 (21) the granting of employment preference to severely handi-
3 capped persons; this includes the right to provisional appointment
4 without competitive examination for periods up to four months and the
5 granting of eligibility to a severely handicapped person provisionally
6 appointed under the rules who demonstrates ability to perform the job
7 for permanent appointment without competitive examination; provisional
8 employment under this paragraph may not exceed four months during a
9 12-month period; "severely handicapped" as used in this paragraph means
10 persons certified by the director of the division of vocational reha-
11 bilitation to be severely handicapped;

12 (22) the establishment of programs facilitating the employment
13 of disadvantaged persons;

14 (23) the delegation, when feasible, of personnel responsibil-
15 ities and duties to the principal departments of the executive branch;

16 (24) the establishment of a transition period of up to 12
17 months for an employee to be reappointed to a classified position if the
18 employee's position is withdrawn from the partially exempt or
19 exempt service and placed in the classified service;

20 (25) other rules and administrative regulations, not incon-
21 sistent with this chapter, which are necessary for its enforcement.

22 * Sec. 15. AS 39.25.153 is repealed and reenacted to read:

23 Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal depart-
24 ment of the executive branch has a personnel officer, the personnel
25 officer shall be employed by and located within that department.

26 (b) Subject to the provisions of (d) of this section, the per-
27 sonnel officers for the Departments of Transportation and Public Facili-
28 ties, Fish and Game, Education, Labor, and Health and Social Services,
29 have the following powers with respect to the classes of positions

1 unique to their departments:

2 (1) to assign positions to an existing class in the state
3 classification plan and to the salary range for that class as estab-
4 lished by the state pay plan or by a valid agreement entered into in
5 accordance with AS 23.40;

6 (2) to administer and score examinations and to place suc-
7 cessful applicants on departmental eligible lists;

8 (3) to certify those eligible to the appointing authorities.

9 (c) The initial determination of classes of positions unique to
10 the departments listed in (b) of this section shall be made by the
11 personnel officer of the department in consultation with the commis-
12 sioner of his department subject to the approval of the director of
13 personnel in the Department of Administration.

14 (d) The assumption of a power set out in (b) of this section must
15 be approved by the commissioner of administration and must be in harmony
16 with the merit principle of personnel administration (AS 39.25.010).

17 * Sec. 1b. AS 39.25.160 is repealed and reenacted to read:

18 Sec. 39.25.160. GENERALLY. (a) A classified employee may not
19 take an active part in the management of a political party above the
20 precinct level.

21 (b) A person may not give, render, pay, offer, solicit, or accept
22 money, services, or other valuable thing in connection with securing or
23 making an appointment, promotion, or advantage in a position in the
24 classified service.

25 (c) A person may not require an assessment, subscription, contri-
26 bution, or service for a political party from a state employee.

27 (d) A person may not seek or attempt to use a political party
28 endorsement in connection with an appointment or promotion in the
29 classified service.

1 (e) An employee in the classified or partially exempt service who
2 seeks nomination or becomes a candidate for state or national elective
3 political office shall immediately resign any position held in the
4 state service. The employee's position becomes vacant on the date the
5 employee files a declaration of candidacy for state or national elective
6 office.
7

8 (f) Action affecting the employment status of a state employee or
9 an applicant for state service, including appointment, promotion, demo-
10 tion, suspension, or removal, may not be taken or withheld on the basis
11 of unlawful discrimination due to race, religion, color, or national
12 origin, age, handicap, sex, marital status, change in marital status,
13 pregnancy, or parenthood. In addition, action affecting the employment
14 status of an employee in the classified service, including appointment,
15 promotion, demotion, suspension, or removal, may not be taken or with-
16 held for a reason not related to merit.

17 (g) Action affecting the employment status of an employee in the
18 classified service or an applicant for a position in the classified
19 service, including appointment, promotion, demotion, suspension, or
20 removal, may not be taken or withheld on the basis of unlawful discrim-
21 ination due to political beliefs.

22 (h) A person may not knowingly make a false statement, certifi-
23 cate, mark, rating, or report with regard to a test, certification, or
24 appointment made under this chapter or in any manner commit a fraud
25 preventing the impartial execution of this chapter and the personnel
26 rules adopted under this chapter.

27 (i) A person may not obstruct the right of another person to
28 examination, eligibility, certification, appointment, or promotion
29 under this chapter.

* Sec. 17. AS 39.25 is amended by adding a new section to read:

1 Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at
2 the request of a party to a proceeding begun under AS 39.25.170.

3 (b) If a person refuses to respond to a subpoena issued under
4 this section, or refuses to testify at a hearing authorized by AS 39.-
5 25.170, the personnel board may apply to the superior court for an
6 order requiring the person to respond to the subpoena or to testify.

7 (c) Failure to obey the order of the superior court requiring
8 response to a subpoena or testimony at a hearing may be punished as
9 contempt of court.

10 * Sec. 18. AS 39.25 is amended by adding a new section to read:

11 Sec. 39.25.181. DEFINITIONS. In this chapter,

12 (1) "fraud" means for a person to knowingly

13 (A) create or confirm another's false impression which
14 the person does not believe to be true, including false impres-
15 sions as to law or value and false impressions as to intention or
16 other state of mind;

17 (B) fail to correct another's false impression which
18 the person previously has created or confirmed;

19 (C) prevent another from acquiring pertinent information;

20 (2) "knowingly" means for a person to be aware with respect
21 to conduct or to a circumstance described by a provision of law that
22 his conduct is of that nature or that the circumstance exists; when
23 knowledge of the existence of a particular fact is required, that know-
24 ledge is established if a person is aware of a substantial probability
25 of its existence, unless he actually believes it does not exist;

26 (3) "precinct" means the territory within which resident
27 voters may cast votes at one polling place;

28 (4) "state employee" means a person employed by the state
29 who is paid a wage or salary, but does not include a person hired by

1 the state to work as an independent contractor or a person who is in
2 the custody of the state.

3 * Sec. 19. AS 39.25 is amended by adding a new section to article 6 to
4 read:

5 Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

6 (1) be a member of a national, state, or local political
7 party;

8 (2) take part in a political campaign;

9 (3) express political opinions; however, while engaged on
10 official business, a state employee may not display or distribute
11 partisan political material;

12 (4) register party preference;

13 (5) serve as a voting or nonvoting delegate to a party con-
14 vention;

15 (6) be appointed, nominated, or elected to nonpartisan
16 public office in a local government unit; and

17 (7) make contributions to a political party or a candidate
18 for public office.

19 * Sec. 20. AS 39.25.180 is repealed.

20 * Sec. 21. This Act takes effect July 1, 1982.

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Referred: Rules

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BY THE JUDICIARY COMMITTEE

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11 (5) officers and employees of the University of Alaska;

12 (6) certificated teachers and noncertificated employees
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29 (C) Alaska Energy Center;

1 (D) Alaska Industrial Development Authority;
2 (E) Alaska Commercial Fisheries Entry Commission;
3 (F) Alaska Commission on Postsecondary Education;
4 (G) Employees of the Citizens' Advisory Commission
5 on Federal Areas in Alaska (AS 41.37.010);

6 (12) the executive secretary and legal counsel of the Alaska
7 Municipal Bond Bank Authority;

8 (13) licensed physicians, as defined in AS 47.30.340(9)
9 employed by the state;

10 (14) petroleum engineers and petroleum geologists employed in
11 a professional capacity by the Department of Natural Resources and by
12 the Oil and Gas Conservation Commission; except for those employed in
13 the division of geological and geophysical surveys in the Department of
14 Natural Resources;

15 (15) officers, agents, and employees of the Alcoholic Beverage
16 Control Board granted limited peace officer powers by the Alcoholic
17 Beverage Control Board under AS 04.06.110;

18 (16) persons employed by the division of marine transporta-
19 tion as masters and members of the crews of vessels who operate the
20 state ferry system and who are covered by a collective bargaining
21 agreement provided in AS 23.40.040;

22 (17) officers and employees of the state who reside in
23 foreign countries;

24 (18) employees of the Alaska Seafood Marketing Insti-
25 tute;

26 (19) firefighters employed by the Department of Natural
27 Resources for a fire emergency;

28 (20) employees of the Office of the Governor and the office
29 of the lieutenant governor, including the staff of the governor's

1 mansion.

2 * Sec. 8. AS 39.25.120 is repealed and reenacted to read:

3 Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the
4 partially exempt service are included in the position classification
5 plan established under this chapter and are compensated according to
6 the pay plan (AS 39.27.011).

7 (b) A person holding a position in the partially exempt service
8 is not required to take an examination or qualify or earn a place on a
9 register, and is not eligible for a hearing by the personnel board in
10 case of dismissal, demotion, or suspension. Positions in the partially
11 exempt service are specifically exempt from the rules established under
12 AS 39.25.150(3) - (10), (13), (14), and (17).

13 (c) The following positions in the state service constitute the
14 partially exempt service:

15 (1) deputy and assistant commissioners of the principal
16 departments of the executive branch, including the assistant adjutant
17 general of the Department of Military Affairs;

18 (2) the directors of the major divisions of the principal
19 departments of the executive branch and the regional directors of the
20 Department of Transportation and Public Facilities;

21 (3) attorney members of the staff of the Department of Law
22 and of the public defender agency;

23 (4) one private secretary for each head of a principal de-
24 partment in the executive branch;

25 (5) employees of councils, boards, or commissions established
26 by statute in the Office of the Governor or the office of the lieutenant
27 governor, unless a different classification is provided by statute;

28 (6) the executive director and deputy director of the Alaska
29 Public Utilities Commission;

1 (7) the director, deputy director, staff legal counsel, and
2 hearing officers of the Alaska Transportation Commission;

3 (8) not more than two special assistants to the commissioner
4 of each of the principal departments of the executive branch, but the
5 number may be increased if the partially exempt service is extended
6 under AS 39.25.130 to include the additional special assistants;

7 (9) the principal executive officer of the following boards,
8 councils, or commissions:

9 (A) Alaska Public Broadcasting Commission;

10 (B) Professional Teaching Practices Commission;

11 (C) Parole Board;

12 (D) Board of Nursing;

13 (E) Real Estate Commission;

14 (F) Alaska Royalty Oil and Gas Development Advisory

15 Board;

16 (G) Alaska Historical Commission;

17 (H) Alaska State Council on the Arts;

18 (I) Alaska Police Standards Council;

19 (J) Council on Science and Technology;

20 (K) Older Alaskans Commission;

21 (10) Alaska Pioneers' Home managers;

22 (11) hearing examiners in the Department of Revenue;

23 (12) the comptroller in the division of treasury, Department
24 of Revenue;

25 (13) investment officers in the Department of Revenue;

26 (14) airport managers in the Department of Transportation and
27 Public Facilities employed at the Anchorage and Fairbanks International
28 Airports;

29 (15) the deputy director of the division of tourism and the

1 deputy director of the division of insurance in the Department of Com-
2 merce and Economic Development;

3 (16) the executive director and staff of the Alaska Public
4 Offices Commission.

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

6 (a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
7 recommendation of the commissioner of administration, may extend the
8 partially exempt service to include any position [WHICH WAS] in the
9 clas.ified service [ON APRIL 19, 1960,] which, in the judgment of the
10 board:

11 (1) involves principal responsibility for the determination
12 of policy;

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

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

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

18 (c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
19 recommendation of the commissioner of administration, may extend the
20 classified service to include any position [WHICH WAS] in the partially
21 exempt service [ON APRIL 19, 1960].

22 * Sec. 11. AS 39.25.140(c) is repealed and reenacted to read:

23 (c) At least 30 days before the adoption, amendment, or repeal of
24 a personnel rule, the secretary to the personnel board shall provide
25 notice that the personnel board has the proposed action under considera-
26 tion. The notice shall be

27 (1) posted in public buildings throughout the state;

28 (2) published in one or more newspapers of general circulation
29 throughout the state;

1 (3) mailed to each person or group that filed a request for
2 notice of proposed action with the secretary to the personnel board;

3 (4) furnished to each member of the legislature and to the
4 Legislative Affairs Agency.

5 * Sec. 12. AS 39.25.140(e) is amended to read:

6 (e) The rules adopted under this chapter relate to the internal
7 management of state agencies and their adoption is not subject to the
8 Administrative Procedure Act. The rules shall [MAY] be published in the
9 Alaska Administrative Register and Code for informational purposes.

10 * Sec. 13. AS 39.25.140 is amended by adding new subsections to read:

11 (f) Failure to mail notice to a person as required in this section
12 does not invalidate an action taken by the personnel board.

13 (g) An amendment to the personnel rules takes effect 30 days after
14 it is approved by the personnel board. The board, if requested to do
15 so, may hold a public hearing on a proposed amendment.

16 * Sec. 14. AS 39.25.150 is repealed and reenacted to read:

17 Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall
18 provide for

19 (1) the preparation, maintenance, and revision by the direc-
20 tor of personnel, subject to approval of the commissioner of adminis-
21 tration and the personnel board, of a position classification plan for
22 all positions in the classified and partially exempt services; the
23 position classification plan shall include

24 (A) a grouping together of all positions into classes on
25 the basis of duties and responsibilities;

26 (B) an appropriate title, a description of the duties
27 and responsibilities, training and experience qualifications, and
28 other necessary specifications for each class of positions;

29 (2) the preparation, maintenance, revision and administration

1 by the director of personnel of a pay plan for all positions in the
2 classified and partially exempt services; the pay plan (A) shall be
3 based upon the position classification plan; (B) shall provide for fair
4 and reasonable compensation for services rendered, and reflect the
5 principle of like pay for like work; (C) may be amended, approved, or
6 disapproved by the legislature in regular or special session; after the
7 pay plan is in effect, a salary or wage payment may not be made to a
8 state employee covered by the plan unless the payment is in accordance
9 with this chapter and the rules adopted under this chapter or unless the
10 payment is in accordance with a valid agreement entered into in accor-
11 dance with AS 23.40;

12 (3) the use of employee selection methods, including open
13 competitive examinations, when appropriate, that will fairly test the
14 capacity and fitness of the person examined to discharge the duties of
15 the class in which employment is sought;

16 (4) the establishment and maintenance of eligible lists for
17 appointment and promotion providing the names of eligible candidates in
18 order of their relative performance in the examinations;

19 (5) the procedure for certifying eligible candidates; the
20 rule adopted under this paragraph may include procedures providing a
21 preference for certifying local residents when appropriate;

22 (6) promotions from within the state service when there are
23 qualified candidates in the state service; vacancies shall be filled by
24 promotion whenever practicable and in the best interest of the state
25 service and promotion shall be by competitive examination whenever
26 possible; in considering promotions, applicants' qualifications, per-
27 formance record, seniority, and conduct shall be evaluated;

28 (7) a period of probation not to exceed one year before an
29 appointment to a position becomes permanent, except that a permanent

1 employee receiving a promotional appointment retains permanent status in
2 the service and job class from which appointed for the duration of the
3 probationary period and may be demoted to a former class without right
4 of appeal, notwithstanding AS 39.25.170, but if the employee is dismissed
5 from the service the appeal rights under AS 39.25.170 apply;

6 (8) nonpermanent and emergency appointments to positions in
7 the state service in accordance with AS 39.25.195 - 39.25.200;

8 (9) provisional appointment without competitive examination
9 when appropriate eligible lists are not available;

10 (10) transfers from one department to another and from another
11 merit system jurisdiction to the state service;

12 (11) transfers from one area of the state to another;

13 (12) the reinstatement of a person who resigns in good stand-
14 ing;

15 (13) layoffs for reason of lack of money or work, abolition
16 of positions, or material changes in duties or organization; both
17 performance and seniority records shall be considered in the develop-
18 ment of layoff orders;

19 (14) the development, maintenance, and use of employee perfor-
20 mance records;

21 (15) the establishment of disciplinary measures which may
22 include disciplinary suspension without pay;

23 (16) the procedures for review of disputed personnel actions,
24 for resolving employee and interagency grievances, and for resolving
25 grievances of the general public concerning the operation of the state
26 personnel system;

27 (17) hours of work for all employees in the state service;

28 (18) methods and procedures covering overtime work and
29 pay;

1 (19) the granting of employment preference rights to a veteran
2 not within the area of promotion, when the veteran possesses the neces-
3 sary qualifications in the job classification applied for under this
4 chapter; in an examination to determine the qualification of applicants
5 for entrance into the classified service under merit system examination,
6 five additional points shall be added to the passing grade of a veteran
7 and ten additional points shall be added to the passing grade of a
8 disabled veteran, but the additional points may be used only the first
9 time the veteran obtains a position in the classified service; if a
10 position in the classified service is eliminated, employees shall be
11 released in accordance with rules which give due effect to all factors;
12 if all job qualifications are equal, the veteran shall be given pref-
13 erence over the nonveteran and the veteran shall be kept on the job;
14 this paragraph may not be interpreted to amend the terms of a collective
15 bargaining agreement; in this paragraph

16 (A) "veteran" means a person with 181 days or more
17 active service in the armed forces of the United States who has
18 been honorably discharged after having served during any period
19 between April 6, 1917, and December 1, 1919, between September 16,
20 1940, and December 31, 1947, or between June 27, 1950, and
21 November 7, 1975;

22 (B) "disabled veteran" means a veteran who is entitled
23 to compensation under laws administered by the United States
24 Veterans' Administration, or a person who was honorably discharged
25 or released from active duty because of a service-connected dis-
26 ability;

27 (20) the employment of persons in permanent positions on a
28 part-time basis of 15 hours or more a week, including the employment of
29 two persons to fill one permanent full-time position; these employees

1 shall be designated as permanent part-time employees;

2 (21) the granting of employment preference to severely handi-
3 capped persons; this includes the right to provisional appointment
4 without competitive examination for periods up to four months and the
5 granting of eligibility to a severely handicapped person provisionally
6 appointed under the rules who demonstrates ability to perform the job
7 for permanent appointment without competitive examination; provisional
8 employment under this paragraph may not exceed four months during a
9 12-month period; "severely handicapped" as used in this paragraph means
10 persons certified by the director of the division of vocational reha-
11 bilitation to be severely handicapped;

12 (22) the establishment of programs facilitating the employment
13 of disadvantaged persons;

14 (23) the delegation, when feasible, of personnel responsibil-
15 ities and duties to the principal departments of the executive branch;

16 (24) the establishment of a transition period of up to 12
17 months for an employee to be reappointed to a classified position if the
18 employee's position is withdrawn from the partially exempt or
19 exempt service and placed in the classified service;

20 (25) other rules and administrative regulations, not incon-
21 sistent with this chapter, which are necessary for its enforcement.

22 * Sec. 15. AS 39.25.153 is repealed and reenacted to read:

23 Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal depart-
24 ment of the executive branch has a personnel officer, the personnel
25 officer shall be employed by and located within that department.

26 (b) Subject to the provisions of (d) of this section, the per-
27 sonnel officers for the Departments of Transportation and Public Facili-
28 ties, Fish and Game, Education, Labor, and Health and Social Services,
29 have the following powers with respect to the classes of positions

1 unique to their departments:

2 (1) to assign positions to an existing class in the state
3 classification plan and to the salary range for that class as estab-
4 lished by the state pay plan or by a valid agreement entered into in
5 accordance with AS 23.40;

6 (2) to administer and score examinations and to place suc-
7 cessful applicants on departmental eligible lists;

8 (3) to certify those eligible to the appointing authorities.

9 (c) The initial determination of classes of positions unique to
10 the departments listed in (b) of this section shall be made by the
11 personnel officer of the department in consultation with the commis-
12 sioner of his department subject to the approval of the director of
13 personnel in the Department of Administration.

14 (d) The assumption of a power set out in (b) of this section must
15 be approved by the commissioner of administration and must be in harmony
16 with the merit principle of personnel administration (AS 39.25.010).

17 * Sec. 16. AS 39.25.160 is repealed and reenacted to read:

18 Sec. 39.25.160. GENERALLY. (a) A classified employee may not
19 take an active part in the management of a political party above the
20 precinct level.

21 (b) A person may not give, render, pay, offer, solicit, or accept
22 money, services, or other valuable thing in connection with securing or
23 making an appointment, promotion, or advantage in a position in the
24 classified service.

25 (c) A person may not require an assessment, subscription, contri-
26 bution, or service for a political party from a state employee.

27 (d) A person may not seek or attempt to use a political party
28 endorsement in connection with an appointment or promotion in the
29 classified service.

1 (e) An employee in the classified or partially exempt service who
2 seeks nomination or becomes a candidate for state or national elective
3 political office shall immediately resign any position held in the
4 state service. The employee's position becomes vacant on the date the
5 employee files a declaration of candidacy for state or national elective
6 office.

7 (f) Action affecting the employment status of a state employee or
8 an applicant for state service, including appointment, promotion, demo-
9 tion, suspension, or removal, may not be taken or withheld on the basis
10 of unlawful discrimination due to race, religion, color, or national
11 origin, age, handicap, sex, marital status, change in marital status,
12 pregnancy, or parenthood. In addition, action affecting the employment
13 status of an employee in the classified service, including appointment,
14 promotion, demotion, suspension, or removal, may not be taken or with-
15 held for a reason not related to merit.

16 (g) Action affecting the employment status of an employee in the
17 classified service or an applicant for a position in the classified
18 service, including appointment, promotion, demotion, suspension, or
19 removal, may not be taken or withheld on the basis of unlawful discrim-
20 ination due to political beliefs.

21 (h) A person may not knowingly make a false statement, certifi-
22 cate, mark, rating, or report with regard to a test, certification, or
23 appointment made under this chapter or in any manner commit a fraud
24 preventing the impartial execution of this chapter and the personnel
25 rules adopted under this chapter.

26 (i) A person may not obstruct the right of another person to
27 examination, eligibility, certification, appointment, or promotion
28 under this chapter.

29 * Sec. 17. AS 39.25 is amended by adding a new section to read:

1 Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at
2 the request of a party to a proceeding begun under AS 39.25.170.

3 (b) If a person refuses to respond to a subpoena issued under
4 this section, or refuses to testify at a hearing authorized by AS 39.-
5 25.170, the personnel board may apply to the superior court for an
6 order requiring the person to respond to the subpoena or to testify.

7 (c) Failure to obey the order of the superior court requiring
8 response to a subpoena or testimony at a hearing may be punished as
9 contempt of court.

10 * Sec. 18. AS 39.25 is amended by adding a new section to read:

11 Sec. 39.25.181. DEFINITIONS. In this chapter,

12 (1) "fraud" means for a person to knowingly

13 (A) create or confirm another's false impression which
14 the person does not believe to be true, including false impres-
15 sions as to law or value and false impressions as to intention or
16 other state of mind;

17 (B) fail to correct another's false impression which
18 the person previously has created or confirmed;

19 (C) prevent another from acquiring pertinent information;

20 (2) "knowingly" means for a person to be aware with respect
21 to conduct or to a circumstance described by a provision of law that
22 his conduct is of that nature or that the circumstance exists; when
23 knowledge of the existence of a particular fact is required, that know-
24 ledge is established if a person is aware of a substantial probability
25 of its existence, unless he actually believes it does not exist;

26 (3) "precinct" means the territory within which resident
27 voters may cast votes at one polling place;

28 (4) "state employee" means a person employed by the state
29 who is paid a wage or salary, but does not include a person hired by

1 the state to work as an independent contractor or a person who is in
2 the custody of the state.

3 * Sec. 19. AS 39.25 is amended by adding a new section to article 6 to
4 read:

5 Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

6 (1) be a member of a national, state, or local political
7 party;

8 (2) take part in a political campaign;

9 (3) express political opinions; however, while engaged on
10 official business, a state employee may not display or distribute
11 partisan political material;

12 (4) register party preference;

13 (5) serve as a voting or nonvoting delegate to a party con-
14 vention;

15 (6) be appointed, nominated, or elected to nonpartisan
16 public office in a local government unit; and

17 (7) make contributions to a political party or a candidate
18 for public office.

19 * Sec. 20. AS 39.25.180 is repealed.

20 * Sec. 21. This Act takes effect July 1, 1982.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House CS for CS for Senate Bill No. 193 (Judiciary)
Title An Act amending state personnel laws; effective date
Requested by _____ Date 5/18/82

II. FISCAL DETAIL
Agency Affected Administration
Program Category Affected Personnel
BRU, Program, Or Subprogram(s) Affected Personnel, Personnel Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		42.2	22.6	24.2	25.8	27.7
200 TRAVEL		2.8	1.6	1.8	1.9	2.1
300 CONTRACTUAL		26.2				
400 COMMODITIES		.6	.6	.7	.8	.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		71.8	24.8	26.7	28.5	30.6

FUNDING (Thousands of Dollars)

GENERAL FUND		71.8	24.8	26.7	28.5	30.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		1	0	0	0	0
PART TIME		0	1	1	1	1
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Sections 11, 12 and 13 of HCS CSSB 913 (Jud) provides the procedures for adoption of amendments to the Personnel Rules. New publication requirements, mandatory publication in the Alaska Administrative Register and Code, and optional public hearings are provided. HCS CSSB 193 (Jud) makes several minor changes to the Personnel Act that will require amending the Personnel Rules. The major costs for FY 83 are:

1) contracting with the Department of Law for an attorney for four months to:

- rewrite the current Personnel Rules to AAC standards
- draft amendments incorporating changes in the Personnel Act

IV. DATE 5/18/82

PREPARED BY

Michael P. McMullen

AGENCY Administration - Division of Personnel

Original: Legislative Finance

PHONE 465-4430

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

FICAL NOTE continued

- modify amendments based on hearings
- file the amended rules with the Lt. Governor
- compile a Personnel Act - Personnel Rules cross-reference
- identify forms needing revision to reference the appropriate AAC provisions instead of the former rule
- Revise Administrative Manual and Operating Procedures to properly reference revised Personnel rules

(\$19.2 Thous.)

- 2) Personal Services to employ Regulations Specialist to revise existing procedures, manuals, forms and letters to properly cite revised Personnel rules. Position would be half-time after first year.

(\$42.2 Thous.)

- 3) travel and per diem for attorney and the Personnel Board for two hearings to adopt the rules and amendments under AAC standards.

(\$2.8 Thous.)

- 4) public notice of the hearings and proposed amendments.

(\$.6 Thous.)

- 5) typing of drafts, revision and filing version.

(\$2.0 Thous.)

- 6) printing of forms incorporating AAC references.

(\$1.0 Thous.)

In subsequent years, one two-day hearing by the Personnel Board to adopt amendments is budgeted. Travel is inflated 10% annually and public notice costs at 8%. Personal Services inflated at 7% per year.

Section 14 of HCS CSSB 193 (Jud) contains a significant change in the definition and preference accorded to veterans. In addition to the need to amend the Personnel Rules accordingly, there is a need to incorporate the new provision in the automated Applicant Tracking System. This one time contractual service cost is estimated at \$4 thousand.

Original sponsor: Rules/Legislative Council

Offered: 4/23/82
Referred: Judiciary

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 193 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending state personnel laws; and providing
7 for an effective date."

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

9 * Section 1. AS 39.25.040 is amended to read:

10 Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division
11 of personnel is the director of personnel appointed by the commissioner
12 of administration and responsible to the commissioner of administration
13 for the execution of the duties and responsibilities imposed by this
14 chapter and the rules adopted under this chapter. The director of
15 personnel shall [MUST] have at least three years of practical working
16 experience in the field of personnel administration.

17 * Sec. 2. AS 39.25.060(b) is amended to read:

18 (b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS
19 OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not
20 more than two members of the board may be members of the same political
21 party.

22 * Sec. 3. AS 39.25.070(1) is amended to read:

23 (1) approve or disapprove amendments to the personnel rules
24 in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM
25 WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DIS-
26 APPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE
27 BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD
28 THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

29 * Sec. 4. AS 39.25.070(3) is amended to read:

(3) hear and determine appeals by employees [IN THE CLASSIFIED SERVICE] as provided in AS 39.25.170;

* Sec. 5. AS 39.25.070 is amended by adding a new paragraph to read:

(7) employ staff members, who shall be in the classified service.

* Sec. 6. AS 39.25.080 is repealed and reenacted to read:

Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.

(b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

- (1) the names and position titles of all state employees;
- (2) the position held by a state employee;
- (3) prior positions held by a state employee;
- (4) whether a state employee is in the classified, partially exempt, or exempt service;
- (5) the dates of appointment and separation of a state employee; and

(6) the compensation authorized for a state employee.

(c) A state employee has the right to examine his own personnel files and may authorize others to examine his files.

(d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

* Sec. 7. AS 39.25.090 is amended to read:

Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the exempt and partially exempt service as specifically pro-

1 vided.

2 * Sec. 8. AS 39.25.110 is repealed and reenacted to read:

3 Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by
4 law, the following positions in the state service constitute the exempt
5 service and are exempt from the provisions of this chapter and the
6 rules adopted under it:

7 (1) persons elected to public office by popular vote or
8 appointed to fill vacancies in elected offices;

9 (2) justices, judges, magistrates, and employees of the
10 judicial branch including employees of the Judicial Council;

11 (3) employees of the state legislature and its agencies;

12 (4) the head of each principal department in the executive
13 branch;

14 (5) officers and employees of the University of Alaska;

15 (6) certificated teachers and noncertificated employees
16 employed by a regional educational attendance area established and
17 organized under AS 14.08.031 - 14.08.041 to teach in, administer, or
18 operate schools under the control of a regional educational attendance
19 area school board;

20 (7) certificated teachers employed by the Department of
21 Education as correspondence teachers or teachers in skill centers
22 operated by the Department of Education;

23 (8) patients and inmates employed in state institutions;

24 (9) persons employed in a professional capacity to make a
25 temporary or special inquiry, study or examination as authorized by the
26 governor;

27 (10) members of boards, commissions, or authorities;

28 (11) the officers and employees of the following boards,
29 commissions and authorities:

1 (A) Alaska Gas Pipeline Financing Authority;
2 (B) Alaska Permanent Fund Corporation;
3 (C) Alaska Energy Center;
4 (D) Alaska Industrial Development Authority;
5 (E) Alaska Commercial Fisheries Entry Commission;
6 (F) Alaska Commission on Postsecondary Education;
7 (G) Employees of the Citizens' Advisory Commission
8 on Federal Areas in Alaska (AS 41.37.010);

9 (12) the executive secretary and legal counsel of the Alaska
10 Municipal and Bank Authority;

11 (13) licensed physicians, as defined in AS 47.30.340(9)
12 employed by the state;

13 (14) petroleum engineers and petroleum geologists employed in
14 a professional capacity by the Department of Natural Resources and by
15 the Oil and Gas Conservation Commission; except for those employed in
16 the division of geological and geophysical surveys in the Department of
17 Natural Resources;

18 (15) officers, agents, and employees of the Alcoholic Beverage
19 Control Board granted limited peace officer powers by the Alcoholic
20 Beverage Control Board under AS 04.06.110;

21 (16) persons employed by the division of marine transporta-
22 tion as masters and members of the crews of vessels who operate the
23 state ferry system and who are covered by a collective bargaining
24 agreement provided in AS 23.40.040;

25 (17) officers and employees of the state who reside in
26 foreign countries;

27 (18) employees of the Alaska Seafood Marketing Insti-
28 tute;

29 (19) firefighters employed by the Department of Natural

1 Resources for a fire emergency;

2 (20) employees of the Office of the Governor and the Office
3 of the Lieutenant Governor, including the staff of the governor's
4 mansion.

5 * Sec. 9. AS 39.25.120 is repealed and reenacted to read:

6 Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the
7 partially exempt service are included in the position classification
8 plan established under this chapter and are compensated according to
9 the pay plan (AS 39.27.011).

10 (b) A person holding a position in the partially exempt service
11 is not required to take an examination or qualify or earn a place on a
12 register, and is not eligible for a hearing by the personnel board in
13 case of dismissal, demotion, or suspension, except as provided in
14 AS 39.25.170. Positions in the partially exempt service are specifi-
15 cally exempt from the rules established under AS 39.25.150(3) - (10),
16 (13), (14), and (17).

17 (c) The following positions in the state service constitute the
18 partially exempt service:

19 (1) deputy and assistant commissioners of the principal
20 departments of the executive branch, including the assistant adjutant
21 general of the Department of Military Affairs;

22 (2) the directors of the major divisions of the principal
23 departments of the executive branch and the regional directors of the
24 Department of Transportation and Public Facilities;

25 (3) attorney members of the staff of the Department of Law
26 and of the public defender agency;

27 (4) one private secretary for each head of a principal de-
28 partment in the executive branch;

29 (5) employees of councils, boards, or commissions established

1 by statute in the Office of the Governor or the office of the lieutenant
2 governor, unless a different classification is provided by statute;

3 (6) the executive director and deputy director of the Alaska
4 Public Utilities Commission;

5 (7) the director, deputy director, staff legal counsel, and
6 hearing officers of the Alaska Transportation Commission;

7 (8) not more than two special assistants to the commissioner
8 of each of the principal departments of the executive branch, but the
9 number may be increased if the partially exempt service is extended
10 under AS 39.25.130 to include the additional special assistants;

11 (9) the principal executive officer of the following boards,
12 councils, or commissions:

13 (A) Alaska Public Broadcasting Commission;

14 (B) Professional Teaching Practices Commission;

15 (C) Parole Board;

16 (D) Board of Nursing;

17 (E) Real Estate Commission;

18 (F) Alaska Royalty Oil and Gas Development Advisory

19 Board;

20 (G) Alaska Historical Commission;

21 (H) Alaska State Council on the Arts;

22 (I) Alaska Police Standards Council;

23 (J) Council on Science and Technology;

24 (K) Older Alaskans Commission;

25 (10) Alaska Pioneers' Home managers;

26 (11) hearing examiners in the Department of Revenue;

27 (12) the comptroller in the division of treasury, Department
28 of Revenue;

29 (13) investment officers in the Department of Revenue;

1 (14) airport managers in the Department of Transportation and
2 Public Facilities employed at the Anchorage and Fairbanks International
3 Airports;

4 (15) the deputy director of the division of tourism and the
5 deputy director of the division of insurance in the Department of Com-
6 merce and Economic Development;

7 (16) the executive director and staff of the Alaska Public
8 Offices Commission;

9 (17) the director, deputy director, personnel analysts II,
10 labor relations analysts I, labor relations analysts II, senior nego-
11 tiators, and research directors of the division of labor relations
12 in the Department of Administration.

13 * Sec. 10. AS 39.25.130(a) is amended to read:

14 (a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
15 recommendation of the commissioner of administration, may extend the
16 partially exempt service to include any position [WHICH WAS] in the
17 classified service [ON APRIL 19, 1960,] which, in the judgment of the
18 board:

19 (1) involves principal responsibility for the determination
20 of policy;

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

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

25 * Sec. 11. AS 39.25.130(c) is amended to read:

26 (c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
27 recommendation of the commissioner of administration, may extend the
28 classified service to include any position [WHICH WAS] in the partially
29 exempt service [ON APRIL 19, 1960].

1 * Sec. 12. AS 39.25.140 is repealed and reenacted to read:

2 Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director
3 of personnel shall prepare and submit proposed amendments of the per-
4 sonnel rules to the commissioner of administration for review and
5 approval.

6 (b) The commissioner of administration shall review the proposed
7 amendments and if he approves them, he shall submit them to the person-
8 nel board.

9 (c) If the proposed amendments concern matters of public policy,
10 the personnel board shall adopt them in accordance with the Administra-
11 tive Procedure Act (AS 44.62).

12 (d) If the proposed amendments relate only to internal management
13 of a state agency, the commissioner of administration shall post notice
14 in public buildings throughout the state that the personnel board has
15 the proposed amendments under consideration. The notice required by
16 this subsection shall be posted at least 30 days before any decision is
17 made to amend the personnel rules and shall include an address for the
18 receipt of written comments.

19 (e) If requested by the commissioner of administration or by a
20 person receiving notice of the proposed amendments, the personnel board
21 may hold public hearings on the proposed amendments and may appoint a
22 hearing officer to conduct the hearings.

23 (f) The personnel board may amend the proposed amendments.

24 (g) The proposed amendments become effective 45 days after they
25 are submitted to the personnel board unless the board has disapproved
26 them.

27 (h) The amended rules shall be published in the Alaska Administra-
28 tive Register and Code for informational purposes.

29 * Sec. 13. AS 39.25.150 is repealed and reenacted to read:

1 Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall
2 provide for

3 (1) the preparation, maintenance, and revision by the direc-
4 tor of personnel, subject to approval of the commissioner of adminis-
5 tration and the personnel board, of a position classification plan for
6 all positions in the classified and partially exempt services; the
7 position classification plan shall include

8 (A) a grouping together of all positions into classes
9 on the basis of duties and responsibilities;

10 (B) an appropriate title, a description of the duties
11 and responsibilities, training and experience qualifications, and
12 other necessary specifications for each class of positions;

13 (2) the preparation, maintenance, revision and administra-
14 tion by the director of personnel of a pay plan for all positions in
15 the classified and partially exempt services; the pay plan (A) shall be
16 based upon the position classification plan; (B) shall provide for fair
17 and reasonable compensation for services rendered, and reflect the
18 principle of like pay for like work; (C) may be amended, approved, or
19 disapproved by the legislature in regular or special session; after the
20 pay plan is in effect, a salary or wage payment may not be made to a
21 state employee covered by the plan unless the payment is in accordance
22 with this chapter and the rules adopted under this chapter or unless
23 the payment is in accordance with a valid agreement entered into in
24 accordance with AS 23.40;

25 (3) the use of employee selection methods which will fairly
26 test the capacity and fitness of the person examined to discharge the
27 duties of the class in which employment is sought;

28 (4) the establishment and maintenance of eligible lists for
29 appointment and promotion providing the names of eligible candidates in

1 order of their relative performance in the examinations;

2 (5) the procedure for certifying eligible candidates;

3 (6) promotions from within the state service when there are
4 qualified candidates in the state service; vacancies shall be filled by
5 promotion whenever practicable and in the best interest of the state
6 service and promotion shall be by competitive examination whenever
7 possible; in considering promotions, applicants' qualifications, per-
8 formance record, seniority, and conduct shall be evaluated;

9 (7) a period of probation not to exceed one year before an
10 appointment to a position becomes permanent, except that a permanent
11 employee receiving a promotional appointment retains permanent status
12 in the service and job class from which appointed for the duration of
13 the probationary period and may be demoted to a former class without
14 right of appeal, notwithstanding AS 39.25.170, but if the employee is
15 dismissed from the service the appeal rights under AS 39.25.170 apply;

16 (8) nonpermanent and emergency appointments to positions in
17 the state service in accordance with AS 39.25.195 - 39.25.200;

18 (9) provisional appointment without competitive examination
19 when appropriate eligible lists are not available;

20 (10) transfers from one department to another and from an-
21 other merit system jurisdiction to the state service;

22 (11) transfers from one area of the state to another;

23 (12) the reinstatement of a person who resigns in good stand-
24 ing;

25 (13) layoffs for reason of lack of money or work, abolition
26 of positions, or material changes in duties or organization; both
27 performance and seniority records shall be considered in the develop-
28 ment of layoff orders;

29 (14) the development, maintenance, and use of employee perfor-

1 mance records;

2 (15) the establishment of disciplinary measures which may
3 include disciplinary suspension without pay;

4 (16) the procedures for review of disputed personnel actions,
5 for resolving employee and interagency grievances, and for resolving
6 grievances of the general public concerning the operation of the state
7 personnel system;

8 (17) hours of work for all employees in the state service;

9 (18) methods and procedures covering overtime work and pay;

10 (19) the granting of employment preference rights to a veteran
11 not within the area of promotion, when the veteran possesses the neces-
12 sary qualifications in the job classification applied for under this
13 chapter; in an examination to determine the qualification of applicants
14 for entrance into the classified service under merit system examination,
15 five additional points shall be added to the passing grade of a veteran
16 and ten additional points shall be added to the passing grade of a
17 disabled veteran, but the additional points may be used only the first
18 time the veteran obtains a position in the classified service; if a
19 position in the classified service is eliminated, employees shall be
20 released in accordance with rules which give due effect to all factors;
21 if all job qualifications are equal, the veteran shall be given pref-
22 erence over the nonveteran and the veteran shall be kept on the job;
23 this paragraph may not be interpreted to amend the terms of a collective
24 bargaining agreement; in this paragraph

25 (A) "veteran" means a person with 181 days or more
26 active service in the armed forces of the United States who has
27 been honorably discharged after having served during any period
28 between April 6, 1917, and December 1, 1919, between September 16,
29 1940, and December 31, 1947, or between June 27, 1950, and

November 7, 1975;

(B) "disabled veteran" means a veteran who is entitled to compensation under laws administered by the United States Veterans' Administration, or a person who was honorably discharged or released from active duty because of a service-connected disability;

(20) the employment of persons in permanent positions on a part-time basis of 15 hours or more a week, including the employment of two persons to fill one permanent full-time position; these employees shall be designated as permanent part-time employees;

(21) the granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination for periods up to four months and the granting of eligibility to a severely handicapped person provisionally appointed under the rules who demonstrates ability to perform the job for permanent appointment without competitive examination; provisional employment under this paragraph may not exceed four months during a 12-month period; "severely handicapped" as used in this paragraph means persons certified by the director of the division of vocational rehabilitation to be severely handicapped;

(22) the establishment of programs facilitating the employment of disadvantaged persons, including limitation of competition for appointment and promotion to individuals who meet the program requirements;

(23) the delegation, when feasible, of personnel responsibilities and duties to the principal departments of the executive branch;

(24) the establishment of a transition period of up to 12 months for an employee to be reappointed to a classified position if the employee's position is withdrawn from the partially exempt or

1 exempt service and placed in the classified service;

2 (25) other rules and administrative regulations, not incon-
3 sistent with this chapter, which are necessary for its enforcement.

4 * Sec. 14. AS 39.25.153 is repealed and reenacted to read:

5 Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal depart-
6 ment of the executive branch has a personnel officer, the personnel
7 officer shall be employed by and located within that department.

8 (b) Subject to the provisions of (d) of this section, the per-
9 sonnel officers for the Departments of Transportation and Public Facili-
10 ties, Fish and Game, Education, Labor, and Health and Social Services,
11 have the following powers with respect to the classes of positions
12 unique to their departments:

13 (1) to assign positions to an existing class in the state
14 classification plan and to the salary range for that class as estab-
15 lished by the state pay plan or by a valid agreement entered into in
16 accordance with AS 23.40;

17 (2) to administer and score examinations and to place suc-
18 cessful applicants on departmental eligible lists;

19 (3) to certify those eligible to the appointing authorities.

20 (c) The initial determination of classes of positions unique to
21 the departments listed in (b) of this section shall be made by the
22 personnel officer of the department in consultation with the commis-
23 sioner of his department subject to the approval of the director of
24 personnel in the Department of Administration.

25 (d) The assumption of a power set out in (b) of this section must
26 be approved by the commissioner of administration and must be in harmony
27 with the merit principle of personnel administration (AS 39.25.010).

28 * Sec. 15. AS 39.25.160 is repealed and reenacted to read:

29 Sec. 39.25.160. GENERALLY. (a) A classified employee may not

1 take an active part in the management of a political party above the
2 precinct level.

3 (b) A person may not give, render, pay, offer, solicit, or accept
4 money, services, or other valuable thing in connection with securing or
5 making an appointment, promotion, or advantage in a position in the
6 classified service.

7 (c) A person may not require an assessment, subscription, contri-
8 bution, or service for a political party from a state employee.

9 (d) A person may not seek or attempt to use a political party
10 endorsement in connection with an appointment or promotion in the
11 classified service.

12 (e) An employee in the classified or partially exempt service who
13 seeks nomination or becomes a candidate for state or national elective
14 political office shall immediately resign any position held in the
15 state service. The employee's position becomes vacant on the date the
16 employee files a declaration of candidacy for state or national elective
17 office.

18 (f) Action affecting the employment status of a state employee or
19 an applicant for state service, including appointment, promotion, demo-
20 tion, suspension, or removal, may not be taken or withheld on the basis
21 of unlawful discrimination due to race, religion, color, or national
22 origin, age, handicap, sex, marital status, change in marital status,
23 pregnancy, or parenthood. In addition, action affecting the employment
24 status of an employee in the classified service, including appointment,
25 promotion, demotion, suspension, or removal, may not be taken or with-
26 held for a reason not related to merit.

27 (g) Action affecting the employment status of an employee in the
28 classified service or an applicant for a position in the classified
29 service, including appointment, promotion, demotion, suspension, or

1 removal, may not be taken or withheld on the basis of unlawful discrim-
2 ination due to political beliefs.

3 (h) A person may not knowingly make a false statement, certifi-
4 cate, mark, rating, or report with regard to a test, certification, or
5 appointment made under this chapter or in any manner commit a fraud
6 preventing the impartial execution of this chapter and the personnel
7 rules adopted under this chapter.

8 (i) A person may not obstruct the right of another person to
9 examination, eligibility, certification, appointment, or promotion
10 under this chapter.

11 * Sec. 16. AS 39.25.170 is repealed and reenacted to read:

12 Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR
13 SUSPENSION. (a) An employee in the executive branch of state govern-
14 ment may be dismissed, demoted, or suspended by delivery of written
15 notice of the proposed action and the reason for it from the appointing
16 authority to the employee.

17 (b) A permanent employee in the classified service who has been
18 dismissed, demoted, or suspended may appeal the action to the personnel
19 board.

20 (c) An employee in the executive branch of state government who
21 has been dismissed, demoted, or suspended due to unlawful discrimination
22 based on race, religion, color, or national origin, or because of age,
23 handicap, sex, marital status, change in marital status, pregnancy, or
24 parenthood may appeal the action to the personnel board.

25 (d) An employee in the classified service who has been dismissed,
26 demoted, or suspended due to unlawful discrimination based on political
27 beliefs may appeal the action to the personnel board.

28 (e) A permanent employee in the classified service who holds
29 probationary status in his present position may appeal a dismissal

1 from the classified service to the personnel board.

2 (f) An employee who is on leave without pay from a position
3 in the classified service and who is employed by the state in an-
4 other capacity, either in the exempt or partially exempt service,
5 may appeal a dismissal from the classified service to the personnel
6 board.

7 (g) An employee begins an appeal by filing a written request
8 for review of the action with the personnel board within 15 days of
9 receiving written notice of the action from the appointing authority.

10 (h) If requested by the employee at the time of filing an appeal,
11 the personnel board shall hold a hearing to determine the reasonable-
12 ness of the the action taken by the appointing authority. If the
13 employee requests it, the hearing shall be open to the public. The
14 employee may be represented by another person and has the right to
15 present evidence, and to confront and cross-examine witnesses. Techni-
16 cal rules of evidence do not apply to the hearing, but all testimony
17 shall be taken under oath.

18 (i) If the personnel board finds that the action complained of
19 was due to unlawful discrimination based on race, sex, color, religion,
20 national origin, age, handicap, marital status, change in marital
21 status, pregnancy, or parenthood, or in violation of the provisions of
22 this chapter or the personnel rules, the employee shall be reinstated
23 to the position without loss of pay or leave benefit for the period of
24 dismissal, demotion, or suspension. In addition, if the personnel
25 board finds that the action complained of by an employee in the classi-
26 fied service was due to unlawful discrimination based on a political
27 belief or any other reason related to merit the employee shall be
28 reinstated to the position without loss of pay or leave benefit for the
29 period of dismissal, demotion, or suspension. In all other cases, the

1 board shall report its findings and recommendations in writing, to both
2 parties within 30 days of a hearing conducted under (h) of this section,
3 and the decision of the board may be appealed to the superior court.

4 * Sec. 17. AS 39.25 is amended by adding a new section to read:

5 Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at
6 the request of a party to a proceeding begun under AS 39.25.170.

7 (b) If a person refuses to respond to a subpoena issued under
8 this section, or refuses to testify at a hearing authorized by AS 39.-
9 25.170, the personnel board may apply to the superior court for an
10 order requiring the person to respond to the subpoena or to testify.

11 (c) Failure to obey the order of the superior court requiring
12 response to a subpoena or testimony at a hearing may be punished as
13 contempt of court.

14 * Sec. 18. AS 39.25 is amended by adding a new section to read:

15 Sec. 39.25.181. DEFINITIONS. In this chapter,

16 (1) "fraud" means for a person to knowingly

17 (A) create or confirm another's false impression which
18 the person does not believe to be true, including false impres-
19 sions as to law or value and false impressions as to intention or
20 other state of mind;

21 (B) fail to correct another's false impression which
22 the person previously has created or confirmed;

23 (C) prevent another from acquiring pertinent informa-
24 tion;

25 (2) "knowingly" means for a person to be aware with respect
26 to conduct or to a circumstance described by a provision of law that
27 his conduct is of that nature or that the circumstance exists; when
28 knowledge of the existence of a particular fact is required, that know-
29 ledge is established if a person is aware of a substantial probability

1 of its existence, unless he actually believes it does not exist;

2 (3) "precinct" means the territory within which resident
3 voters may cast votes at one polling place;

4 (4) "state employee" means a person employed by the state
5 who is paid a wage or salary, but does not include a person hired by
6 the state to work as an independent contractor or a person who is in
7 the custody of the state.

8 * Sec. 19. AS 39.25 is amended by adding a new section to article 6 to
9 read:

10 Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

11 (1) be a member of a national, state, or local political
12 party;

13 (2) take part in a political campaign;

14 (3) express political opinions except while performing
15 official duties;

16 (4) register party preference;

17 (5) serve as a voting or nonvoting delegate to a party con-
18 vention;

19 (6) be appointed, nominated, or elected to nonpartisan
20 public office in a local government unit; and

21 (7) make contributions to a political party or a candidate
22 for public office.

23 * Sec. 20. AS 39.25.180 is repealed.

24 * Sec. 21. This Act takes effect July 1, 1982.

Original sponsor: Rules/Legislative Council

Offered: 4/7/82
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 193 (Judiciary) am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending state personnel laws; and providing
7 for an effective date."

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

9 * Section 1. AS 39.25.040 is amended to read:

10 Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division
11 of personnel is the director of personnel appointed by the commissioner
12 of administration and responsible to the commissioner of administration
13 for the execution of the duties and responsibilities imposed by this
14 chapter and the rules adopted under this chapter. The director of
15 personnel shall [MUST] have at least three years of practical working
16 experience in the field of personnel administration.

17 * Sec. 2. AS 39.25.060(b) is amended to read:

18 (b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS
19 OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not
20 more than two members of the board may be members of the same political
21 party.

22 * Sec. 3. AS 39.25.070(1) is amended to read:

23 (1) approve or disapprove amendments to the personnel rules
24 in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM
25 WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DIS-
26 APPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE
27 BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD
28 THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

29 * Sec. 4. AS 39.25.070(3) is amended to read:

1 (3) hear and determine appeals by employees [IN THE CLASSI-
2 FIED SERVICE] as provided in AS 39.25.170;

3 * Sec. 5. AS 39.25.070 is amended by adding a new paragraph to read:

4 (7) employ staff members, who shall be in the classified
5 service.

6 * Sec. 6. AS 39.25.080 is repealed and reenacted to read:

7 Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records,
8 including employment applications and examination materials, are confi-
9 dential and are not open to public inspection except as provided in
10 this section.

11 (b) The following information is available for public inspection,
12 subject to reasonable regulations on the time and manner of inspection:

13 (1) the names and position titles of all state employees;

14 (2) the position held by a state employee;

15 (3) prior positions held by a state employee;

16 (4) whether a state employee is in the classified, partially
17 exempt, or exempt service;

18 (5) the dates of appointment and separation of a state em-
19 ployee; and

20 (6) the compensation authorized for a state employee.

21 (c) A state employee has the right to examine his own personnel
22 files and may authorize others to examine his files.

23 (d) An applicant for state employment who appeals an examination
24 score may review written examination questions relating to the examina-
25 tion unless the questions are to be used in future examinations.

26 * Sec. 7. AS 39.25.090 is amended to read:

27 Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules
28 adopted under it apply to all positions in (1) the classified service,
29 and (2) the exempt and partially exempt service as specifically pro-

1 vided.

2 * Sec. 8. AS 39.25.110 is repealed and reenacted to read:

3 Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by
4 law, the following positions in the state service constitute the exempt
5 service and are exempt from the provisions of this chapter and the
6 rules adopted under it:

7 (1) persons elected to public office by popular vote or
8 appointed to fill vacancies in elected offices;

9 (2) justices, judges, magistrates, and employees of the
10 judicial branch including employees of the Judicial Council;

11 (3) employees of the state legislature and its agencies;

12 (4) the head of each principal department in the executive
13 branch;

14 (5) officers and employees of the University of Alaska;

15 (6) certificated teachers and noncertificated employees
16 employed by a regional educational attendance area established and
17 organized under AS 14.08.031 - 14.08.041 to teach in, administer, or
18 operate schools under the control of a regional educational attendance
19 area school board;

20 (7) certificated teachers employed by the Department of
21 Education as correspondence teachers or teachers in skill centers
22 operated by the Department of Education;

23 (8) patients and inmates employed in state institutions;

24 (9) persons employed in a professional capacity to make a
25 temporary or special inquiry, study or examination as authorized by the
26 governor;

27 (10) members of boards, commissions, or authorities;

28 (11) the officers and employees of the following boards,
29 commissions and authorities:

- 1 (A) Alaska Gas Pipeline Financing Authority;
2 (B) Alaska Permanent Fund Corporation;
3 (C) Alaska Energy Center;
4 (D) Alaska Industrial Development Authority;
5 (E) Alaska Commercial Fisheries Entry Commission;
6 (F) Alaska Commission on Postsecondary Education;
7 (G) Employees of the Citizens' Advisory Commission
8 on Federal Areas in Alaska (AS 41.37.010);
9 (12) the executive secretary and legal counsel of the Alaska
10 Municipal Bond Bank Authority;
11 (13) licensed physicians, as defined in AS 47.30.340(9)
12 employed by the state;
13 (14) petroleum engineers and petroleum geologists employed in
14 a professional capacity by the Department of Natural Resources and by
15 the Oil and Gas Conservation Commission; except for those employed in
16 the division of geological and geophysical surveys in the Department of
17 Natural Resources;
18 (15) officers, agents, and employees of the Alcoholic Beverage
19 Control Board granted limited peace officer powers by the Alcoholic
20 Beverage Control Board under AS 04.06.110;
21 (16) persons employed by the division of marine transporta-
22 tion as masters and members of the crews of vessels who operate the
23 state ferry system and who are covered by a collective bargaining
24 agreement provided in AS 23.40.040;
25 (17) officers and employees of the state who reside in
26 foreign countries;
27 (18) employees of the Alaska Seafood Marketing Insti-
28 tute;
29 (19) firefighters employed by the Department of Natural

1 Resources for a fire emergency.

2 * Sec. 9. AS 39.25.120 is repealed and reenacted to read:

3 Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the
4 partially exempt service are included in the position classification
5 plan established under this chapter and are compensated according to
6 the pay plan (AS 39.27.011).

7 (b) A person holding a position in the partially exempt service
8 is not required to take an examination or qualify or earn a place on a
9 register, and is not eligible for a hearing by the personnel board in
10 case of dismissal, demotion, or suspension, except as provided in
11 AS 39.25.170. Positions in the partially exempt service are specifi-
12 cally exempt from the rules established under AS 39.25.150(3) - (10),
13 (13), (14), and (17).

14 (c) The following positions in the state service constitute the
15 partially exempt service:

16 (1) deputy and assistant commissioners of the principal
17 departments of the executive branch, including the assistant adjutant
18 general of the Department of Military Affairs;

19 (2) the directors of the major divisions of the principal
20 departments of the executive branch and the regional directors of the
21 Department of Transportation and Public Facilities;

22 (3) attorney members of the staff of the Department of Law
23 and of the public defender agency;

24 (4) one private secretary for each head of a principal de-
25 partment in the executive branch;

26 (5) employees of the Office of the Governor and the office of
27 the lieutenant governor, including the staff of the governor's mansion;

28 (6) the executive director and deputy director of the Alaska
29 Public Utilities Commission;

1 (7) the director, deputy director, staff legal counsel, and
2 hearing officers of the Alaska Transportation Commission;

3 (8) not more than two special assistants to the commissioner
4 of each of the principal departments of the executive branch, but the
5 number may be increased if the partially exempt service is extended
6 under AS 39.25.130 to include the additional special assistants;

7 (9) the principal executive officer of the following boards,
8 councils, or commissions:

9 (A) Alaska Public Broadcasting Commission;

10 (B) Professional Teaching Practices Commission;

11 (C) Parole Board;

12 (D) Board of Nursing;

13 (E) Real Estate Commission;

14 (F) Alaska Royalty Oil and Gas Development Advisory

15 Board;

16 (G) Alaska Historical Commission;

17 (H) Alaska State Council on the Arts;

18 (I) Alaska Police Standards Council;

19 (J) Council on Science and Technology;

20 (K) Older Alaskans Commission;

21 (10) Alaska Pioneers' Home managers;

22 (11) hearing examiners in the Department of Revenue;

23 (12) the comptroller in the division of treasury, Department
24 of Revenue;

25 (13) investment officers in the Department of Revenue;

26 (14) airport managers in the Department of Transportation and
27 Public Facilities employed at the Anchorage and Fairbanks International
28 Airports;

29 (15) the deputy director of the division of tourism and the

1 deputy director of the division of insurance in the Department of Com-
2 merce and Economic Development;

3 (16) the executive director and staff of the Alaska Public
4 Offices Commission;

5 (17) the director, deputy director, personnel analysts II,
6 labor relations analysts I, labor relations analysts II, senior nego-
7 tiators, and research directors of the division of labor relations
8 in the Department of Administration.

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

10 (a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
11 recommendation of the commissioner of administration, may extend the
12 partially exempt service to include any position [WHICH WAS] in the
13 classified service [ON APRIL 19, 1960,] which, in the judgment of the
14 board:

15 (1) involves principal responsibility for the determination
16 of policy;

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

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

21 * Sec. 11. AS 39.25.130(c) is amended to read:

22 (c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
23 recommendation of the commissioner of administration, may extend the
24 classified service to include any position [WHICH WAS] in the partially
25 exempt service [ON APRIL 19, 1960].

26 * Sec. 12. AS 39.25.140 is repealed and reenacted to read:

27 Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director
28 of personnel shall prepare and submit proposed amendments of the per-
29 sonnel rules to the commissioner of administration for review and

1 approval.

2 (b) The commissioner of administration shall review the proposed
3 amendments and if he approves them, he shall submit them to the person-
4 nel board.

5 (c) If the proposed amendments concern matters of public policy,
6 the personnel board shall adopt them in accordance with the Administra-
7 tive Procedure Act (AS 44.62).

8 (d) If the proposed amendments relate only to internal management
9 of a state agency, the commissioner of administration shall post notice
10 in public buildings throughout the state that the personnel board has
11 the proposed amendments under consideration. The notice required by
12 this subsection shall be posted at least 30 days before any decision is
13 made to amend the personnel rules and shall include an address for the
14 receipt of written comments.

15 (e) If requested by the commissioner of administration or by a
16 person receiving notice of the proposed amendments, the personnel board
17 may hold public hearings on the proposed amendments and may appoint a
18 hearing officer to conduct the hearings.

19 (f) The personnel board may amend the proposed amendments.

20 (g) The proposed amendments become effective 45 days after they
21 are submitted to the personnel board unless the board has disapproved
22 them.

23 (h) The amended rules shall be published in the Alaska Administra-
24 tive Register and Code for informational purposes.

25 * Sec. 13. AS 39.25.150 is repealed and reenacted to read:

26 Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall
27 provide for

28 (1) the preparation, maintenance, and revision by the direc-
29 tor of personnel, subject to approval of the commissioner of adminis-

1 tration and the personnel board, of a position classification plan for
2 all positions in the classified and partially exempt services; the
3 position classification plan shall include

4 (A) a grouping together of all positions into classes
5 on the basis of duties and responsibilities;

6 (B) an appropriate title, a description of the duties
7 and responsibilities, training and experience qualifications, and
8 other necessary specifications for each class of positions;

9 (2) the preparation, maintenance, revision and administra-
10 tion by the director of personnel of a pay plan for all positions in
11 the classified and partially exempt services; the pay plan (A) shall be
12 based upon the position classification plan; (B) shall provide for fair
13 and reasonable compensation for services rendered, and reflect the
14 principle of like pay for like work; (C) may be amended, approved, or
15 disapproved by the legislature in regular or special session; after the
16 pay plan is in effect, a salary or wage payment may not be made to a
17 state employee covered by the plan unless the payment is in accordance
18 with this chapter and the rules adopted under this chapter or unless
19 the payment is in accordance with a valid agreement entered into in
20 accordance with AS 23.40;

21 (3) the use of employee selection methods which will fairly
22 test the capacity and fitness of the person examined to discharge the
23 duties of the class in which employment is sought;

24 (4) the establishment and maintenance of eligible lists for
25 appointment and promotion providing the names of eligible candidates in
26 order of their relative performance in the examinations;

27 (5) the procedure for certifying eligible candidates;

28 (6) promotions from within the state service when there are
29 qualified candidates in the state service; vacancies shall be filled by

1 promotion whenever practicable and in the best interest of the state
2 service and promotion shall be by competitive examination whenever
3 possible; in considering promotions, applicants' qualifications, per-
4 formance record, seniority, and conduct shall be evaluated;

5 (7) a period of probation not to exceed one year before an
6 appointment to a position becomes permanent, except that a permanent
7 employee receiving a promotional appointment retains permanent status
8 in the service and job class from which appointed for the duration of
9 the probationary period and may be demoted to a former class without
10 right of appeal, notwithstanding AS 39.25.170, but if the employee is
11 dismissed from the service the appeal rights under AS 39.25.170 apply;

12 (8) nonpermanent and emergency appointments to positions in
13 the state service in accordance with AS 39.25.195 - 39.25.200;

14 (9) provisional appointment without competitive examination
15 when appropriate eligible lists are not available;

16 (10) transfers from one department to another and from an-
17 other merit system jurisdiction to the state service;

18 (11) transfers from one area of the state to another;

19 (12) the reinstatement of a person who resigns in good stand-
20 ing;

21 (13) layoffs for reason of lack of money or work, abolition
22 of positions, or material changes in duties or organization; both
23 performance and seniority records shall be considered in the develop-
24 ment of layoff orders;

25 (14) the development, maintenance, and use of employee perfor-
26 mance records;

27 (15) the establishment of disciplinary measures which may
28 include disciplinary suspension without pay;

29 (16) the procedures for review of disputed personnel actions,

1 for resolving employee and interagency grievances, and for resolving
2 grievances of the general public concerning the operation of the state
3 personnel system;

4 (17) hours of work for all employees in the state service;

5 (18) methods and procedures covering overtime work and pay;

6 (19) the granting of employment preference rights to a veteran
7 not within the area of promotion, when the veteran possesses the neces-
8 sary qualifications in the job classification applied for under this
9 chapter; in an examination to determine the qualification of applicants
10 for entrance into the classified service under merit system examination,
11 five additional points shall be added to the passing grade of a veteran
12 and ten additional points shall be added to the passing grade of a
13 disabled veteran, but the additional points may be used only the first
14 time the veteran obtains a position in the classified service; if a
15 position in the classified service is eliminated, employees shall be
16 released in accordance with rules which give due effect to all factors;
17 if all job qualifications are equal, the veteran shall be given pref-
18 erence over the nonveteran and the veteran shall be kept on the job;
19 this paragraph may not be interpreted to amend the terms of a collective
20 bargaining agreement; in this paragraph

21 (A) "veteran" means a person with 181 days or more
22 active service in the armed forces of the United States who has
23 been honorably discharged after having served during any period
24 between April 6, 1917, and December 1, 1919, between September 16,
25 1940, and December 31, 1947, or between June 27, 1950, and
26 November 7, 1975;

27 (B) "disabled veteran" means a veteran who is entitled
28 to compensation under laws administered by the United States
29 Veterans' Administration, or a person who was honorably discharged

1 or released from active duty because of a service-connected dis-
2 ability;

3 (20) the employment of persons in permanent positions on a
4 part-time basis of 15 hours or more a week, including the employment of
5 two persons to fill one permanent full-time position; these employees
6 shall be designated as permanent part-time employees;

7 (21) the granting of employment preference to severely handi-
8 capped persons; this includes the right to provisional appointment
9 without competitive examination for periods up to four months and the
10 granting of eligibility to a severely handicapped person provisionally
11 appointed under the rules who demonstrates ability to perform the job
12 for permanent appointment without competitive examination; provisional
13 employment under this paragraph may not exceed four months during a
14 12-month period; "severely handicapped" as used in this paragraph means
15 persons certified by the director of the division of vocational reha-
16 bilitation to be severely handicapped;

17 (22) the establishment of programs facilitating the employ-
18 ment of disadvantaged persons, including limitation of competition for
19 appointment and promotion to individuals who meet the program require-
20 ments;

21 (23) the delegation, when feasible, of personnel responsibil-
22 ities and duties to the principal departments of the executive branch;

23 (24) the establishment of a transition period of up to 12
24 months for an employee to be reappointed to a classified position if
25 the employee's position is withdrawn from the partially exempt or
26 exempt service and placed in the classified service;

27 (25) other rules and administrative regulations, not incon-
28 sistent with this chapter, which are necessary for its enforcement.

29 * Sec. 14. AS 39.25.153 is repealed and reenacted to read:

1 Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal depart-
2 ment of the executive branch has a personnel officer, the personnel
3 officer shall be employed by and located within that department.

4 (b) Subject to the provisions of (d) of this section, the per-
5 sonnel officers for the Departments of Transportation and Public Facili-
6 ties, Fish and Game, Education, Labor, and Health and Social Services,
7 have the following powers with respect to the classes of positions
8 unique to their departments:

9 (1) to assign positions to an existing class in the state
10 classification plan and to the salary range for that class as estab-
11 lished by the state pay plan or by a valid agreement entered into in
12 accordance with AS 23.40;

13 (2) to administer and score examinations and to place suc-
14 cessful applicants on departmental eligible lists;

15 (3) to certify those eligible to the appointing authorities.

16 (c) The initial determination of classes of positions unique to
17 the departments listed in (b) of this section shall be made by the
18 personnel officer of the department in consultation with the commis-
19 sioner of his department subject to the approval of the director of
20 personnel in the Department of Administration.

21 (d) The assumption of a power set out in () of this section must
22 be approved by the commissioner of administration and must be in harmony
23 with the merit principle of personnel administration (AS 39.25.010).

24 * Sec. 15. AS 39.25.160 is repealed and reenacted to read:

25 Sec. 39.25.160. GENERALLY. (a) A classified employee may not
26 take an active part in the management of a political party above the
27 precinct level.

28 (b) A person may not give, render, pay, offer, solicit, or accept
29 money, services, or other valuable thing in connection with securing or

1 making an appointment, promotion, or advantage in a position in the
2 classified service.

3 (c) A person may not require an assessment, subscription, contri-
4 bution, or service for a political party from a state employee.

5 (d) A person may not seek or attempt to use a political party
6 endorsement in connection with an appointment or promotion in the
7 classified service.

8 (e) An employee in the classified or partially exempt service who
9 seeks nomination or becomes a candidate for state or national elective
10 political office shall immediately resign any position held in the
11 state service. The employee's position becomes vacant on the date the
12 employee files a declaration of candidacy for state or national elective
13 office.

14 (f) Action affecting the employment status of a state employee or
15 an applicant for state service, including appointment, promotion, demo-
16 tion, suspension, or removal, may not be taken or withheld on the basis
17 of unlawful discrimination due to race, religion, color, or national
18 origin, age, handicap, sex, marital status, change in marital status,
19 pregnancy, or parenthood. In addition, action affecting the employment
20 status of an employee in the classified service, including appointment,
21 promotion, demotion, suspension, or removal, may not be taken or with-
22 held for a reason not related to merit.

23 (g) Action affecting the employment status of an employee in the
24 classified service or an applicant for a position in the classified
25 service, including appointment, promotion, demotion, suspension, or
26 removal, may not be taken or withheld on the basis of unlawful discrim-
27 ination due to political beliefs.

28 (h) A person may not knowingly make a false statement, certifi-
29 cate, mark, rating, or report with regard to a test, certification, or

1 appointment made under this chapter or in any manner commit a fraud
2 preventing the impartial execution of this chapter and the personnel
3 rules adopted under this chapter.

4 (i) A person may not obstruct the right of another person to
5 examination, eligibility, certification, appointment, or promotion
6 under this chapter.

7 * Sec. 16. AS 39.25.170 is repealed and reenacted to read:

8 Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR
9 SUSPENSION. (a) An employee in the executive branch of state govern-
10 ment may be dismissed, demoted, or suspended by delivery of written
11 notice of the proposed action and the reason for it from the appointing
12 authority to the employee.

13 (b) A permanent employee in the classified service who has been
14 dismissed, demoted, or suspended may appeal the action to the personnel
15 board.

16 (c) An employee in the executive branch of state government who
17 has been dismissed, demoted, or suspended due to unlawful discrimination
18 based on race, religion, color, or national origin, or because of age,
19 handicap, sex, marital status, change in marital status, pregnancy, or
20 parenthood may appeal the action to the personnel board.

21 (d) An employee in the classified service who has been dismissed,
22 demoted, or suspended due to unlawful discrimination based on political
23 beliefs may appeal the action to the personnel board.

24 (e) A permanent employee in the classified service who holds
25 probationary status in his present position may appeal a dismissal
26 from the classified service to the personnel board.

27 (f) An employee who is on leave without pay from a position
28 in the classified service and who is employed by the state in an-
29 other capacity, either in the exempt or partially exempt service,

1 may appeal a dismissal from the classified service to the personnel
2 board.

3 (g) An employee begins an appeal by filing a written request
4 for review of the action with the personnel board within 15 days of
5 receiving written notice of the action from the appointing authority.

6 (h) If requested by the employee at the time of filing an appeal,
7 the personnel board shall hold a hearing to determine the reasonable-
8 ness of the the action taken by the appointing authority. If the
9 employee requests it, the hearing shall be open to the public. The
10 employee may be represented by another person and has the right to
11 present evidence, and to confront and cross-examine witnesses. Techni-
12 cal rules of evidence do not apply to the hearing, but all testimony
13 shall be taken under oath.

14 (i) If the personnel board finds that the action complained of
15 was due to unlawful discrimination based on race, sex, color, religion,
16 national origin, age, handicap, marital status, change in marital
17 status, pregnancy, or parenthood, or in violation of the provisions of
18 this chapter or the personnel rules, the employee shall be reinstated
19 to the position without loss of pay or leave benefit for the period of
20 dismissal, demotion, or suspension. In addition, if the personnel
21 board finds that the action complained of by an employee in the classi-
22 fied service was due to unlawful discrimination based on a political
23 belief or any other reason related to merit the employee shall be
24 reinstated to the position without loss of pay or leave benefit for the
25 period of dismissal, demotion, or suspension. In all other cases, the
26 board shall report its findings and recommendations in writing, to both
27 parties within 30 days of a hearing conducted under (h) of this section,
28 and the decision of the board may be appealed to the superior court.

29 * Sec. 17. AS 39.25 is amended by adding a new section to read:

1 Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at
2 the request of a party to a proceeding begun under AS 39.25.170.

3 (b) If a person refuses to respond to a subpoena issued under
4 this section, or refuses to testify at a hearing authorized by AS 39.-
5 25.170, the personnel board may apply to the superior court for an
6 order requiring the person to respond to the subpoena or to testify.

7 (c) Failure to obey the order of the superior court requiring
8 response to a subpoena or testimony at a hearing may be punished as
9 contempt of court.

10 * Sec. 18. AS 39.25 is amended by adding a new section to read:

11 Sec. 39.25.181. DEFINITIONS. In this chapter,

12 (1) "fraud" means for a person to knowingly

13 (A) create or confirm another's false impression which
14 the person does not believe to be true, including false impres-
15 sions as to law or value and false impressions as to intention or
16 other state of mind;

17 (B) fail to correct another's false impression which
18 the person previously has created or confirmed;

19 (C) prevent another from acquiring pertinent informa-
20 tion;

21 (2) "knowingly" means for a person to be aware with respect
22 to conduct or to a circumstance described by a provision of law that
23 his conduct is of that nature or that the circumstance exists; when
24 knowledge of the existence of a particular fact is required, that know-
25 ledge is established if a person is aware of a substantial probability
26 of its existence, unless he actually believes it does not exist;

27 (3) "precinct" means the territory within which resident
28 voters may cast votes at one polling place;

29 (4) "state employee" means a person employed by the state

1 who is paid a wage or salary, but does not include a person hired by
2 the state to work as an independent contractor or a person who is in
3 the custody of the state.

4 * Sec. 19. AS 39.25 is amended by adding a new section to article 6 to
5 read:

6 Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

7 (1) be a member of a national, state, or local political
8 party;

9 (2) take part in a political campaign;

10 (3) express political opinions except while performing
11 official duties;

12 (4) register party preference;

13 (5) serve as a voting or nonvoting delegate to a party con-
14 vention;

15 (6) be appointed, nominated, or elected to nonpartisan
16 public office in a local government unit; and

17 (7) make contributions to a political party or a candidate
18 for public office.

19 * Sec. 20. AS 39.25.180 is repealed.

20 * Sec. 21. This Act takes effect July 1, 1982.
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PROPOSED AMENDMENTS TO SB 193

Section 8

(11) the officers and employees of the following boards, commissions and authorities:

- (A) Alaska Gas Pipeline Financing Authority;
- (B) Alaska Permanent Fund Corporation;
- (C) Alaska Energy Center;
- (D) Alaska Industrial Development Authority;

(12) the executive officer of the Alaska Commission on Postsecondary Education and the Alaska Commercial Fisheries Entry Commission.

COMMENTS

In order to place the employees of the Alaska Commission on Postsecondary Education and Alaska Commercial Fisheries Entry Commission in classified service, the following changes are necessary:

TITLE would have amended

Sec. 16.43.080 is amended to read as follows:

Sec. 66.43.080. Employment of personnel. (a) The commission may employ those persons necessary to carry out the purposes of this chapter. [EMPLOYEES] The executive officer of the commission [ARE] is in the exempt service under AS 39.25.110. Other employees of the commission are in the classified service.

Sec. 14.40.913 is amended to read as follows:

Sec 14.40.913. Executive officer and staff; administration. (a) The commission may employ those persons necessary to carry out the purposes of this chapter. The commission may appoint an executive officer. The executive officer is a member of the exempt service under AS 39.25.110, serves at the pleasure of the commission, and he receives compensation fixed by the commission. Other employees of the commission are in the classified service [THE EXECUTIVE OFFICER APPOINTS PERSONS TO THE STAFF POSITIONS AUTHORIZED BY THE COMMISSION, AND STAFF COMPENSATION IS FIXED BY THE COMMISSION.] The executive officer is the executive secretary of the student financial aid committee. Each employee of the commission shall elect membership either in the state teachers' retirement system (AS 14.25), if qualified, or in the public employees' retirement system (AS 39.35).

APEA

PROPOSED AMENDMENTS TO SB 193

Section 12

Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director of personnel shall prepare and submit proposed amendments of the personnel rules to the commissioner of administration for review and approval.

(b) The commissioner of administration shall review the proposed amendments and if he approves them, he shall submit them to the personnel board.

(c) When the proposed amendments are submitted to the personnel board, the commissioner of administration shall post notice in public buildings throughout the state that the personnel board has the proposed amendments under consideration.

(1) notice of the proposed amendments shall be posted for at least 30 days;

(2) if requested by the commissioner of administration or by a person receiving notice of the proposed amendments, the personnel board may hold public hearings on the proposed amendments and may appoint a hearing officer to conduct the hearings;

(3) the personnel board may amend the proposed amendments;

(4) the proposed amendments become effective 45 days after they are submitted to the personnel board unless the board has disapproved them;

(5) the amended rules shall be published in the Alaska Administrative Register and Code for informational purposes.

COMMENTS

Paragraphs d, e, and f were deleted. Paragraphs e-1 through e-5 become c-1 through c-5 subsections.

The subjects included as matters of public policy are all negotiable items under the collective bargaining process.

PROPOSED AMENDMENTS TO SB 193

Section 13 AS 39.25.150 (3)

(3) the use of employee selection methods which will fairly test the capacity and fitness of the person examined to [EFFICIENTLY] discharge the duties of the class in which employment is sought;

COMMENTS

While capacity and the fitness of an individual may be tested, it is impossible to test an individual's efficiency.

PROPOSED AMENDMENTS TO SB 193

Section 16 AS 39.25.170

(c) An employee who has been dismissed, demoted, or suspended due to unlawful discrimination based on race, religion, color or national origin, or because of his age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical handicap, sex, marital status, changes in marital status, pregnancy, parenthood, or any other non ment reason may appeal the action to the personnel board.

(d) An employee in the classified service who has been dismissed, demoted, or suspended due to unlawful discrimination or based on race, religion, color or national origin, or because of his age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical handicap, sex, marital status, changes in marital status, pregnancy, parenthood, political beliefs, or any other non ment reason may appeal the action of the personnel board.

PROPOSED AMENDMENTS TO SB 193

Section 15 AS 39.25.160

(f) Action affecting the employment status of a state employee or an applicant for a position in state service, including appointment, promotion, demotion, suspension, or removal, may not be withheld on the basis of unlawful discrimination due to race, religion, color or national origin, or because of his age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical handicap, sex, marital status, changes in marital status, pregnancy, parenthood, or any other non merit reason.

(g) Action affecting the employment status of an employee in the classified service or an applicant for a position in the classified service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to race, religion, color or national origin, or because of his age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on the basis of age physical handicap, sex, marital status, changes in marital status, pregnancy, parenthood, political beliefs, or any other non merit reason.

Original sponsor: Rules/Legislative Council

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

CS FOR SENATE BILL NO. 193 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending state personnel laws; and providing
7 for an effective date."

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

9 * Section 1. AS 39.25.040 is amended to read:

10 Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division
11 of personnel is the director of personnel appointed by the commissioner
12 of administration and responsible to the commissioner of administration
13 for the execution of the duties and responsibilities imposed by this
14 chapter and the rules adopted under this chapter. The director of
15 personnel shall [MUST] have at least three years of practical working
16 experience in the field of personnel administration.

17 * Sec. 2. AS 39.25.060(b) is amended to read:

18 (b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS
19 OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not
20 more than two members of the board may be members of the same political
21 party.

22 * Sec. 3. AS 39.25.070(1) is amended to read:

23 (1) approve or disapprove amendments to the personnel rules
24 in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM
25 WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DIS-
26 APPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE
27 BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD
28 THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

29 * Sec. 4. AS 39.25.070(3) is amended to read:

1 (3) hear and determine appeals by employees [IN THE CLASSI-
2 FIED SERVICE] as provided in AS 39.25.170;

3 * Sec. 5. AS 39.25.070 is amended by adding a new paragraph to read:

4 (7) employ staff members, who shall be in the classified
5 service.

6 * Sec. 6. AS 39.25.080 is repealed and reenacted to read:

7 Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records,
8 including employment applications and examination materials, are confi-
9 dential and are not open to public inspection except as provided in
10 this section.

11 (b) The following information is available for public inspection,
12 subject to reasonable regulations on the time and manner of inspection:

13 (1) the names and position titles of all state employees;

14 (2) the position held by a state employee;

15 (3) prior positions held by a state employee;

16 (4) whether a state employee is in the classified, partially
17 exempt, or exempt service;

18 (5) the dates of appointment and separation of a state em-
19 ployee; and

20 (6) the compensation authorized for a state employee.

21 (c) A state employee has the right to examine his own personnel
22 files and may authorize others to examine his files.

23 (d) An applicant for state employment who appeals an examination
24 score may review written examination questions relating to the examina-
25 tion unless the questions are to be used in future examinations.

26 * Sec. 7. AS 39.25.090 is amended to read:

27 Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules
28 adopted under it apply to all positions in (1) the classified service,
29 and (2) the exempt and partially exempt service as specifically pro-

1 vided.

2 * Sec. 8. AS 39.25.110 is repealed and reenacted to read:

3 Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by
4 law, the following positions in the state service constitute the exempt
5 service and are exempt from the provisions of this chapter and the
6 rules adopted under it:

7 (1) persons elected to public office by popular vote or
8 appointed to fill vacancies in elected offices;

9 (2) justices, judges, magistrates, and employees of the
10 judicial branch including employees of the Judicial Council;

11 (3) employees of the state legislature and its agencies;

12 (4) the head of each principal department in the executive
13 branch;

14 (5) officers and employees of the University of Alaska;

15 (6) certificated teachers and noncertificated employees
16 employed by a regional educational attendance area established and
17 organized under AS 14.08.031 - 14.08.041 to teach in, administer, or
18 operate schools under the control of a regional educational attendance
19 area school board;

20 (7) certificated teachers employed by the Department of
21 Education as correspondence teachers or teachers in skill centers
22 operated by the Department of Education;

23 (8) patients and inmates employed in state institutions;

24 (9) persons employed in a professional capacity to make a
25 temporary or special inquiry, study or examination as authorized by the
26 governor;

27 (10) members of boards, commissions, or authorities;

28 (11) the officers and employees of the following boards,
29 commissions and authorities:

- (A) Alaska Gas Pipeline Financing Authority;
- (B) Alaska Permanent Fund Corporation;
- (C) Alaska Energy Center;
- (D) Alaska Industrial Development Authority;
- (E) Alaska Commercial Fisheries Entry Commission;
- (F) Alaska Commission on Postsecondary Education;

(12) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(13) licensed physicians, as defined in AS 47.30.340(9) employed by the state;

(14) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources and by the Oil and Gas Conservation Commission; except for those employed in the division of geological and geophysical surveys in the Department of Natural Resources;

(15) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110;

(16) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;

(17) officers and employees of the state who reside in foreign countries;

(18) employees of the Alaska Seafood Marketing Institute;

(19) firefighters employed by the Department of Natural Resources for a fire emergency.

* Sec. 9. AS 39.25.120 is repealed and reenacted to read:

1 Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the
2 partially exempt service are included in the position classification
3 plan established under this chapter and are compensated according to
4 the pay plan (AS 39.27.011).

5 (b) A person holding a position in the partially exempt service
6 is not required to take an examination or qualify or earn a place on a
7 register, and is not eligible for a hearing by the personnel board in
8 case of dismissal, demotion, or suspension, except as provided in
9 AS 39.25.170. Positions in the partially exempt service are specifi-
10 cally exempt from the rules established under AS 39.25.150(3) - (10),
11 (13), (14), and (17).

12 (c) The following positions in the state service constitute the
13 partially exempt service:

14 (1) deputy and assistant commissioners of the principal
15 departments of the executive branch, including the assistant adjutant
16 general of the Department of Military Affairs;

17 (2) the directors of the major divisions of the principal
18 departments of the executive branch and the regional directors of the
19 Department of Transportation and Public Facilities;

20 (3) attorney members of the staff of the Department of Law
21 and of the public defender agency;

22 (4) one private secretary for each head of a principal de-
23 partment in the executive branch;

24 (5) employees of the Office of the Governor and the office of
25 the lieutenant governor, including the staff of the governor's mansion;

26 (6) the executive director and deputy director of the Alaska
27 Public Utilities Commission;

28 (7) the director, deputy director, staff legal counsel, and
29 hearing officers of the Alaska Transportation Commission;

1 (8) not more than two special assistants to the commissioner
2 of each of the principal departments of the executive branch, but the
3 number may be increased if the partially exempt service is extended
4 under AS 39.25.130 to include the additional special assistants;

5 (9) the principal executive officer of the following boards,
6 councils, or commissions:

7 (A) Alaska Public Broadcasting Commission;

8 (B) Professional Teaching Practices Commission;

9 (C) Parole Board;

10 (D) Board of Nursing;

11 (E) Real Estate Commission;

12 (F) Alaska Royalty Oil and Gas Development Advisory
13 Board;

14 (G) Alaska Historical Commission;

15 (H) Alaska State Council on the Arts;

16 (I) Alaska Police Standards Council;

17 (J) Council on Science and Technology;

18 (K) Older Alaskans Commission;

19 (10) Alaska Pioneers' Home managers;

20 (11) hearing examiners in the Department of Revenue;

21 (12) the comptroller in the division of treasury, Department
22 of Revenue;

23 (13) investment officers in the Department of Revenue;

24 (14) airport managers in the Department of Transportation and
25 Public Facilities employed at the Anchorage and Fairbanks International
26 Airports;

27 (15) the deputy director of the division of tourism and the
28 deputy director of the division of insurance in the Department of Com-
29 merce and Economic Development;

1 (16) the executive director and staff of the Alaska Public
2 Offices Commission.

3 * Sec. 10. AS 39.25.130(a) is amended to read:

4 (a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
5 recommendation of the commissioner of administration, may extend the
6 partially exempt service to include any position [WHICH WAS] in the
7 classified service [ON APRIL 19, 1960,] which, in the judgment of the
8 board:

9 (1) involves principal responsibility for the determination
10 of policy;

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

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

15 * Sec. 11. AS 39.25.130(c) is amended to read:

16 (c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
17 recommendation of the commissioner of administration, may extend the
18 classified service to include any position [WHICH WAS] in the partially
19 exempt service [ON APRIL 19, 1960].

20 * Sec. 12. AS 39.25.140 is repealed and reenacted to read:

21 Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director
22 of personnel shall prepare and submit proposed amendments of the per-
23 sonnel rules to the commissioner of administration for review and
24 approval.

25 (b) The commissioner of administration shall review the proposed
26 amendments and if he approves them, he shall submit them to the person-
27 nel board.

28 (c) If the proposed amendments concern matters of public policy,
29 the personnel board shall adopt them in accordance with the Administra-

1 tive Procedure Act (AS 44.62).

2 (d) If the proposed amendments relate only to internal management
3 of a state agency, the commissioner of administration shall post notice
4 in public buildings throughout the state that the personnel board has
5 the proposed amendments under consideration. The notice required by
6 this subsection shall be posted at least 30 days before any decision is
7 made to amend the personnel rules and shall include an address for the
8 receipt of written comments.

9 (e) If requested by the commissioner of administration or by a
10 person receiving notice of the proposed amendments, the personnel board
11 may hold public hearings on the proposed amendments and may appoint a
12 hearing officer to conduct the hearings.

13 (f) The personnel board may amend the proposed amendments.

14 (g) The proposed amendments become effective 45 days after they
15 are submitted to the personnel board unless the board has disapproved
16 them.

17 (h) The amended rules shall be published in the Alaska Administra-
18 tive Register and Code for informational purposes.

19 * Sec. 13. AS 39.25.150 is repealed and reenacted to read:

20 Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall
21 provide for

22 (1) the preparation, maintenance, and revision by the direc-
23 tor of personnel, subject to approval of the commissioner of adminis-
24 tration and the personnel board, of a position classification plan for
25 all positions in the classified and partially exempt services; the
26 position classification plan shall include

27 (A) a grouping together of all positions into classes
28 on the basis of duties and responsibilities;

29 (B) an appropriate title, a description of the duties

and responsibilities, training and experience qualifications, and other necessary specifications for each class of positions;

(2) the preparation, maintenance, revision and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan (A) shall be based upon the position classification plan; (B) shall provide for fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work; (C) may be amended, approved, or disapproved by the legislature in regular or special session; after the pay plan is in effect, a salary or wage payment may not be made to a state employee covered by the plan unless the payment is in accordance with this chapter and the rules adopted under this chapter or unless the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;

(3) the use of employee selection methods which will fairly test the capacity and fitness of the person examined to discharge the duties of the class in which employment is sought;

(4) the establishment and maintenance of eligible lists for appointment and promotion providing the names of eligible candidates in order of their relative performance in the examinations;

(5) the procedure for certifying eligible candidates;

(6) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state service and promotion shall be by competitive examination whenever possible; in considering promotions, applicants' qualifications, performance record, seniority, and conduct shall be evaluated;

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

1 employee receiving a promotional appointment retains permanent status
2 in the service and job class from which appointed for the duration of
3 the probationary period and may be demoted to a former class without
4 right of appeal, notwithstanding AS 39.25.170, but if the employee is
5 dismissed from the service the appeal rights under AS 39.25.170 apply;

6 (8) nonpermanent and emergency appointments to positions in
7 the state service in accordance with AS 39.25.195 - 39.25.200;

8 (9) provisional appointment without competitive examination
9 when appropriate eligible lists are not available;

10 (10) transfers from one department to another and from an-
11 other merit system jurisdiction to the state service;

12 (11) transfers from one area of the state to another;

13 (12) the reinstatement of a person who resigns in good stand-
14 ing;

15 (13) layoffs for reason of lack of money or work, abolition
16 of positions, or material changes in duties or organization; both
17 performance and seniority records shall be considered in the develop-
18 ment of layoff orders;

19 (14) the development, maintenance, and use of employee perfor-
20 mance records;

21 (15) the establishment of disciplinary measures which may
22 include disciplinary suspension without pay;

23 (16) the procedures for review of disputed personnel actions,
24 for resolving employee and interagency grievances, and for resolving
25 grievances of the general public concerning the operation of the state
26 personnel system;

27 (17) hours of work for all employees in the state service;

28 (18) methods and procedures covering overtime work and pay;

29 (19) the granting of employment preference rights to a veteran

1 not within the area of promotion, when the veteran possesses the neces-
2 sary qualifications in the job classification applied for under this
3 chapter; in an examination to determine the qualification of applicants
4 for entrance into the classified service under merit system examination,
5 five additional points shall be added to the passing grade of a veteran
6 and ten additional points shall be added to the passing grade of a
7 disabled veteran, but the additional points may be used only the first
8 time the veteran obtains a position in the classified service; if a
9 position in the classified service is eliminated, employees shall be
10 released in accordance with rules which give due effect to all factors;
11 if all job qualifications are equal, the veteran shall be given pref-
12 erence over the nonveteran and the veteran shall be kept on the job;
13 this paragraph may not be interpreted to amend the terms of a collective
14 bargaining agreement; in this paragraph

15 (A) "veteran" means a person with 181 days or more
16 active service in the armed forces of the United States who has
17 been honorably discharged after having served during any period
18 between April 6, 1917, and December 1, 1919, between September 16,
19 1940, and December 31, 1947, or between June 27, 1950, and
20 November 7, 1975;

21 (B) "disabled veteran" means a veteran, as defined in
22 (A) of this paragraph, who is entitled to compensation under laws
23 administered by the United States Veterans' Administration, or a
24 person who was discharged or released from active duty because of
25 a service-connected disability;

26 (20) the employment of persons in permanent positions on a
27 part-time basis of 15 hours or more a week, including the employment of
28 two persons to fill one permanent full-time position; these employees
29 shall be designated as permanent part-time employees;

1 (21) the granting of employment preference to severely handi-
2 capped persons; this includes the right to provisional appointment
3 without competitive examination for periods up to four months and the
4 granting of eligibility to a severely handicapped person provisionally
5 appointed under the rules who demonstrates ability to perform the job
6 for permanent appointment without competitive examination; provisional
7 employment under this paragraph may not exceed four months during a
8 12-month period; "severely handicapped" as used in this paragraph means
9 persons certified by the director of the division of vocational reha-
10 bilitation to be severely handicapped;

11 (22) the establishment of programs facilitating the employ-
12 ment of disadvantaged persons, including limitation of competition for
13 appointment and promotion to individuals who meet the program require-
14 ments;

15 (23) the delegation, when feasible, of personnel responsibil-
16 ities and duties to the principal departments of the executive branch;

17 (24) the establishment of a transition period of up to 12
18 months for an employee to be reappointed to a classified position if
19 the employee's position is withdrawn from the partially exempt or
20 exempt service and placed in the classified service;

21 (25) other rules and administrative regulations, not incon-
22 sistent with this chapter, which are necessary for its enforcement.

23 * Sec. 14. AS 39.25.153 is repealed and reenacted to read:

24 Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal depart-
25 ment of the executive branch has a personnel officer, the personnel
26 officer shall be employed by and located within that department.

27 (b) Subject to the provisions of (d) of this section, the per-
28 sonnel officers for the Departments of Transportation and Public Facili-
29 ties, Fish and Game, Education, Labor, and Health and Social Services,

1 have the following powers with respect to the classes of positions
2 unique to their departments:

3 (1) to assign positions to an existing class in the state
4 classification plan and to the salary range for that class as estab-
5 lished by the state pay plan or by a valid agreement entered into in
6 accordance with AS 23.40;

7 (2) to administer and score examinations and to place suc-
8 cessful applicants on departmental eligible lists;

9 (3) to certify those eligible to the appointing authorities.

10 (c) The initial determination of classes of positions unique to
11 the departments listed in (b) of this section shall be made by the
12 personnel officer of the department in consultation with the commis-
13 sioner of his department subject to the approval of the director of
14 personnel in the Department of Administration.

15 (d) The assumption of a power set out in (b) of this section must
16 be approved by the commissioner of administration and must be in harmony
17 with the merit principle of personnel administration (AS 39.25.010).

18 * Sec. 15. AS 39.25.160 is repealed and reenacted to read:

19 Sec. 39.25.160. GENERALLY. (a) A classified employee may not
20 take an active part in the management of a political party above the
21 precinct level.

22 (b) A person may not give, render, pay, offer, solicit, or accept
23 money, services, or other valuable thing in connection with securing or
24 making an appointment, promotion, or advantage in a position in the
25 classified service.

26 (c) A person may not require an assessment, subscription, contri-
27 bution, or service for a political party from a state employee.

28 (d) A person may not seek or attempt to use a political party
29 endorsement in connection with an appointment or promotion in the

1 classified service.

2 (e) An employee in the classified or partially exempt service who
3 seeks nomination or becomes a candidate for state or national elective
4 political office shall immediately resign any position held in the
5 state service. The employee's position becomes vacant on the date the
6 employee files a declaration of candidacy for state or national elective
7 office.

8 (f) Action affecting the employment status of a state employee or
9 an applicant for state service, including appointment, promotion, demo-
10 tion, suspension, or removal, may not be taken or withheld on the basis
11 of unlawful discrimination due to race, religion, color, or national
12 origin, age, handicap, sex, marital status, change in marital status,
13 pregnancy, or parenthood. In addition, action affecting the employment
14 status of an employee in the classified service, including appointment,
15 promotion, demotion, suspension, or removal, may not be taken or with-
16 held for a reason not related to merit.

17 (g) Action affecting the employment status of an employee in the
18 classified service or an applicant for a position in the classified
19 service, including appointment, promotion, demotion, suspension, or
20 removal, may not be taken or withheld on the basis of unlawful discrim-
21 ination due to political beliefs.

22 (h) A person may not knowingly make a false statement, certifi-
23 cate, mark, rating, or report with regard to a test, certification, or
24 appointment made under this chapter or in any manner commit a fraud
25 preventing the impartial execution of this chapter and the personnel
26 rules adopted under this chapter.

27 (i) A person may not obstruct the right of another person to
28 examination, eligibility, certification, appointment, or promotion
29 under this chapter.

1 * Sec. 16. AS 39.25.170 is repealed and reenacted to read:

2 Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR
3 SUSPENSION. (a) An employee in the executive branch of state govern-
4 ment may be dismissed, demoted, or suspended by delivery of written
5 notice of the proposed action and the reason for it from the appointing
6 authority to the employee.

7 (b) A permanent employee in the classified service who has been
8 dismissed, demoted, or suspended may appeal the action to the personnel
9 board.

10 (c) An employee in the executive branch of state government who
11 has been dismissed, demoted, or suspended due to unlawful discrimination
12 based on race, religion, color, or national origin, or because of age,
13 handicap, sex, marital status, change in marital status, pregnancy, or
14 parenthood may appeal the action to the personnel board.

15 (d) An employee in the classified service who has been dismissed,
16 demoted, or suspended due to unlawful discrimination based on political
17 beliefs may appeal the action to the personnel board.

18 (e) A permanent employee in the classified service who holds
19 probationary status in his present position may appeal a dismissal
20 from the classified service to the personnel board.

21 (f) An employee who is on leave without pay from a position
22 in the classified service and who is employed by the state in an-
23 other capacity, either in the exempt or partially exempt service,
24 may appeal a dismissal from the classified service to the personnel
25 board.

26 (g) An employee begins an appeal by filing a written request
27 for review of the action with the personnel board within 15 days of
28 receiving written notice of the action from the appointing authority.

29 (h) If requested by the employee at the time of filing an appeal,

1 the personnel board shall hold a hearing to determine the reasonable-
2 ness of the the action taken by the appointing authority. If the
3 employee requests it, the hearing shall be open to the public. The
4 employee may be represented by another person and has the right to
5 present evidence, and to confront and cross-examine witnesses. Techni-
6 cal rules of evidence do not apply to the hearing, but all testimony
7 shall be taken under oath.

8 (i) If the personnel board finds that the action complained of
9 was due to unlawful discrimination based on race, sex, color, religion,
10 national origin, age, handicap, marital status, change in marital
11 status, pregnancy, or parenthood, or in violation of the provisions of
12 this chapter or the personnel rules, the employee shall be reinstated
13 to the position without loss of pay or leave benefit for the period of
14 dismissal, demotion, or suspension. In addition, if the personnel
15 board finds that the action complained of by an employee in the classi-
16 fied service was due to unlawful discrimination based on a political
17 belief or any other reason related to merit the employee shall be
18 reinstated to the position without loss of pay or leave benefit for the
19 period of dismissal, demotion, or suspension. In all other cases, the
20 board shall report its findings and recommendations in writing, to both
21 parties within 30 days of a hearing conducted under (h) of this section,
22 and the decision of the board may be appealed to the superior court.

23 * Sec. 17. AS 39.25 is amended by adding a new section to read:

24 Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at
25 the request of a party to a proceeding begun under AS 39.25.170.

26 (b) If a person refuses to respond to a subpoena issued under
27 this section, or refuses to testify at a hearing authorized by AS 39.-
28 25.170, the personnel board may apply to the superior court for an
29 order requiring the person to respond to the subpoena or to testify.

1 (c) Failure to obey the order of the superior court requiring
2 response to a subpoena or testimony at a hearing may be punished as
3 contempt of court.

4 * Sec. 18. AS 39.25 is amended by adding a new section to read:

5 Sec. 39.25.181. DEFINITIONS. In this chapter,

6 (1) "fraud" means for a person to knowingly

7 (A) create or confirm another's false impression which
8 the person does not believe to be true, including false impres-
9 sions as to law or value and false impressions as to intention or
10 other state of mind;

11 (B) fail to correct another's false impression which
12 the person previously has created or confirmed;

13 (C) prevent another from acquiring pertinent informa-
14 tion;

15 (2) "knowingly" means for a person to be aware with respect
16 to conduct or to a circumstance described by a provision of law that
17 his conduct is of that nature or that the circumstance exists; when
18 knowledge of the existence of a particular fact is required, that know-
19 ledge is established if a person is aware of a substantial probability
20 of its existence, unless he actually believes it does not exist;

21 (3) "precinct" means the territory within which resident
22 voters may cast votes at one polling place;

23 (4) "state employee" means a person employed by the state
24 who is paid a wage or salary, but does not include a person hired by
25 the state to work as an independent contractor or a person who is in
26 the custody of the state.

27 * Sec. 19. AS 39.25 is amended by adding a new section to article 6 to
28 read:

29 Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

1 (1) be a member of a national, state, or local political
2 party;

3 (2) take part in a political campaign;

4 (3) express political opinions except while performing
5 official duties;

6 (4) register party preference;

7 (5) serve as a voting or nonvoting delegate to a party con-
8 vention;

9 (6) be appointed, nominated, or elected to nonpartisan
10 public office in a local government unit; and

11 (7) make contributions to a political party or a candidate
12 for public office.

13 * Sec. 20. AS 39.25.180 is repealed.

14 * Sec. 21. This Act takes effect July 1, 1982.

HOUSE JOURNAL SUPPLEMENT

April 23, 1982

No. 48

SB
193

FISCAL NOTE

- I. REQUEST
Bill/Resolution No. CS SB 193 (Jud) Page 1 of 2
Title An Act amending state personnel laws; and an effective date
Requested by _____ Date 04-16-82
- II. FISCAL DETAIL
Agency Affected Administration
Program Category Affected Personnel
BRU, Program, Or Subprogram(s) Affected Personnel, Personnel Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		42.2	22.6	24.2	25.8	27.7
200 TRAVEL		7.6	6.9	7.5	8.3	9.1
300 CONTRACTUAL		25.2				
400 COMMODITIES			6	7	8	8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		76.6	30.1	32.4	35.7	37.6

FUNDING (Thousands of Dollars)

GENERAL FUND		76.6	30.1	32.4	35.7	37.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		1	0	0	0	0
PART TIME		0	1	1	1	1
TEMPORARY						

- III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
Section 12 of CS SB 913 (Jud) am provides for adoption of amendments to the Personnel Rules that concern public policy under the Administrative Procedures Act, and for amended Rules (including those not concerning public policy) to be published in the Alaska Administrative Register and Code. CS SB 193 (Jud) am makes several minor changes to the Personnel Act that will require amending the Personnel Rules. The major costs for FY 83 are:

- 1) contracting with the Department of Law for an attorney for four months to:

- rewrite the current Personnel Rules to AAC standards
- draft amendments incorporating changes in the Personnel Act

IV. DATE 04-16-82 PREPARED BY Michael P. McMullen
AGENCY Administration - Division of Personnel
Original: Legislative Finance PHONE 455-4430
cc: Budget and Management
Prime Sponsor (First Legislator Named)

FICAL NOTE continued

- modify amendments based on hearings
- file the amended rules with the Lt. Governor
- compile a Personnel Act - Personnel Rules cross-reference
- identify forms needing revision to reference the appropriate AAC provisions instead of the former rule
- Revise Administrative Manual and Operating Procedures to properly reference revised Personnel rules

(\$19.2 Thous.)

- 2) Personal Services to employ Regulations Specialist to revise existing procedures, manuals, forms and letters to properly cite revised Personnel rules. Position would be half-time after first year.

(\$42.2 Thous.)

- 3) travel and per diem for attorney and the Personnel Board for two hearings to adopt the rules and amendments as Code.

(\$2.8 Thous.)

- 4) public notice of the hearings and proposed amendments.

(\$.6 Thous.)

- 5) typing of drafts, revision and filing version.

(\$2.0 Thous.)

- 6) printing of forms incorporating AAC references.

(\$1.0 Thous.)

In subsequent years, one two-day hearings by the Personnel Board to adopt amendments is budgeted. Travel is inflated 10% annually and public notice costs at 8%. Personal Services inflated at 7% per year.

Section 13 of CS SB 193 (Jud) am contains a significant change in the definition and preference accorded to veterans. In addition to the need to amend the Personnel Rules accordingly, there is a need to incorporate the new provision in the automated Applicant Tracking System. This one time contractual service cost is estimated at \$4 thousand.

Section 16 of CS SB 193 (Jud) am duplicates AS 18.80 providing hearing and appeal rights to partially exempt and exempt employees of the Executive Branch for actions allegedly in violation of the employees' Civil Rights. It is assumed that these employees will file appeals in the same proportion to their numbers as other executive branch employees file complaints under AS 18.80 for the same actions. Each will require a two day hearing before the Personnel Board. Travel and per diem costs for FY 83 are \$4.8 thousand. They are inflated 10% annually. On this basis, four complaints per year are projected. Each complaint will require two days of Personnel Board business.

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April 23, 1982

HOUSE JOURNAL
SUPPLEMENT

No. 48

SB
193

- 2) travel and per diem for attorney and the Personnel Board for two hearings to adopt the rules and amendments as Code. (\$2.8 Thous.)
- 4) public notice of the hearings and proposed amendments. (\$5.6 Thous.)
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NOTES APRIL 1st

page 3
line 22

Skills center
ADD: and certificated teachers employed in skills centers
operated by the Department of Education;

page 4
line 1

Commercial Fisheries
DELETE entire line

page 4
line 7

ADD AFTER "Education" and the Alaska Commercial Fisheries
Entry Commission

page 7
line 3-6

Labor Relations Division staff
DELETE ENTIRE PARAGRAPH (19)

pgs 7
lin24 ff

Intention of Personnel Rules
Something will be done to the provision for adoption of rules
according in the APA - it is not clear what

pg 11
line 19 ff

veteran's preference language will be changed-

page 12
line 3

1/2 to 1 year preference
(A) "veteran" means a person with 181 [90] days or more

page 12
line 9

(B) "disabled veteran" means a person [VETERAN] who is rated
by

Disadvantaged programs
page 12 DELETE ALL OF THIS MATERIAL (paragraph (23))
lines 26-29

+ Titles 14 & 15 of Alaska Statutes
ADD Amendments to place Commercial Fisheries and
Boat Landing Innovations status in the classified service
& amend the title of the bill.

JUNEAU LYRIC OPERA ASSOCIATION
P.O. Box 1456
Juneau, Alaska 99802

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Gregg Erickson

Dear Friend of the Opera:

This is the year of Juneau's Centennial, which all of us hope to make a special time. The Juneau Lyric Opera Association has set for itself an ambitious program which needs your help. We are producing Offenbach's comic opera, Orpheus in the Underworld, next month. Opening night is Thursday, April 17th, and the show will run through the weekend. Jane Stewart is the musical director and Marvin Borgmier is the dramatic director. Preparations are well under way and the performers have been rehearsing with Mrs. Stewart for several months. The production should be delightful!

The board of directors is also planning for the 1980 - 1981 opera session. The opening production will be Engelbert Humperdinck's Hansel and Gretel. Amahl and the Night Visitors, by Giacomo Menotti will follow during the Christmas season, and for the Spring production we have selected the lovely Mozart opera, Così Fan Tutte. These are all operas in which the talents and abilities of local Juneau singers can be drawn on to the best advantage.

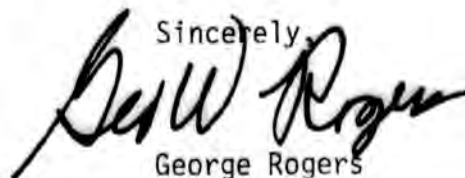
The Juneau Lyric Opera Association was formed in 1975 with the purpose of producing both grand and lyric opera. Since its beginnings, we have presented one full scale production each year: Die Fledermaus, Kismet, Carmen, and, in 1979, Mozart in May which featured Mozart's one-act comic opera, The Impresario. Each of these productions presented Juneau performers in the orchestra, chorus, and in the operatic roles. Only in Carmen did professional lead singers participate.

In planning for this year and for next season, we are relying on the support of Juneau's people, both to perform in and to work on the productions, as well as to help with financial contributions. The production of Orpheus in the Underworld is supported by a grant from the Greater Juneau Arts and Humanities Council, and includes financial support from a grant from the Alaska State Council on the Arts, the City and Borough of Juneau, and the National Endowment for the Arts, a federal agency. This grant has enabled us to begin the work on the production. However, it will pay for only a portion of the production expenses, and direct support from the community is still essential to the success of the show.

Enclosed with this letter is our Membership and Contribution Form. May we ask for your tax deductible contribution? Help us to make opera an enjoyable part of Juneau's theater season.

Thank you for your generous support.

Sincerely,



George Rogers
President

Recommended Changes

CSSB 193 (SA)

February 3, 1982

① Page 2

Line 29

Delete exempt and

Reason: The rules pertain only to classified and partially exempt employees. By definition, exempt employees are excluded from personnel rules.

② Page 3

Lines 9-13

Substitute For clarification and renumber

(2) justices, magistrates, judges and employees of the judicial branch including the Judicial Council.

③ Page 3

Lines 23-25

Substitute (8) certificated teachers employed by the Department of Education as classroom teachers;

Reason: Correspondence teachers do not teach in classroom setting. They function as any classified employee.

Page 3

④

Line 29

Delete. . . the legislature, or a legislative committee

Reason: Legislative employees by definition

~~39.~~
34.25.110(4) are exempt

Page 4

⑤

Line 12

Delete

Reason: Legislative employees by definition are exempt

39.25.090

② appeal rts

39.25.110

Pls (2) & (3)

① clarif
& consistency

(8)

③ comes teachers

(10)

① clarif

(15)

① clarif

②
AS 39.25.170

(17)

Page 4

⑥
Line 16-17

Delete. . .division of mental health and developmental disabilities; Department of Health and Social Services
Reason: All licensed physicians employed by the State should be exempt not just those working for mental health.

① ④
consistency

Page 4

⑦
Line 30

Add section

(22?) emergency firefighters employed by the Department of Natural Resources whose employment is limited to a fire emergency.

Reason: Current and past use of firefighters warrants placing them into exempt status.

① consistency

Page 5

⑧
Line 9 & 10

Delete. . . except as provided in AS 39.25.170

Reason: Partially exempt employees should not have the same rights as classified employees. Sufficient protection is provided under current antidiscriminatory laws.

② appeal rights

Page 6

⑨
Line 1

Delete

Reason: This position is currently held by the Director, Division of Forestry who is partially exempt.

① class

(A)

Page 10

(13) Lines 18 & 19

(1) clarif

Delete

Reason: By longstanding practice this is accomplished by the State Administrative Manual, Section 7672-7684. Additionally, it only covers approximately 14 positions.

Page 11

(14) Lines 7 - 29

Delete: Replace with Blue Ribbon recommendation as contained in original SB 193

Page 12

Lines 1 - 3

(5) Vet's pref

Reason: This will reduce confusion and provide a better vehicle for veteran hire

Page 12

(15) Lines 24 - 27

(6) p/et → clas
transition

Delete existing -

substitute:

The establishment of transition periods of up to twelve months for an employee to be reappointed to a classified position when his position is withdrawn from the partially exempt or exempt service and placed in the classified service.

Reason: The bill language provides guarantees that far exceed any current rules, statutes, or collective bargaining agreements and it is unlimited by time.

⑤

Page 13

①⑥

Line 15

① clarif

Page 13

①⑦

Line 26 & 27

② ⑦ appeal rts/
sep of powers

Page 14

①⑧

Line 13

① clarif

Page 14

①⑨

Line 14

② ⑦ appeal rts/
sep of powers

Change "the" to "departments" so that

. . . applicants on (the) department
eligible lists.

Reason: This section deals with departmental pers-
onnel officers who do not test and place applicants
onto a statewide list

Delete - (. . . or an exempt employee in a position
named in AS 39.25.110(3)). . . .

Reason: Separation of powers

Add - In the absence of a resignation, the appoint-
ing authority shall accept written evidence of
candidacy as a resignation.

Reason: An employee may not immediately inform his
supervisor regarding nomination or candidacy for a
state or national elective office. In the absence
of a formal resignation, the employer should be able
to effect a resignation.

Add ". . . of a classified state. . . ."

Reason: This section deals with classified
employees only not employees of the legislative
and judicial branches

6

20

Line 15

2/7 appeal/sup

". . .applicant for classified state service. . . ."

Reason: This section deals with classified employees only, not employees of the legislative and judicial branches.

Page 15

21

Line 6, 12 & 27

2/7

An employee in the classified service. . .

Reason: This section deals with classified employees only not employees of the legislative and judicial branches

Page 16

22

Line 19

8 ~~for~~ both sides →
appeals to
review

delete "by the employee" . . . superior court.

Reason: The decision of the board should be appeal-able by both the employer and the employee.

Page 17

23

Line 29

1 clarif

Reword - express political opinions, provided that while engaged on official business, an employee may not display or distribute partisan political material in any form or manner.

Page 18

24

Lines 8 - 27

9 Ex service
membership

Delete sections 20 and 21

Reason: Exempt and partially exempt employees do not compete for their positions. Their knowledge, skills, abilities, and salary range could differ considerably from their corresponding class and range in this classified service.

(P)

(25) Page 18
Oclant Line 29

Effective date should be changed to July 1, 1982

Original sponsor: Rules/Legislative Council

*Terry only chg is
on pg. 14 -
Hearing on
Thurs. 5/12
1:30 P.M.
Hans*

IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

CS FOR SENATE BILL NO. 193 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending the State Personnel Act (AS 39.25);
and providing for an effective date."

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

* Section 1. AS 39.25.040 is amended to read:

Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division of personnel is the director of personnel appointed by the commissioner of administration and responsible to the commissioner of administration for the execution of the duties and responsibilities imposed by this chapter and the rules adopted under this chapter. The director of personnel shall [MUST] have at least three years of practical working experience in the field of personnel administration.

* Sec. 2. AS 39.25.060(b) is amended to read:

(b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not more than two members of the board may be members of the same political party.

* Sec. 3. AS 39.25.070(1) is amended to read:

(1) approve or disapprove amendments to the personnel rules in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DISAPPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

* Sec. 4. AS 39.25.070(3) is amended to read:

(3) hear and determine appeals by employees [IN THE CLASSIFIED SERVICE] as provided in AS 39.25.170;

* Sec. 5. AS 39.25.070 is amended by adding a new paragraph to read:

(7) employ staff members, who shall be in the classified service.

* Sec. 6. AS 39.25.080 is repealed and reenacted to read:

Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.

(b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

- (1) the names and position titles of all state employees;
- (2) the position held by a state employee;
- (3) prior positions held by a state employee;
- (4) whether a state employee is in the classified, partially exempt, or exempt service;
- (5) the dates of appointment and separation of a state employee; and
- (6) the compensation authorized for a state employee.

(c) A state employee has the right to examine his own personnel files and may authorize others to examine his files.

(d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

* Sec. 7. AS 39.25.090 is amended to read:

Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the exempt and partially exempt service as specifically pro-

1 vided.

2 * Sec. 8. AS 39.25.110 is repealed and reenacted to read:

3 Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by
4 law, the following positions in the state service constitute the exempt
5 service and are exempt from the provisions of this chapter and the
6 rules adopted under it:

7 (1) persons elected to public office by popular vote or
8 appointed to fill vacancies in elected offices;

9 (2) justices of the supreme court, judges of the court of
10 appeals, judges of the superior court, and judges and magistrates of
11 other state courts established by law;

12 (3) employees of the state court system, and employees and
13 members of the Judicial Council;

14 (4) employees of the state legislature and its agencies;

15 (5) the head of each principal department in the executive
16 branch;

17 (6) officers and employees of the University of Alaska;

18 (7) certificated teachers and noncertificated employees
19 employed by a regional educational attendance area established and
20 organized under AS 14.08.031 - 14.08.041 to teach in, administer, or
21 operate schools under the control of a regional educational attendance
22 area school board;

23 **NEW** (8) certificated teachers employed by the Department of
24 Education as correspondence teachers or teachers in skill centers
25 operated by the Department of Education;

26 (9) patients and inmates employed in state institutions;

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

1 (11) members of boards, commissions, or authorities;

2 (12) the officers and employees of the following boards,
3 commissions and authorities:

4 *not changed* (A) Alaska Commercial Fisheries Entry Commission;

5 (B) Alaska Gas Pipeline Financing Authority;

6 (C) Alaska Permanent Fund Corporation;

7 (D) Alaska Energy Center;

8 (E) Alaska Industrial Development Authority;

9 (13) the executive officer of the Alaska Commission on Post-
10 secondary Education;

11 (14) the ombudsman and his staff;

12 (15) the executive secretary and legal counsel of the Alaska
13 Municipal Bond Bank Authority;

14 (16) licensed physicians, as defined in AS 47.30.340(9),
15 employed by the division of mental health and developmental disabili-
16 ties, Department of Health and Social Services;

17 (17) petroleum engineers and petroleum geologists employed in
18 a professional capacity by the Department of Natural Resources except
19 for those employed in the division of geological and geophysical sur-
20 veys;

21 (18) officers, agents, and employees of the Alcoholic Bever-
22 age Control Board granted limited peace officer powers by the Alcoholic
23 Beverage Control Board under AS 04.06.110;

24 (19) persons employed by the division of marine transporta-
25 tion as masters and members of the crews of vessels who operate the
26 state ferry system and who are covered by a collective bargaining
27 agreement provided in AS 23.40.040;

28 *new* (20) officers and employees of the state who reside in foreign
countries.

1 * Sec. 9. AS 39.25.120 is repealed and reenacted to read:

2 Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the
3 partially exempt service are included in the position classification
4 plan established under this chapter and are compensated according to
5 the pay plan (AS 39.27.011).

6 (b) A person holding a position in the partially exempt service
7 is not required to take an examination or qualify or earn a place on a
8 register, and is not eligible for a hearing by the personnel board in
9 case of dismissal, demotion, or suspension, except as provided in
10 AS 39.25.170. Positions in the partially exempt service are specifi-
11 cally exempt from the rules established under AS 39.25.150(3) - (10),
12 (13), (14), and (17).

13 (c) The following positions in the state service constitute the
14 partially exempt service:

15 (1) deputy and assistant commissioners of the principal
16 departments of the executive branch, including the assistant adjutant
17 general of the Department of Military Affairs;

18 (2) the directors of the major divisions of the principal
19 departments of the executive branch and the regional directors of the
20 Department of Transportation and Public Facilities;

21 (3) attorney members of the staff of the Department of Law
22 and of the public defender agency;

23 (4) one private secretary for each head of a principal de-
24 partment in the executive branch;

25 (5) employees of the Office of the Governor and the office
26 of the lieutenant governor, including the staff of the governor's
27 mansion;

28 (6) the executive director and deputy director of the Alaska
29 Public Utilities Commission;

1 (7) the state forester in the Department of Natural Resour-
2 ces;

3 (8) the director, deputy director, staff legal counsel, and
4 hearing officers of the Alaska Transportation Commission;

5 (9) not more than two special assistants to the commissioner
6 of each of the principal departments of the executive branch, but the
7 number may be increased if the partially exempt service is extended
8 under AS 39.25.130 to include the additional special assistants;

9 (10) the principal executive officer of the following boards,
10 councils, or commissions:

11 (A) Alaska Public Broadcasting Commission;

12 (B) Professional Teaching Practices Commission;

13 (C) Parole Board;

14 (D) Board of Nursing;

15 (E) Real Estate Commission;

16 (F) Alaska Royalty Oil and Gas Development Advisory

17 Board;

18 (G) Alaska Historical Commission;

19 (H) Alaska State Council on the Arts;

20 (I) Alaska Police Standards Council;

21 (J) Council on Science and Technology;

22 (11) Alaska Pioneers' Home managers;

23 (12) hearing examiners in the Department of Revenue;

24 (13) the comptroller in the division of treasury, Department
25 of Revenue;

26 (14) investment officers in the Department of Revenue;

27 (15) the chief of subsistence in the Department of Fish and
28 Game;

29 (16) airport managers in the Department of Transportation and

Public Facilities employed at the Anchorage and Fairbanks International Airports;

(17) the deputy director of the division of tourism and the deputy director of the division of insurance in the Department of Commerce and Economic Development;

(18) the executive director and staff of the Alaska Public

Offices Commission.

ELIMINATED DIV OF LR

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

(a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position [WHICH WAS] in the classified service [ON APRIL 19, 1960,] which, in the judgment of the board:

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

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

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

* Sec. 11. AS 39.25.130(c) is amended to read:

(c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position [WHICH WAS] in the partially exempt service [ON APRIL 19, 1960].

* Sec. 12. AS 39.25.140 is repealed and reenacted to read:

Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director of personnel shall prepare and submit proposed amendments of the personnel rules to the commissioner of administration for review and approval.

(b) The commissioner of administration shall review the proposed

1 amendments and if he approves them, he shall submit them to the person-
2 nel board.

3 (c) When the proposed amendments are submitted to the personnel
4 board, the commissioner of administration shall post notice in public
5 buildings throughout the state that the personnel board has the pro-
6 posed amendments under consideration. (The notice required by this sub-
7 section shall be posted at least 30 days before any decision is made to
8 amend the personnel rules and shall include an address for the receipt
9 of written comments.)

10 (d) If requested by the commissioner of administration or by a
11 person receiving notice of the proposed amendments, the personnel board
12 may hold public hearings on the proposed amendments and may appoint a
13 hearing officer to conduct the hearings.

14 (e) The personnel board may amend the proposed amendments.

15 (f) The proposed amendments become effective 45 days after they
16 are submitted to the personnel board unless the board has disapproved
17 them.

18 (g) The amended rules shall be published in the Alaska Adminis-
19 trative Register and Code for informational purposes.

20 * Sec. 13. AS 39.25.150 is repealed and reenacted to read:

21 Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall
22 provide for

23 (1) the preparation, maintenance, and revision by the direc-
24 tor of personnel, subject to approval of the commissioner of adminis-
25 tration and the personnel board, of a position classification plan for
26 all positions in the classified and partially exempt services; the
27 position classification plan shall include

28 (A) a grouping together of all positions into classes
on the basis of duties and responsibilities;

(B) an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary position specifications for each class of positions;

(2) the preparation, maintenance, revision and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan (A) shall be based upon the position classification plan; (B) shall provide for fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work; (C) may be amended, approved, or disapproved by the legislature in regular or special session; after the pay plan is in effect, a salary or wage payment may not be made to a state employee covered by the plan unless the payment is in accordance with this chapter and the rules adopted under this chapter or unless the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;

(3) the use of employee selection methods which will fairly test the capacity and fitness of the person examined to ^[EFFICIENTLY] discharge the duties of the class in which employment is sought;

(4) the establishment and maintenance of eligible lists for appointment and promotion providing the names of eligible candidates in order of their relative performance in the examinations;

(5) the procedure for certifying eligible candidates;

(6) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state service and promotion shall be by competitive examination whenever possible; in considering promotions, applicants' qualifications, performance record, seniority, and conduct shall be evaluated;

(7) a period of probation not to exceed one year before an appointment to a position becomes permanent, except that a permanent employee receiving a promotional appointment retains permanent status in the service and job class from which appointed for the duration of the probationary period and may be demoted to a former class without right of appeal, notwithstanding AS 39.25.170, but if the employee is dismissed from the service the appeal rights under AS 39.25.170 apply;

(8) nonpermanent and emergency appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200;

(9) provisional appointment without competitive examination when appropriate eligible lists are not available;

(10) transfers from one department to another and from another merit system jurisdiction to the state service;

(11) transfers from one area of the state to another;

(12) the payment of transportation costs when an employee transfers from one area to another at the request of the employer;

(13) the reinstatement of a person who resigns in good standing;

(14) layoffs for reason of lack of money or work, abolition of positions, or material changes in duties or organization; both performance and seniority records shall be considered in the development of layoff orders;

(15) the development, maintenance, and use of employee performance records;

(16) the establishment of disciplinary measures which may include disciplinary suspension without pay;

(17) the procedures for review of disputed personnel actions, for resolving employee and interagency grievances, and for resolving grievances of the general public concerning the operation of the state

1 personnel system;

2 (18) hours of work for all employees in the state service;

3 (19) methods and procedures covering overtime work and pay;

4 (20) the granting of employment preference rights to a
5 [AT EACH TIME APPLIC. IS MADE FOR EMP.]
6 veteran, not within the area of promotion, when the veteran possesses
7 the necessary qualifications in the job classification applied for
8 under this chapter; in an examination to determine the qualification of
9 applicants for entrance into the classified service under merit system
10 examination, five additional points shall be added to the passing grade
11 of a veteran and ten additional points shall be added to the passing
12 grade of a disabled veteran, [but the additional points may be used only
13 once to assist the veteran to obtain a position in the classified
14 service;] the one time the additional points are used shall be selected
15 by the veteran; [if a position in the classified service is eliminated,
16 employees shall be released in accordance with rules which give due
17 effect to all factors; if all job qualifications are equal, the veteran
18 shall be given preference over the nonveteran and the veteran shall be
19 kept on the job;] [this paragraph may not be interpreted to amend the
20 terms of a collective bargaining agreement;] in this paragraph

21 (A) "veteran" means a person with 181 days or more
22 active service in the armed forces of the United States who has
23 been honorably discharged after having served during any period
24 between April 6, 1917, and December 1, 1919, between September 16,
25 1940, and December 31, 1947, or between June 27, 1950, and Novem-
26 ber 7, 1975;

27 (B) "disabled veteran" means a veteran who is (entitled
28 to compensation under laws administered by the United States
29 Veterans' Administration, or a person who was discharged or re-
leased from active duty because of a service-connected disability;)

1 (21) the employment of persons in permanent positions on a
2 part-time basis of 15 hours or more a week, including the employment of
3 two persons to fill one permanent full-time position; these employees
4 shall be designated as permanent part-time employees;

5 (22) the granting of employment preference to severely handi-
6 capped persons; this includes the right to provisional appointment
7 without competitive examination for periods up to four months and the
8 granting of eligibility to a severely handicapped person provisionally
9 appointed under the rules who demonstrates ability to perform the job
10 for permanent appointment without competitive examination; provisional
11 employment under this paragraph may not exceed four months during a
12 12-month period; "severely handicapped" as used in this paragraph means
13 persons certified by the director of the division of vocational reha-
14 bilitation to be severely handicapped;

15 (23) the establishment of programs facilitating the employ-
16 ment of disadvantaged persons, including limitation of competition for
17 appointment and promotion to individuals who meet the program require-
18 ments;

19 (24) the delegation, when feasible, of personnel responsibil-
20 ities and duties to the principal departments of the executive branch;

21 (25) guarantees to an employee of the same or similar job ,
22 class assignment, salary grade, and step placement if his position is
23 withdrawn from the partially exempt or exempt service and placed in the
24 classified service;

25 (26) other rules and administrative regulations, not incon-
26 sistent with this chapter, which are necessary for its enforcement.

27 * Sec. 14. AS 39.25.153 is repealed and reenacted to read:

28 Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal depart-
29 ment of the executive branch has a personnel officer, the personnel

1 officer shall be employed by and located within that department.

2 (b) Subject to the provisions of (d) of this section, the per-
3 sonnel officers for the Departments of Transportation and Public Facili-
4 ties, Fish and Game, Education, Labor, and Health and Social Services,
5 have the following powers with respect to the classes of positions
6 unique to their departments:

7 (1) to assign positions to an existing class in the state
8 classification plan and to the salary range for that class as estab-
9 lished by the state pay plan or by a valid agreement entered into in
10 accordance with AS 23.40;

11 (2) to administer and score examinations and to place suc-
12 cessful applicants on the eligible lists;

13 (3) to certify those eligible to the appointing authorities.

14 (c) The initial determination of classes of positions unique to
15 the departments listed in (b) of this section shall be made by the
16 personnel officer of the department in consultation with the commis-
17 sioner of his department subject to the approval of the director of
18 personnel in the Department of Administration.

19 (d) The assumption of a power set out in (b) of this section must
20 be approved by the commissioner of administration and must be in harmony
21 with the merit principle of personnel administration (AS 39.25.010).

22 * Sec. 15. AS 39.25.160 is repealed and reenacted to read:

23 Sec. 39.25.160. GENERALLY. (a) A classified employee or an
24 exempt employee in a position named in AS 39.25.110(3) may not take an
25 active part in the management of a political party above the precinct
26 level.

27 (b) A person may not give, render, pay, offer, solicit, or accept
28 money, services, or other valuable thing in connection with securing or
29 making an appointment, promotion, or advantage in a position in the

1 classified service.

2 (c) A person may not require an assessment, subscription, contri-
3 bution, or service for a political party from a state employee.

4 (d) A person may not seek or attempt to use a political party
5 endorsement in connection with an appointment or promotion in the
6 classified service.

7 (e) An employee in the classified or partially exempt service who
8 seeks nomination or becomes a candidate for state or national elective
9 political office shall immediately resign any position held in the
10 state service.

11 (f) Action affecting the employment status of a state employee or
12 an applicant ^[FOR A POSITION IN] for state service, including appointment, promotion,
13 demotion, suspension, or removal, may not be taken or withheld on the
14 basis of unlawful discrimination due to race, religion, color, or
15 national origin; or because of age, ~~physical~~ handicap, sex, (marital
16 status, change in marital status, pregnancy, parenthood, or other
17 reason not related to merit, ~~unless the reasonable demands of the~~
18 ~~position require that a distinction be made on the basis of age,~~
19 ~~handicap, sex, marital status, change in marital status, pregnancy, or~~
20 ~~parenthood.~~

21 (g) Action affecting the employment status of an employee in the
22 classified service or an applicant for a position in the classified
23 service, including appointment, promotion, demotion, suspension, or
24 removal, may not be taken or withheld on the basis of unlawful discrim-
25 ination due to political beliefs.

26 (h) A person may not knowingly make a false statement, certifi-
27 cate, mark, rating, or report with regard to a test, certification, or
28 appointment made under this chapter or in any manner commit a fraud
preventing the impartial execution of this chapter and the personnel

1 rules adopted under this chapter.

2 (i) A person may not obstruct the right of another person to
3 examination, eligibility, certification, appointment, or promotion
4 under this chapter.

5 * Sec. 16. AS 39.25.170 is repealed and reenacted to read:

6 Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR
7 SUSPENSION. (a) An employee may be dismissed, demoted, or suspended
8 by delivery of written notice of the proposed action and the reason for
9 it from the appointing authority to the employee.

10 (b) A permanent employee in the classified service who has been
11 dismissed, demoted, or suspended may appeal the action to the personnel
12 board.

13 (c) An employee who has been dismissed, demoted, or suspended due
14 to unlawful discrimination based on race, religion, color, or national
15 origin, or because of age, handicap, sex, *new* marital status, change in
16 marital status, pregnancy, or parenthood, or other reason not related
17 to merit) may appeal the action to the personnel board.

18 (d) An employee in the classified service who has been dismissed,
19 demoted, or suspended due to unlawful discrimination based on political
20 beliefs may appeal the action to the personnel board.

21 (e) A permanent employee in the classified service who holds
22 probationary status in his present position may appeal a dismissal from
23 the classified service to the personnel board.

24 (f) An employee who is on leave without pay from a position in
25 the classified service and who is employed by the state in another
26 capacity, either in the exempt or partially exempt service, may appeal
a dismissal from the classified service to the personnel board.

28 (g) An employee begins an appeal by filing a written request for
29 review of the action with the personnel board within 15 days of receiv-

ing written notice of the action from the appointing authority.

(h) If requested by the employee at the time of filing an appeal, the personnel board shall hold a hearing to determine the reasonableness of the the action taken by the appointing authority. If the employee requests it, the hearing shall be open to the public. The employee may be represented by another person and has the right to present evidence (and to confront and cross-examine witnesses.) Technical rules of evidence do not apply to the hearing, (but all testimony shall be taken under oath)

(i) If the personnel board finds that the action complained of was due to unlawful discrimination based on race, sex, color, religion, national origin, political beliefs, age, handicap, (marital status, change in marital status, pregnancy, parenthood, or any other reason not related to merit) or in violation of the provisions of this chapter or the personnel rules, the employee shall be reinstated to the position without loss of pay or leave benefit for the period of dismissal, demotion, or suspension. In all other cases, the board shall report its findings and recommendations in writing, to both parties (within 30 days of a hearing conducted under (h) of this section, and the decision of the board may be appealed to the superior court by the employee.)

* Sec. 17. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at the request of a party to a proceeding begun under AS 39.25.170.

(b) If a person refuses to respond to a subpoena issued under this section, or refuses to testify at a hearing authorized by AS 39.25.170, the personnel board may apply to the superior court for an order requiring the person to respond to the subpoena or to testify.

(c) Failure to obey the order of the superior court requiring response to a subpoena or testimony at a hearing may be punished as

1 contempt of court.

2 * Sec. 18. AS 39.25 is amended by adding a new section to read:

3 Sec. 39.25.181. DEFINITIONS. In this chapter,

4 (1) "fraud" means for a person to knowingly

5 (A) create or confirm another's false impression which
6 the person does not believe to be true, including false impres-
7 sions as to law or value and false impressions as to intention or
8 other state of mind;

9 (B) fail to correct another's false impression which
10 the person previously has created or confirmed;

11 (C) prevent another from acquiring pertinent informa-
12 tion;

13 (2) "knowingly" means for a person to be aware with respect
14 to conduct or to a circumstance described by a provision of law that
15 his conduct is of that nature or that the circumstance exists; when
16 knowledge of the existence of a particular fact is required, that know-
17 ledge is established if a person is aware of a substantial probability
18 of its existence, unless he actually believes it does not exist;

19 (3) "precinct" means the territory within which resident
20 voters may cast votes at one polling place;

21 (4) "state employee" means a person employed by the state
22 who is paid a wage or salary, but does not include a person hired by
23 the state to work as an independent contractor.

24 * Sec. 19. AS 39.25 is amended by adding a new section to article 6 to
25 read:

26 Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

27 (1) be a member of a national, state, or local political
28 party;

29 (2) take part in a political campaign;

1 (3) express political opinions;

2 (4) register party preference;

3 (5) serve as a voting or nonvoting delegate to a party con-
4 vention;

5 (6) be appointed, nominated, or elected to nonpartisan
6 public office in a local government unit; and

7 (7) make contributions to a political party or a candidate
8 for public office.

9 * Sec. 20. AS 39.25.180 is repealed.

10 * Sec. 21. This Act takes effect July 1, 1981.

Original sponsor: Rules/Legislative
Council

Offered: 5/15/81
Referred: Judiciary

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 193 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act amending state personnel laws; and providing
7 for an effective date."

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

9 * Section 1. AS 39.25.040 is amended to read:

10 Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division
11 of personnel is the director of personnel appointed by the commissioner
12 of administration and responsible to the commissioner of administration
13 for the execution of the duties and responsibilities imposed by this
14 chapter and the rules adopted under this chapter. The director of
15 personnel shall [MUST] have at least three years of practical working
16 experience in the field of personnel administration.

17 * Sec. 2. AS 39.25.060(b) is amended to read:

18 (b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS
19 OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not
20 more than two members of the board may be members of the same political
21 party.

22 * Sec. 3. AS 39.25.070(1) is amended to read:

23 (1) approve or disapprove amendments to the personnel rules
24 in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM
25 WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DIS-
26 APPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE
27 BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD
28 THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

29 * Sec. 4. AS 39.25.070(3) is amended to read:

1 (3) hear and determine appeals by employees [IN THE CLASSI-
2 FIED SERVICE] as provided in AS 39.25.170;

3 * Sec. 5. AS 39.25.070 is amended by adding a new paragraph to read:

4 (7) employ staff members, who shall be in the classified
5 service.

6 * Sec. 6. AS 39.25.080 is repealed and reenacted to read:

7 Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records,
8 including employment applications and examination materials, are confi-
9 dential and are not open to public inspection except as provided in
10 this section.

11 (b) The following information is available for public inspection,
12 subject to reasonable regulations on the time and manner of inspection:

13 (1) the names and position titles of all state employees;

14 (2) the position held by a state employee;

15 (3) prior positions held by a state employee;

16 (4) whether a state employee is in the classified, partially
17 exempt, or exempt service;

18 (5) the dates of appointment and separation of a state em-
19 ployee; and

20 (6) the compensation authorized for a state employee.

21 (c) A state employee has the right to examine his own personnel
22 files and may authorize others to examine his files.

23 (d) An applicant for state employment who appeals an examination
24 score may review written examination questions relating to the examina-
25 tion unless the questions are to be used in future examinations.

26 * Sec. 7. AS 39.25.090 is amended to read:

27 Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules
28 adopted under it apply to all positions in (1) the classified service,
29 and (2) the exempt and partially exempt service as specifically pro-

1 vided.

2 * Sec. 8. AS 39.25.110 is repealed and reenacted to read:

3 Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by
4 law, the following positions in the state service constitute the exempt
5 service and are exempt from the provisions of this chapter and the
6 rules adopted under it:

7 (1) persons elected to public office by popular vote or
8 appointed to fill vacancies in elected offices;

9 (2) justices of the supreme court, judges of the court of
10 appeals, judges of the superior court, and judges and magistrates of
11 other state courts established by law;

12 (3) employees of the state court system, and employees and
13 members of the Judicial Council;

14 (4) employees of the state legislature and its agencies;

15 (5) the head of each principal department in the executive
16 branch;

17 (6) officers and employees of the University of Alaska;

18 (7) certificated teachers and noncertificated employees
19 employed by a regional educational attendance area established and
20 organized under AS 14.08.031 - 14.08.041 to teach in, administer, or
21 operate schools under the control of a regional educational attendance
22 area school board;

23 (8) certificated teachers employed by the Department of
24 Education as correspondence teachers or teachers in skill centers
25 operated by the Department of Education;

26 (9) patients and inmates employed in state institutions;

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

- 1 (11) members of boards, commissions, or authorities;
2 (12) the officers and employees of the following boards,
3 commissions and authorities:
- 4 (A) Alaska Gas Pipeline Financing Authority;
 - 5 (B) Alaska Permanent Fund Corporation;
 - 6 (C) Alaska Energy Center;
 - 7 (D) Alaska Industrial Development Authority;
- 8 (13) the executive officer of the Alaska Commission on Post-
9 secondary Education;
- 10 (14) the executive officer of the Alaska Commercial Fisheries
11 Entry Commission;
- 12 (15) the ombudsman and his staff;
- 13 (16) the executive secretary and legal counsel of the Alaska
14 Municipal Bond Bank Authority;
- 15 (17) licensed physicians, as defined in AS 47.30.340(9),
16 employed by the division of mental health and developmental disabili-
17 ties, Department of Health and Social Services;
- 18 (18) petroleum engineers and petroleum geologists employed in a
19 professional capacity by the Department of Natural Resources except for
20 those employed in the division of geological and geophysical surveys;
- 21 (19) officers, agents, and employees of the Alcoholic Bever-
22 age Control Board granted limited peace officer powers by the Alcoholic
23 Beverage Control Board under AS 04.06.110;
- 24 (20) persons employed by the division of marine transporta-
25 tion as masters and members of the crews of vessels who operate the
26 state ferry system and who are covered by a collective bargaining
27 agreement provided in AS 23.40.040;
- 28 (21) officers and employees of the state who reside in foreign
29 countries.

1 * Sec. 9. AS 39.25.120 is repealed and reenacted to read:

2 Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the
3 partially exempt service are included in the position classification
4 plan established under this chapter and are compensated according to
5 the pay plan (AS 39.27.011).

6 (b) A person holding a position in the partially exempt service
7 is not required to take an examination or qualify or earn a place on a
8 register, and is not eligible for a hearing by the personnel board in
9 case of dismissal, demotion, or suspension, except as provided in
10 AS 39.25.170. Positions in the partially exempt service are specifi-
11 cally exempt from the rules established under AS 39.25.150(3) - (10),
12 (13), (14), and (17).

13 (c) The following positions in the state service constitute the
14 partially exempt service:

15 (1) deputy and assistant commissioners of the principal
16 departments of the executive branch, including the assistant adjutant
17 general of the Department of Military Affairs;

18 (2) the directors of the major divisions of the principal
19 departments of the executive branch and the regional directors of the
20 Department of Transportation and Public Facilities;

21 (3) attorney members of the staff of the Department of Law
22 and of the public defender agency;

23 (4) one private secretary for each head of a principal de-
24 partment in the executive branch;

25 (5) employees of the Office of the Governor and the office
26 of the lieutenant governor, including the staff of the governor's
27 mansion;

28 (6) the executive director and deputy director of the Alaska
29 Public Utilities Commission;

1 (7) the state forester in the Department of Natural Resour-
2 ces;

3 (8) the director, deputy director, staff legal counsel, and
4 hearing officers of the Alaska Transportation Commission;

5 (9) not more than two special assistants to the commissioner
6 of each of the principal departments of the executive branch, but the
7 number may be increased if the partially exempt service is extended
8 under AS 39.25.130 to include the additional special assistants;

9 (10) the principal executive officer of the following boards,
10 councils, or commissions:

11 (A) Alaska Public Broadcasting Commission;

12 (B) Professional Teaching Practices Commission;

13 (C) Parole Board;

14 (D) Board of Nursing;

15 (E) Real Estate Commission;

16 (F) Alaska Royalty Oil and Gas Development Advisory

17 Board;

18 (G) Alaska Historical Commission;

19 (H) Alaska State Council on the Arts;

20 (I) Alaska Police Standards Council;

21 (J) Council on Science and Technology;

22 (11) Alaska Pioneers' Home managers;

23 (12) hearing examiners in the Department of Revenue;

24 (13) the comptroller in the division of treasury, Department
25 of Revenue;

26 (14) investment officers in the Department of Revenue;

27 (15) the chief of subsistence in the Department of Fish and
28 Game;

29 (16) airport managers in the Department of Transportation and

1 Public Facilities employed at the Anchorage and Fairbanks International
2 Airports;

3 (17) the deputy director of the division of tourism and the
4 deputy director of the division of insurance in the Department of Com-
5 merce and Economic Development;

6 (18) the executive director and staff of the Alaska Public
7 Offices Commission.

8 * Sec. 10. AS 39.25.130(a) is amended to read:

9 (a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
10 recommendation of the commissioner of administration, may extend the
11 partially exempt service to include any position [WHICH WAS] in the
12 classified service [ON APRIL 19, 1960,] which, in the judgment of the
13 board:

14 (1) involves principal responsibility for the determination
15 of policy;

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

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

20 * Sec. 11. AS 39.25.130(c) is amended to read:

21 (c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
22 recommendation of the commissioner of administration, may extend the
23 classified service to include any position [WHICH WAS] in the partially
24 exempt service [ON APRIL 19, 1960].

25 * Sec. 12. AS 39.25.140 is repealed and reenacted to read:

26 Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director
27 of personnel shall prepare and submit proposed amendments of the person-
28 nel rules to the commissioner of administration for review and approval.

29 (b) The commissioner of administration shall review the proposed

1 amendments and if he approves them, he shall submit them to the person-
2 nel board.

3 (c) If the proposed amendments concern matters of public policy,
4 the personnel board shall adopt them in accordance with the Administra-
5 tive Procedure Act (AS 44.62).

6 (d) If the proposed amendments relate only to internal management
7 of a state agency, the commissioner of administration shall post notice
8 in public buildings throughout the state that the personnel board has
9 the proposed amendments under consideration. The notice required by
10 this subsection shall be posted at least 30 days before any decision is
11 made to amend the personnel rules and shall include an address for the
12 receipt of written comments.

13 (e) If requested by the commissioner of administration or by a
14 person receiving notice of the proposed amendments, the personnel board
15 may hold public hearings on the proposed amendments and may appoint a
16 hearing officer to conduct the hearings.

17 (f) The personnel board may amend the proposed amendments.

18 (g) The proposed amendments become effective 45 days after they
19 are submitted to the personnel board unless the board has disapproved
20 them.

21 (h) The amended rules shall be published in the Alaska Administra-
22 tive Register and Code for informational purposes.

23 * Sec. 13. AS 39.25.150 is repealed and reenacted to read:

24 Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall
25 provide for

26 (1) the preparation, maintenance, and revision by the direc-
27 tor of personnel, subject to approval of the commissioner of adminis-
28 tration and the personnel board, of a position classification plan for
29 all positions in the classified and partially exempt services; the

1 position classification plan shall include

2 (A) a grouping together of all positions into classes
3 on the basis of duties and responsibilities;

4 (B) an appropriate title, a description of the duties
5 and responsibilities, training and experience qualifications, and
6 other necessary position specifications for each class of posi-
7 tions;

8 (2) the preparation, maintenance, revision and administra-
9 tion by the director of personnel of a pay plan for all positions in
10 the classified and partially exempt services; the pay plan (A) shall be
11 based upon the position classification plan; (B) shall provide for fair
12 and reasonable compensation for services rendered, and reflect the
13 principle of like pay for like work; (C) may be amended, approved, or
14 disapproved by the legislature in regular or special session; after the
15 pay plan is in effect, a salary or wage payment may not be made to a
16 state employee covered by the plan unless the payment is in accordance
17 with this chapter and the rules adopted under this chapter or unless
18 the payment is in accordance with a valid agreement entered into in
19 accordance with AS 23.40;

20 (3) the use of employee selection methods which will fairly
21 test the capacity and fitness of the person examined to discharge the
22 duties of the class in which employment is sought;

23 (4) the establishment and maintenance of eligible lists for
24 appointment and promotion providing the names of eligible candidates in
25 order of their relative performance in the examinations;

26 (5) the procedure for certifying eligible candidates;

27 (6) promotions from within the state service when there are
28 qualified candidates in the state service; vacancies shall be filled by
29 promotion whenever practicable and in the best interest of the state

1 service and promotion shall be by competitive examination whenever
2 possible; in considering promotions, applicants' qualifications, per-
3 formance record, seniority, and conduct shall be evaluated;

4 (7) a period of probation not to exceed one year before an
5 appointment to a position becomes permanent, except that a permanent
6 employee receiving a promotional appointment retains permanent status
7 in the service and job class from which appointed for the duration of
8 the probationary period and may be demoted to a former class without
9 right of appeal, notwithstanding AS 39.25.170, but if the employee is
10 dismissed from the service the appeal rights under AS 39.25.170 apply;

11 (8) nonpermanent and emergency appointments to positions in
12 the state service in accordance with AS 39.25.195 - 39.25.200;

13 (9) provisional appointment without competitive examination
14 when appropriate eligible lists are not available;

15 (10) transfers from one department to another and from an-
16 other merit system jurisdiction to the state service;

17 (11) transfers from one area of the state to another;

18 (12) the payment of transportation costs when an employee
19 transfers from one area to another at the request of the employer;

20 (13) the reinstatement of a person who resigns in good stand-
21 ing;

22 (14) layoffs for reason of lack of money or work, abolition
23 of positions, or material changes in duties or organization; both
24 performance and seniority records shall be considered in the develop-
25 ment of layoff orders;

26 (15) the development, maintenance, and use of employee perfor-
27 mance records;

28 (16) the establishment of disciplinary measures which may
29 include disciplinary suspension without pay;

1 (17) the procedures for review of disputed personnel actions,
2 for resolving employee and interagency grievances, and for resolving
3 grievances of the general public concerning the operation of the state
4 personnel system;

5 (18) hours of work for all employees in the state service;

6 (19) methods and procedures covering overtime work and pay;

7 (20) the granting of employment preference rights to a
8 veteran not within the area of promotion, when the veteran possesses
9 the necessary qualifications in the job classification applied for
10 under this chapter; in an examination to determine the qualification of
11 applicants for entrance into the classified service under merit system
12 examination, five additional points shall be added to the passing grade
13 of a veteran and ten additional points shall be added to the passing
14 grade of a disabled veteran, but the additional points may be used only
15 once to assist the veteran to obtain a position in the classified
16 service; the one time the additional points are used shall be selected
17 by the veteran; if a position in the classified service is eliminated,
18 employees shall be released in accordance with rules which give due
19 effect to all factors; if all job qualifications are equal, the veteran
20 shall be given preference over the nonveteran and the veteran shall be
21 kept on the job; this paragraph may not be interpreted to amend the
22 terms of a collective bargaining agreement; in this paragraph

23 (A) "veteran" means a person with 181 days or more
24 active service in the armed forces of the United States who has
25 been honorably discharged after having served during any period
26 between April 6, 1917, and December 1, 1919, between September 16,
27 1940, and December 31, 1947, or between June 27, 1950, and
28 November 7, 1975;

29 (B) "disabled veteran" means a veteran who is entitled

1 to compensation under laws administered by the United States
2 Veterans' Administration, or a person who was discharged or re-
3 leased from active duty because of a service-connected disability;

4 (21) the employment of persons in permanent positions on a
5 part-time basis of 15 hours or more a week, including the employment of
6 two persons to fill one permanent full-time position; these employees
7 shall be designated as permanent part-time employees;

8 (22) the granting of employment preference to severely handi-
9 capped persons; this includes the right to provisional appointment
10 without competitive examination for periods up to four months and the
11 granting of eligibility to a severely handicapped person provisionally
12 appointed under the rules who demonstrates ability to perform the job
13 for permanent appointment without competitive examination; provisional
14 employment under this paragraph may not exceed four months during a
15 12-month period; "severely handicapped" as used in this paragraph means
16 persons certified by the director of the division of vocational reha-
17 bilitation to be severely handicapped;

18 (23) the establishment of programs facilitating the employ-
19 ment of disadvantaged persons, including limitation of competition for
20 appointment and promotion to individuals who meet the program require-
21 ments;

22 (24) the delegation, when feasible, of personnel responsibil-
23 ities and duties to the principal departments of the executive branch;

24 (25) guarantees to an employee of the same or similar job
25 class assignment, salary grade, and step placement if his position is
26 withdrawn from the partially exempt or exempt service and placed in the
27 classified service;

28 (26) other rules and administrative regulations, not incon-
29 sistent with this chapter, which are necessary for its enforcement.

1 (b) A person may not give, render, pay, offer, solicit, or accept
2 money, services, or other valuable thing in connection with securing or
3 making an appointment, promotion, or advantage in a position in the
4 classified service.

5 (c) A person may not require an assessment, subscription, contri-
6 bution, or service for a political party from a state employee.

7 (d) A person may not seek or attempt to use a political party
8 endorsement in connection with an appointment or promotion in the
9 classified service.

10 (e) An employee in the classified or partially exempt service who
11 seeks nomination or becomes a candidate for state or national elective
12 political office shall immediately resign any position held in the
13 state service.

14 (f) Action affecting the employment status of a state employee or
15 an applicant for state service, including appointment, promotion,
16 demotion, suspension, or removal, may not be taken or withheld on the
17 basis of unlawful discrimination due to race, religion, color, or
18 national origin, age, handicap, sex, marital status, change in marital
19 status, pregnancy, parenthood, or other reason not related to merit.

20 (g) Action affecting the employment status of an employee in the
21 classified service or an applicant for a position in the classified
22 service, including appointment, promotion, demotion, suspension, or
23 removal, may not be taken or withheld on the basis of unlawful discrim-
24 ination due to political beliefs.

25 (h) A person may not knowingly make a false statement, certifi-
26 cate, mark, rating, or report with regard to a test, certification, or
27 appointment made under this chapter or in any manner commit a fraud
28 preventing the impartial execution of this chapter and the personnel
29 rules adopted under this chapter.

1 * Sec. 14. AS 39.25.153 is repealed and reenacted to read:

2 Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal depart-
3 ment of the executive branch has a personnel officer, the personnel
4 officer shall be employed by and located within that department.

5 (b) Subject to the provisions of (d) of this section, the per-
6 sonnel officers for the Departments of Transportation and Public Facili-
7 ties, Fish and Game, Education, Labor, and Health and Social Services,
8 have the following powers with respect to the classes of positions
9 unique to their departments:

10 (1) to assign positions to an existing class in the state
11 classification plan and to the salary range for that class as estab-
12 lished by the state pay plan or by a valid agreement entered into in
13 accordance with AS 23.40;

14 (2) to administer and score examinations and to place suc-
15 cessful applicants on the eligible lists;

16 (3) to certify those eligible to the appointing authorities.

17 (c) The initial determination of classes of positions unique to
18 the departments listed in (b) of this section shall be made by the
19 personnel officer of the department in consultation with the commis-
20 sioner of his department subject to the approval of the director of
21 personnel in the Department of Administration.

22 (d) The assumption of a power set out in (b) of this section must
23 be approved by the commissioner of administration and must be in harmony
24 with the merit principle of personnel administration (AS 39.25.010).

25 * Sec. 15. AS 39.25.160 is repealed and reenacted to read:

26 Sec. 39.25.160. GENERALLY. (a) A classified employee or an
27 exempt employee in a position named in AS 39.25.110(3) may not take an
28 active part in the management of a political party above the precinct
29 level.

1 (1) A person may not obstruct the right of another person to
2 examination, eligibility, certification, appointment, or promotion
3 under this chapter.

4 * Sec. 16. AS 39.25.170 is repealed and reenacted to read:

5 Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR
6 SUSPENSION. (a) An employee may be dismissed, demoted, or suspended
7 by delivery of written notice of the proposed action and the reason for
8 it from the appointing authority to the employee.

9 (b) A permanent employee in the classified service who has been
10 dismissed, demoted, or suspended may appeal the action to the personnel
11 board.

12 (c) An employee who has been dismissed, demoted, or suspended due
13 to unlawful discrimination based on race, religion, color, or national
14 origin, or because of age, handicap, sex, marital status, change in
15 marital status, pregnancy, or parenthood, or other reason not related
16 to merit may appeal the action to the personnel board.

17 (d) An employee in the classified service who has been dismissed,
18 demoted, or suspended due to unlawful discrimination based on political
19 beliefs may appeal the action to the personnel board.

20 (e) A permanent employee in the classified service who holds
21 probationary status in his present position may appeal a dismissal from
22 the classified service to the personnel board.

23 (f) An employee who is on leave without pay from a position in
24 the classified service and who is employed by the state in another
25 capacity, either in the exempt or partially exempt service, may appeal
26 a dismissal from the classified service to the personnel board.

27 (g) An employee begins an appeal by filing a written request for
28 review of the action with the personnel board within 15 days of receiv-
29 ing written notice of the action from the appointing authority.

1 (h) If requested by the employee at the time of filing an appeal,
2 the personnel board shall hold a hearing to determine the reasonable-
3 ness of the the action taken by the appointing authority. If the
4 employee requests it, the hearing shall be open to the public. The
5 employee may be represented by another person and has the right to
6 present evidence, and to confront and cross-examine witnesses. Techni-
7 cal rules of evidence do not apply to the hearing, but all testimony
8 shall be taken under oath.

9 (i) If the personnel board finds that the action complained of
10 was due to unlawful discrimination based on race, sex, color, religion,
11 national origin, political beliefs, age, handicap, marital status,
12 change in marital status, pregnancy, parenthood, or any other reason
13 not related to merit, or in violation of the provisions of this chapter
14 or the personnel rules, the employee shall be reinstated to the position
15 without loss of pay or leave benefit for the period of dismissal, demo-
16 tion, or suspension. In all other cases, the board shall report its
17 findings and recommendations in writing, to both parties within 30 days
18 of a hearing conducted under (h) of this section, and the decision of
19 the board may be appealed to the superior court by the employee.

20 * Sec. 17. AS 39.25 is amended by adding a new section to read:

21 Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at
22 the request of a party to a proceeding begun under AS 39.25.170.

23 (b) If a person refuses to respond to a subpoena issued under
24 this section, or refuses to testify at a hearing authorized by AS 39.-
25 25.170, the personnel board may apply to the superior court for an
26 order requiring the person to respond to the subpoena or to testify.

27 (c) Failure to obey the order of the superior court requiring
28 response to a subpoena or testimony at a hearing may be punished as
29 contempt of court.

1 * Sec. 18. AS 39.25 is amended by adding a new section to read:

2 Sec. 39.25.181. DEFINITIONS. In this chapter,

3 (1) "fraud" means for a person to knowingly

4 (A) create or confirm another's false impression which
5 the person does not believe to be true, including false impres-
6 sions as to law or value and false impressions as to intention or
7 other state of mind;

8 (B) fail to correct another's false impression which
9 the person previously has created or confirmed;

10 (C) prevent another from acquiring pertinent informa-
11 tion;

12 (2) "knowingly" means for a person to be aware with respect
13 to conduct or to a circumstance described by a provision of law that
14 his conduct is of that nature or that the circumstance exists; when
15 knowledge of the existence of a particular fact is required, that know-
16 ledge is established if a person is aware of a substantial probability
17 of its existence, unless he actually believes it does not exist;

18 (3) "precinct" means the territory within which resident
19 voters may cast votes at one polling place;

20 (4) "state employee" means a person employed by the state
21 who is paid a wage or salary, but does not include a person hired by
22 the state to work as an independent contractor.

23 * Sec. 19. AS 39.25 is amended by adding a new section to article 6 to
24 read:

25 Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

26 (1) be a member of a national, state, or local political
27 party;

28 (2) take part in a political campaign;

29 (3) express political opinions;

- 1 (4) register party preference;
2 (5) serve as a voting or nonvoting delegate to a party con-
3 vention;
4 (6) be appointed, nominated, or elected to nonpartisan
5 public office in a local government unit; and
6 (7) make contributions to a political party or a candidate
7 for public office.

8 * Sec. 20. AS 14.40.913(a) is amended to read:

9 (a) The commission may employ those persons necessary to enable
10 it to perform its functions under AS 14.40.909. The commission may
11 appoint an executive officer. The executive officer is a member of the
12 exempt service under AS 39.25.110, serves at the pleasure of the commis-
13 sion, and [HE] receives compensation fixed by the commission. Other
14 employees of the commission are in the classified service (AS 39.25.-
15 100) [THE EXECUTIVE OFFICER APPOINTS PERSONS TO THE STAFF POSITIONS
16 AUTHORIZED BY THE COMMISSION, AND STAFF COMPENSATION IS FIXED BY THE
17 COMMISSION]. The executive officer is the executive secretary of the
18 student financial aid committee. Each employee of the commission shall
19 elect membership either in the state teachers' retirement system
20 (AS 14.25), if qualified, or in the public employees' retirement system
21 (AS 39.35).

22 * Sec. 21. AS 16.43.080(a) is amended to read:

23 (a) The commission may employ those persons necessary to carry
24 out the purposes of this chapter. The executive officer [EMPLOYEES] of
25 the commission is [ARE] in the exempt service under AS 39.25.110. Other
26 employees of the commission are in the classified service (AS 39.25.-
27 100).

28 * Sec. 22. AS 39.25.180 is repealed.

29 * Sec. 23. This Act takes effect July 1, 1981.

P.
THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

REVISED

I. REQUEST

Bill/Resolution No. CS For SB 193

Title An act amending the State Personnel Act (AS 39.25)

Requested by State Affairs

Date 5-15-81

II. FISCAL DETAIL

Agency Affected Administration

Program Category Affected General Government

BRU, Program, or Subprogram(s) Affected Personnel

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		116.4	128.1	141.3	155.4	170.9
200 TRAVEL		11.7	13.1	14.9	17.0	19.1
300 CONTRACTUAL		21.6	20.2	22.7	25.5	28.4
400 COMMODITIES		26.0	22.9	25.2	27.8	30.6
500 EQUIPMENT		23.0	-	-	-	-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		199.0	184.3	204.1	225.7	249.0

FUNDING (Thousands of Dollars)

GENERAL FUND		199.0	184.3	204.1	225.7	249.0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		3	3	3	3	3
PART TIME		2	2	2	2	2
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Personal Services: A Regulations Specialist II and a Clerk I will be needed to fulfill the requirements of the Administrative Procedures Act. Three Personnel Technicians I will be needed to implement and maintain the requirements of the Veteran's Preference Act.

Travel was inflated at a rate of 12%. All other factors were inflated at a rate of 10%. FY 82 contains one time furnishings costs in equipment. The cost of the Hearing Officer and Legal Notices will be sustained by the Personnel Board Budget.

Contractual: There is a one time only cost of \$3,200 to develop a certification sub-system, within the automated application processing system, to accomodate the new veteran's preference points amendment.

IV. DATE May 1981

PREPARED BY

AGENCY

Division of Personnel

PHONE 465-4430

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Name) Senator Ray

Keith Specking (Office of the Governor)

1	POSITION TITLE Personnel Technician I				RANGE/STEP 12B	BARG. UNIT. K	LOCATION Fairbanks	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE		LEG.		
3	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
4	PERSONAL SERVICES:									
5	SALARY 2063 per mo.		24,756							
6	BENEFITS 15.79%		3,909							
7	FICA 6.13%		1,518							
8	HEALTH INS. 150 per mo.		1,800							
9	TOTAL PERSONAL SERVICES		01		31,983					
10	TRAVEL		02		4,000					
11	CONTRACTUAL		03		4,610					
12	COMMODITIES		04		3,000					
13	EQUIPMENT		05		877					
14	OTHER									
15	TOTAL COST				44,470					
	CODE	FUNDING SOURCE								
16		FED RCPTS. 1002								
17		GF MATCH. 1003								
18		GEN. FUND 1001				44,470				
19		I-A RCPTS. 1005								
20		PGM RCPTS 1008								
21		OTHER								
22	CONTINUATION									
23	ADDITION									
FOR B&M USE ONLY										
4A KEY NUMBER _____ COLUMN NO. _____										

JUSTIFICATION:

To properly implement CS for SB 193, as it has been presented, will require the services of a Personnel Technician I to compute and explain eligible list revisions. The Personnel Technician I will provide in person counseling services in the Anchorage area both during the initial conversion effort and on an on-going basis thereafter. The in person counseling services are to be provided to the regional centers on a one trip per year basis.

AGENCY Administration PROGRAM Centralized Administrative Services

BRU Personnel

COMPONENT Personnel

13 REQUEST FOR NEW POSITION.

Page 1 of 3

REVISED
DATE _____

FY 82

1	POSITION TITLE Personnel Technician I				RANGE/STEP 12 A	BARG. UNIT.	LOCATION Anchorage	GOV	APPROV.	DISAPP.
2	TYPE OF POSITION PPT	STAFF MONTHS 6	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE		LEG.		
3	TYPE OF EXPENDITURE				AMOUNT					
	1				2		3			
4	PERSONAL SERVICES:									
	SALARY 1761 per mo.				10,566					
5	BENEFITS 15.79%				1,684					
6	FICA 6.13%				648					
	HEALTH INS. 150.00 per mo.				900					
8	TOTAL PERSONAL SERVICES 01				13,799					
9	TRAVEL 02				3,500					
10	CONTRACTUAL 03				3,700					
11	COMMODITIES 04				2,250					
12	EQUIPMENT 05				748					
13	OTHER									
14	TOTAL COST				23,997					
	CODE	FUNDING SOURCE								
15		FED RCPTS. 1002								
16		GF MATCH. 1003			23,997					
17		GEN. FUND 1001								
18		I-A RCPTS. 1004								
19		PGM RCPTS 1005								
20		OTHER								
21	CONTINUATION									
22	ADDITION				FOR B3M USE ONLY					
4A KEY NUMBER _____ COLUMN NO. _____										

JUSTIFICATION:

To properly implement CS for SB 193, as it has been presented, will require the services of a Personnel Technician I to compute and explain eligible list revisions. The Personnel Technician I will provide in person counseling services in the Anchorage area both during the initial conversion effort and on an on-going basis thereafter. The in person counseling services are to be provided to the regional centers on a one trip per year basis.

AGENCY Administration PROGRAM Centralized Administrative Services

BRU Personnel

COMPONENT Personnel

Page 2 of 3

REVISED
DATE _____

**13 REQUEST FOR NEW
POSITION.**

FY 82

1	POSITION TITLE Personnel Technician I				RANGE/STEP 12A	BARG. UNIT. K	LOCATION Juneau	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION PPT	STAFF MONTHS 6	RF No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE		LEG.		
3	TYPE OF EXPENDITURE				JUSTIFICATION:					
	1	2	3							
4	PERSONAL SERVICES:				To properly implement CS for SB 193, as it has been presented, will require the services of a Personnel Technician I. The Personnel Technician I will design forms, change public information materials and be in charge of the revisions to all eligible lists. The Personnel Technician I will provide in person counseling services in the Juneau area both during the initial conversion effort and on an on-going basis thereafter. The in person counseling services are to be provided to the regional centers on a one trip per year basis.					
5	SALARY 1761 per mo.		10,566							
6	BENEFITS 15.79%		1,684							
7	FICA 6.13%		648							
8	HEALTH INS. 150 per mo.		900							
9	TOTAL PERSONAL SERVICES		01	13,799						
10	TRAVEL		02	3,500						
11	CONTRACTUAL		03	3,700						
12	COMMODITIES		04	2,250						
13	EQUIPMENT		05	1,400						
14	OTHER									
15	TOTAL COST			24,649						
	CODE	FUNDING SOURCE								
16		FED RCPTS. 1002								
17		GF MATCH. 1003								
18		GEN. FUND 1004		24,649						
19		I-A RCPTS. 1005								
20		PGM RCPTS 1028								
21	OTHER									
22	CONTINUATION		FOR B&M USE ONLY							
23	ADDITION									
4A KEY NUMBER _____ COLUMN NO. _____										

AGENCY Administration PROGRAM Centralized Administrative Services

BRU Personnel

COMPONENT Personnel

13 REQUEST FOR NEW POSITION.

Page 3 of 3

REVISED
DATE _____

FY 82

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

1 IN THE SENATE

2 SENATE BILL NO. 193

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act amending the State Personnel Act (AS 39.25);
7 and providing for an effective date."

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

9 * Section 1. AS 39.25.040 is amended to read:

10 Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division
11 of personnel is the director of personnel appointed by the commissioner
12 of administration and responsible to the commissioner of administration
13 for the execution of the duties and responsibilities imposed by this
14 chapter and the rules adopted under this chapter. The director of
15 personnel shall [MUST] have at least three years of practical working
16 experience in the field of personnel administration.

17 * Sec. 2. AS 39.25.060(b) is amended to read:

18 (b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS
19 OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not
20 more than two members of the board may be members of the same political
21 party.

22 * Sec. 3. AS 39.25.070(1) is amended to read:

23 (1) approve or disapprove amendments to the personnel rules
24 in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM
25 WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DIS-
26 APPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE
27 BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD
28 THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

29 * Sec. 4. AS 39.25.070(3) is amended to read:

1 (3) hear and determine appeals by employees [IN THE CLASSI-
2 FIED SERVICE] as provided in AS 39.25.170;

3 * Sec. 5. AS 39.25.070 is amended by adding a new paragraph to read:

4 (7) employ staff members, who shall be in the classified
5 service.

6 * Sec. 6. AS 39.25.080 is repealed and reenacted to read:

7 Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records,
8 including employment applications and examination materials, are confi-
9 dential and are not open to public inspection except as provided in
10 this section.

11 (b) The following information is available for public inspection,
12 subject to reasonable regulations on the time and manner of inspection:

13 (1) the names and position titles of all state employees;

14 (2) the position held by a state employee;

15 (3) prior positions held by a state employee;

16 (4) whether a state employee is in the classified, partially
17 exempt, or exempt service;

18 (5) the dates of appointment and separation of a state em-
19 ployee; and

20 (6) the compensation authorized for a state employee.

21 (c) A state employee has the right to examine his own personnel
22 files and may authorize others to examine his files.

23 (d) An applicant for state employment who appeals an examination
24 score may review written examination questions relating to the examina-
25 tion unless the questions are to be used in future examinations.

26 * Sec. 7. AS 39.25.090 is amended to read:

27 Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules
28 adopted under it apply to all positions in (1) the classified service,
29 and (2) the exempt and partially exempt service as specifically pro-

1 vided.

2 * Sec. 8. AS 39.25.110 is repealed and re enacted to read:

3 Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by
4 law, the following positions in the state service constitute the exempt
5 service and are exempt from the provisions of this chapter and the
6 rules adopted under it:

7 (1) persons elected to public office by popular vote or
8 appointed to fill vacancies in elected offices;

9 (2) justices of the supreme court, judges of the court of
10 appeals, judges of the superior court, and judges and magistrates of
11 other state courts established by law;

12 (3) employees of the state court system, and employees and
13 members of the Judicial Council;

14 (4) employees of the state legislature and its agencies;

15 (5) the head of each principal department in the executive
16 branch;

17 (6) officers and employees of the University of Alaska;

18 (7) certificated teachers and noncertificated employees
19 employed by a regional educational attendance area established and
20 organized under AS 14.08.031 - 14.08.041 to teach in, administer, or
21 operate schools under the control of a regional educational attendance
22 area school board;

23 (8) patients and inmates employed in state institutions;

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

27 (10) members of boards, commissions, or authorities;

28 (11) the officers and employees of the following boards,
29 commissions and authorities:

1 (A) Alaska Commercial Fisheries Entry Commission;

2 (B) Alaska Gas Pipeline Financing Authority;

3 (C) Alaska Permanent Fund Corporation;

4 (D) Alaska Energy Center;

5 (E) Alaska Industrial Development Authority;

6 (12) the executive officer of the Alaska Commission on Post-
7 secondary Education;

8 (13) the ombudsman and hi. staff;

9 (14) the executive secretary and legal counsel of the Alaska
10 Municipal Bond Bank Authority;

11 (15) licensed physicians, as defined in AS 47.30.340(9),
12 employed by the division of mental health and developmental disabili-
13 ties, Department of Health and Social Services;

14 (16) petroleum engineers and petroleum geologists employed in
15 a professional capacity by the Department of Natural Resources except
16 for those employed in the division of geological and geophysical sur-
17 veys;

18 (17) officers, agents, and employees of the Alcoholic Bever-
19 age Control Board granted limited peace officer powers by the Alcoholic
20 Beverage Control Board under AS 04.06.110;

21 (18) persons employed by the division of marine transporta-
22 tion as masters and members of the crews of vessels who operate the
23 state ferry system and who are covered by a collective bargaining
24 agreement provided in AS 23.40.040.

25 * Sec. 9. AS 39.25.120 is repealed and reenacted to read:

26 Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the
27 partially exempt service are included in the position classification
28 plan established under this chapter and are compensated according to
29 the pay plan (AS 39.27.011).

1 (b) A person holding a position in the partially exempt service
2 is not required to take an examination or qualify or earn a place on a
3 register, and is not eligible for a hearing by the personnel board in
4 case of dismissal, demotion, or suspension, except as provided in
5 AS 39.25.170. Positions in the partially exempt service are specifi-
6 cally exempt from the rules established under AS 39.25.150(3) - (10),
7 (13), (14), and (17).

8 (c) The following positions in the state service constitute the
9 partially exempt service:

10 (1) deputy and assistant commissioners of the principal
11 departments of the executive branch, including the assistant adjutant
12 general of the Department of Military Affairs;

13 (2) the directors of the major divisions of the principal
14 departments of the executive branch and the regional directors of the
15 Department of Transportation and Public Facilities;

16 (3) attorney members of the staff of the Department of Law
17 and of the public defender agency;

18 (4) one private secretary for each head of a principal de-
19 partment in the executive branch;

20 (5) employees of the Office of the Governor and the office
21 of the lieutenant governor, including the staff of the governor's
22 mansion;

23 (6) the executive director and deputy director of the Alaska
24 Public Utilities Commission;

25 (7) the state forester in the Department of Natural Resour-
26 ces;

27 (8) the director, deputy director, staff legal counsel, and
28 hearing officers of the Alaska Transportation Commission;

29 (9) not more than two special assistants to the commissioner

1 of each of the principal departments of the executive branch, but the
2 number may be increased if the partially exempt service is extended
3 under AS 39.25.130 to include the additional special assistants;

4 (10) the principal executive officer of the following boards,
5 councils, or commissions:

6 (A) Alaska Public Broadcasting Commission;

7 (B) Professional Teaching Practices Commission;

8 (C) Parole Board;

9 (D) Board of Nursing;

10 (E) Real Estate Commission;

11 (F) Alaska Royalty Oil and Gas Development Advisory

12 Board;

13 (G) Alaska Historical Commission;

14 (H) Alaska State Council on the Arts;

15 (I) Alaska Police Standards Council;

16 (J) Council on Science and Technology;

17 (11) Alaska Pioneers' Home managers;

18 (12) hearing examiners in the Department of Revenue;

19 (13) the comptroller in the division of treasury, Department
20 of Revenue;

21 (14) investment officers in the Department of Revenue;

22 (15) the chief of subsistence in the Department of Fish and
23 Game;

24 (16) airport managers in the Department of Transportation and
25 Public Facilities employed at the Anchorage and Fairbanks International
26 Airports;

27 (17) the deputy director of the division of tourism and the
28 deputy director of the division of insurance in the Department of Com-
29 merce and Economic Development;

1 (18) the executive director and staff of the Alaska Public
2 Offices Commission;

3 (19) the director, deputy director, personnel analysts II,
4 labor relations analysts I, labor relations analysts II, senior negoti-
5 ators, and research directors of the division of labor relations in the
6 Department of Administration.

7 * Sec. 10. AS 39.25.130(a) is amended to read:

8 (a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
9 recommendation of the commissioner of administration, may extend the
10 partially exempt service to include any position [WHICH WAS] in the
11 classified service [ON APRIL 19, 1960,] which, in the judgment of the
12 board:

13 (1) involves principal responsibility for the determination
14 of policy;

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

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

19 * Sec. 11. AS 39.25.130(c) is amended to read:

20 (c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written
21 recommendation of the commissioner of administration, may extend the
22 classified service to include any position [WHICH WAS] in the partially
23 exempt service [ON APRIL 19, 1960].

24 * Sec. 12. AS 39.25.140 is repealed and reenacted to read:

25 Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director
26 of personnel shall prepare and submit proposed amendments of the person-
27 nel rules to the commissioner of administration for review and approval.

28 (b) The commissioner of administration shall review the proposed
29 amendments and if he approves them, he shall submit them to the person-

1 nel board.

2 (c) When the proposed amendments are submitted to the personnel
3 board, the commissioner of administration shall post notice in public
4 buildings throughout the state that the personnel board has the pro-
5 posed amendments under consideration.

6 (d) If the proposed amendments concern matters of public policy,
7 the personnel board shall adopt them in accordance with the Administra-
8 tive Procedure Act (AS 44.62).

9 (e) If the proposed amendments relate only to the internal
10 management of the state agencies

11 (1) notice of the proposed amendments shall be posted for at
12 least 30 days;

13 (2) if requested by the commissioner of administration or by
14 a person receiving notice of the proposed amendments, the personnel
15 board may hold public hearings on the proposed amendments and may
16 appoint a hearing officer to conduct the hearings;

17 (3) the personnel board may amend the proposed amendments;

18 (4) the proposed amendments become effective 45 days after
19 they are submitted to the personnel board unless the board has dis-
20 approved them;

21 (5) the amended rules shall be published in the Alaska
22 Administrative Register and Code for informational purposes.

23 (f) In this section "matters of public policy" include, but are
24 not limited to, matters concerning

25 (1) recruitment;

26 (2) examinations;

27 (3) selection methods;

28 (4) prohibitions and penalties;

29 (5) public records;

- 1 (6) eligible lists;
2 (7) hours of work;
3 (8) merit increases; and
4 (9) hearings and appeals relating to matters listed in (1) -
5 (8) of this subsection.

6 * Sec. 13. AS 39.25.150 is repealed and reenacted to read:

7 Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall
8 provide for

9 (1) the preparation, maintenance, and revision by the direc-
10 tor of personnel, subject to approval of the commissioner of adminis-
11 tration and the personnel board, of a position classification plan for
12 all positions in the classified and partially exempt services; the
13 position classification plan shall include

14 (A) a grouping together of all positions into classes
15 on the basis of duties and responsibilities;

16 (B) an appropriate title, a description of the duties
17 and responsibilities, training and experience qualifications, and
18 other necessary position specifications for each class of posi-
19 tions;

20 (2) the preparation, maintenance, revision and administra-
21 tion by the director of personnel of a pay plan for all positions in
22 the classified and partially exempt services; the pay plan (A) shall be
23 based upon the position classification plan; (B) shall provide for fair
24 and reasonable compensation for services rendered, and reflect the
25 principle of like pay for like work; (C) may be amended, approved, or
26 disapproved by the legislature in regular or special session; after the
27 pay plan is in effect, a salary or wage payment may not be made to a
28 state employee covered by the plan unless the payment is in accordance
29 with this chapter and the rules adopted under this chapter or unless

1 the payment is in accordance with a valid agreement entered into in
2 accordance with AS 23.40;

3 (3) the use of employee selection methods which will fairly
4 test the capacity and fitness of the person examined to efficiently
5 discharge the duties of the class in which employment is sought;

6 (4) the establishment and maintenance of eligible lists for
7 appointment and promotion providing the names of eligible candidates in
8 order of their relative performance in the examinations;

9 (5) the procedure for certifying eligible candidates;

10 (6) promotions from within the state service when there are
11 qualified candidates in the state service; vacancies shall be filled by
12 promotion whenever practicable and in the best interest of the state
13 service and promotion shall be by competitive examination whenever
14 possible; in considering promotions, applicants' qualifications, per-
15 formance record, seniority, and conduct shall be evaluated;

16 (7) a period of probation not to exceed one year before an
17 appointment to a position becomes permanent, except that a permanent
18 employee receiving a promotional appointment retains permanent status
19 in the service and job class from which appointed for the duration of
20 the probationary period and may be demoted to a former class without
21 right of appeal, notwithstanding AS 39.25.170, but if the employee is
22 dismissed from the service the appeal rights under AS 39.25.170 apply;

23 (8) nonpermanent and emergency appointments to positions in
24 the state service in accordance with AS 39.25.195 - 39.25.200;

25 (9) provisional appointment without competitive examination
26 when appropriate eligible lists are not available;

27 (10) transfers from one department to another and from an-
28 other merit system jurisdiction to the state service;

29 (11) transfers from one area of the state to another;

1 (12) the payment of transportation costs when an employee
2 transfers from one area to another at the request of the employer;

3 (13) the reinstatement of a person who resigns in good stand-
4 ing;

5 (14) layoffs for reason of lack of money or work, abolition
6 of positions, or material changes in duties or organization; both
7 performance and seniority records shall be considered in the develop-
8 ment of layoff orders;

9 (15) the development, maintenance, and use of employee perfor-
10 mance records;

11 (16) the establishment of disciplinary measures which may
12 include disciplinary suspension without pay;

13 (17) the procedures for review of disputed personnel actions,
14 for resolving employee and interagency grievances, and for resolving
15 grievances of the general public concerning the operation of the state
16 personnel system;

17 (18) hours of work for all employees in the state service;

18 (19) methods and procedures covering overtime work and pay;

19 (20) the granting of employment preference rights to a veter-
20 an at each time application is made for employment not within the area
21 of promotion, when the veteran possesses the necessary qualifications
22 in the job classification applied for under this chapter; in the exami-
23 nation to determine the qualification of applicants for entrance into
24 the classified service under merit system examination, five additional
25 points shall be added to the passing grade of a veteran and ten addi-
26 tional points shall be added to the passing grade of a disabled veter-
27 an; if a position in the classified service is eliminated, employees
28 shall be released in accordance with rules which give due effect to all
29 factors; if all job qualifications are equal, the veteran shall be

1 given preference over the nonveteran and the veteran shall be kept on
2 the job; in this paragraph

3 (A) "veteran" means a person with 90 days or more
4 active service in the armed forces of the United States who has
5 been honorably discharged after having served during any period
6 between April 6, 1917, and December 1, 1919, between September 16,
7 1940, and December 31, 1947, or between June 27, 1950, and Novem-
8 ber 7, 1975;

9 (B) "disabled veteran" means a veteran who is rated by
10 the United States Veterans' Administration as having at least a 10
11 percent service-connected disability;

12 (21) the employment of persons in permanent positions on a
13 part-time basis of 15 hours or more a week, including the employment of
14 two persons to fill one permanent full-time position; these employees
15 shall be designated as permanent part-time employees;

16 (22) the granting of employment preference to severely handi-
17 capped persons; this includes the right to provisional appointment
18 without competitive examination for periods up to four months and the
19 granting of eligibility to a severely handicapped person provisionally
20 appointed under the rules who demonstrates ability to perform the job
21 for permanent appointment without competitive examination; provisional
22 employment under this paragraph may not exceed four months during a
23 12-month period; "severely handicapped" as used in this paragraph means
24 persons certified by the director of the division of vocational reha-
25 bilitation to be severely handicapped;

26 (23) the establishment of programs facilitating the employ-
27 ment of disadvantaged persons, including limitation of competition for
28 appointment and promotion to individuals who meet the program require-
29 ments;

1 (24) the delegation, when feasible, of personnel responsibil-
2 ities and duties to the principal departments of the executive branch;

3 (25) other rules and administrative regulations, not incon-
4 sistent with this chapter, which are necessary for its enforcement.

5 * Sec. 14. AS 39.25.153 is repealed and reenacted to read:

6 Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal depart-
7 ment of the executive branch has a personnel officer, the personnel
8 officer shall be employed by and located within that department.

9 (b) Subject to the provisions of (d) of this section, the per-
10 sonnel officers for the Departments of Transportation and Public
11 Facilities, Fish and Game, Education, Labor, and Health and Social
12 Services, have the following powers with respect to the classes of
13 positions unique to their departments:

14 (1) to assign positions to an existing class in the state
15 classification plan and to the salary range for that class as estab-
16 lished by the state pay plan or by a valid agreement entered into in
17 accordance with AS 23.40;

18 (2) to administer and score examinations and to place suc-
19 cessful applicants on the eligible lists;

20 (3) to certify those eligible to the appointing authorities.

21 (c) The initial determination of classes of positions unique to
22 the departments listed in (b) of this section shall be made by the
23 personnel officer of the department in consultation with the commis-
24 sioner of his department subject to the approval of the director of
25 personnel in the Department of Administration.

26 (d) The assumption of a power set out in (b) of this section must
27 be approved by the commissioner of administration and must be in harmony
28 with the merit principle of personnel administration (AS 39.25.010).

29 * Sec. 15. AS 39.25.160 is repealed and reenacted to read:

1 Sec. 39.25.160. GENERALLY. (a) A classified employee or an
2 exempt employee in a position named in AS 39.25.110(3) may not take an
3 active part in the management of a political party above the precinct
4 level.

5 (b) A person may not give, render, pay, offer, solicit, or accept
6 money, services, or other valuable thing in connection with securing or
7 making an appointment, promotion, or advantage in a position in the
8 classified service.

9 (c) A person may not require an assessment, subscription, contri-
10 bution, or service for a political party from a state employee.

11 (d) A person may not seek or attempt to use a political party
12 endorsement in connection with an appointment or promotion in the
13 classified service.

14 (e) An employee in the classified or partially exempt service who
15 seeks nomination or becomes a candidate for state or national elective
16 political office shall immediately resign any position held in the
17 state service.

18 (f) Action affecting the employment status of a state employee or
19 an applicant for a position in state service, including appointment,
20 promotion, demotion, suspension, or removal, may not be taken or with-
21 held on the basis of unlawful discrimination due to race, sex, color,
22 religion, national origin, age, or handicap.

23 (g) Action affecting the employment status of an employee in the
24 classified service or an applicant for a position in the classified
25 service, including appointment, promotion, demotion, suspension, or
26 removal, may not be taken or withheld on the basis of unlawful discrim-
27 ination due to political beliefs.

28 (h) A person may not knowingly make a false statement, certifi-
29 cate, mark, rating, or report with regard to a test, certification, or

1 appointment made under this chapter or in any manner commit a fraud
2 preventing the impartial execution of this chapter and the personnel
3 rules adopted under this chapter.

4 (i) A person may not obstruct the right of another person to
5 examination, eligibility, certification, appointment, or promotion
6 under this chapter.

7 * Sec. 16. AS 39.25.170 is repealed and reenacted to read:

8 Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR
9 SUSPENSION. (a) An employee may be dismissed, demoted, or suspended
10 by delivery of written notice of the proposed action and the reason for
11 it from the appointing authority to the employee.

12 (b) A permanent employee in the classified service who has been
13 dismissed, demoted, or suspended may appeal the action to the personnel
14 board.

15 (c) An employee who has been dismissed, demoted, or suspended due
16 to unlawful discrimination based on race, sex, color, religion, national
17 origin, age, or handicap may appeal the action to the personnel board.

18 (d) An employee in the classified service who has been dismissed,
19 demoted, or suspended due to unlawful discrimination based on political
20 beliefs may appeal the action to the personnel board.

21 (e) A permanent employee in the classified service who holds
22 probationary status in his present position may appeal a dismissal from
23 the classified service to the personnel board.

24 (f) An employee who is on leave without pay from a position in
25 the classified service and who is employed by the state in another
26 capacity, either in the exempt or partially exempt service, may appeal
27 a dismissal from the classified service to the personnel board.

28 (g) An employee begins an appeal by filing a written request for
29 review of the action with the personnel board within 15 days of receiv-

1 ing written notice of the action from the appointing authority.

2 (h) If requested by the employee at the time of filing an appeal,
3 the personnel board shall hold a hearing to determine the reasonable-
4 ness of the the action taken by the appointing authority. If the
5 employee requests it, the hearing shall be open to the public. The
6 employee may be represented by another person and has the right to
7 present evidence. Technical rules of evidence do not apply to the
8 hearing.

9 (i) If the personnel board finds that the action complained of
10 was due to unlawful discrimination based on race, sex, color, religion,
11 national origin, political beliefs, age, handicap, or in violation of
12 the provisions of this chapter or the personnel rules, the employee
13 shall be reinstated to the position without loss of pay or leave bene-
14 fit for the period of dismissal, demotion, or suspension. In all other
15 cases, the board shall report its findings and recommendations to both
16 parties.

17 * Sec. 17. AS 39.25 is amended by adding a new section to read:

18 Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at
19 the request of a party to a proceeding begun under AS 39.25.170.

20 (b) If a person refuses to respond to a subpoena issued under
21 this section, or refuses to testify at a hearing authorized by AS 39.-
22 25.170, the personnel board may apply to the superior court for an
23 order requiring the person to respond to the subpoena or to testify.

24 (c) Failure to obey the order of the superior court requiring
25 response to a subpoena or testimony at a hearing may be punished as
26 contempt of court.

27 * Sec. 18. AS 39.25 is amended by adding a new section to read:

28 Sec. 39.25.181. DEFINITIONS. In this chapter,

29 (1) "fraud" means for a person to knowingly

1 (A) create or confirm another's false impression which
2 the person does not believe to be true, including false impres-
3 sions as to law or value and false impressions as to intention or
4 other state of mind;

5 (B) fail to correct another's false impression which
6 the person previously has created or confirmed;

7 (C) prevent another from acquiring pertinent informa-
8 tion;

9 (2) "knowingly" means for a person to be aware with respect
10 to conduct or to a circumstance described by a provision of law that
11 his conduct is of that nature or that the circumstance exists; when
12 knowledge of the existence of a particular fact is required, that know-
13 ledge is established if a person is aware of a substantial probability
14 of its existence, unless he actually believes it does not exist;

15 (3) "precinct" means the territory within which resident
16 voters may cast votes at one polling place;

17 (4) "state employee" means a person employed by the state
18 who is paid a wage or salary, but does not include a person hired by
19 the state to work as an independent contractor.

20 * Sec. 19. AS 39.25 is amended by adding a new section to article 6 to
21 read:

22 Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

23 (1) be a member of a national, state, or local political
24 party;

25 (2) take part in a political campaign;

26 (3) express political opinions;

27 (4) register party preference;

28 (5) serve as a voting or nonvoting delegate to a party con-
29 vention;

1 (6) be appointed, nominated, or elected to nonpartisan
2 public office in a local government unit; and

3 (7) make contributions to a political party or a candidate
4 for public office.

5 * Sec. 20. AS 39.25.180 is repealed.

6 * Sec. 21. This Act takes effect July 1, 1981.
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FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 193 Page 1 of 4Title An Act amending the State Personnel Act (AS 39.25)Requested by Rules Committee (for the Blue Ribbon Commission) Date 02-20-81

II. FISCAL DETAIL

Agency Affected AdministrationProgram Category Affected General GovernmentBRU, Program, or Subprogram(s) Affected Personnel

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		56.4	62.1	68.3	75.1	82.6
200 TRAVEL		.7	.8	.9	1.0	1.1
300 CONTRACTUAL		6.4	7.0	7.7	8.5	9.4
400 COMMODITIES		6.0	.9	1.0	1.1	1.2
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		69.5	70.8	77.9	85.9	94.3

FUNDING (Thousands of Dollars)

GENERAL FUND		69.5	70.8	77.9	85.9	94.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		2	2	2	2	2
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Personal Services: A Regulations Specialist II and a Clerk II will be needed to fulfill the requirements of the Administrative Procedures Act.

Travel was inflated at a rate of 12 per cent. All other factors were inflated at a rate of 10 per cent. FY 82 contains one time furnishing costs in commodities.

The cost of the Hearing Officer and Legal Notices will be sustained by the Personnel Board Budget.

IV. DATE March 12, 1981PREPARED BY Bruce CummingsAGENCY Division of PersonnelPHONE 465-4430

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) Senator Ray

cc: Keith Specking (Office of the Governor)

1	POSITION TITLE Regulations Specialist II				RANGE/STEP 16 A	BARG. UNIT. K	LOCATION Bureau	GOV	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE		LEG		
3	TYPE OF EXPENDITURE				JUSTIFICATION:					
	1		2		3					
4	PERSONAL SERVICES:									
	SALARY 2,291 per mo.		27,492							
5	BENEFITS 15.79 %		4,341							
6	FICA 6.13 %		1,685							
7	HEALTH INS. 150 per mo.		1,800							
8	TOTAL PERSONAL SERVICES		35,318							
9	TRAVEL		700							
10	CONTRACTUAL		3,200							
11	COMMODITIES		3,000							
12	EQUIPMENT									
13	OTHER									
14	TOTAL COST		complete		42,218					
	CODE	FUNDING SOURCE								
15		FED RCPTS. 1002								
16		GF MATCH. 1003								
17		GEN. FUND 1001		42,218						
18		I-A RCPTS. 1004								
19		PGM RCPTS 1005								
20		OTHER								
21	CONTINUATION									
22	ADDITION		FOR B&M USE ONLY							
4A KEY NUMBER _____ COLUMN NO. _____										

To properly implement Senate Bill 193, as it has been presented, will require the services of a Regulation Specialist II.

The Regulation Specialist II will assist the Director of Personnel in the proper preparation and drafting of new or revised regulations under the Admin. Proc. Act.

AGENCY Administration PROGRAM Centralized Administrative Services

BRU Personnel

COMPONENT Personnel

Page 2 of 4

REVISED
DATE _____

FY 82

**13 REQUEST FOR NEW
POSITION.**

1	POSITION TITLE Clerk II				RANGE/STEP 7 A	BARG. UNIT. K	LOCATION Juneau	BOV	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE		LEG		
3	TYPE OF EXPENDITURE				JUSTIFICATION:					
	1	2	3							
4	PERSONAL SERVICES:									
	SALARY	1,319 per mo.	15,828							
5	BENEFITS	15.79 %	2,500							
6	FICA	6.13 %	970							
7	HEALTH INS.	150 per mo.	1,800							
8	TOTAL PERSONAL SERVICES		21,098							
9	TRAVEL									
10	CONTRACTUAL		3,200							
11	COMMODITIES		3,000							
12	EQUIPMENT									
13	OTHER									
14	TOTAL COST		27,298							
	CODE	FUNDING SOURCE								
15		FED RCPTS. 1002								
16		GF MATCH. 1003								
17		GEN. FUND 1001		27,298						
18		I-A RCPTS. 1005								
19		PGM RCPTS 1004								
20		OTHER								
21	CONTINUATION									
22	ADDITION				FOR B&M USE ONLY					
4A KEY NUMBER _____ COLUMN NO. _____										

AGENCY Administration PROGRAM Centralized Administrative Services

BRU Personnel

COMPONENT Personnel

Page 3 of 4

REVISED
DATE _____

**13 REQUEST FOR NEW
POSITION.**

FY 82

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 193 Page 4 of 4Title An Act amending the State Personnel Act

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected AdministrationProgram Category Affected General GovernmentBRU, Program, or Subprogram(s) Affected Labor Relations Agency (Personnel Board)

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		17.0	18.7	20.6	22.6	24.9
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		17.0	18.7	20.6	22.6	24.9

FUNDING (Thousands of Dollars)

GENERAL FUND		17.0	18.7	20.6	22.6	24.9
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Above costs assume costs of \$75/hour for a hearing Officer and a total of 120 hours; \$500/month for contracted secretarial services and 2.0 publications costs. Inflation beyond FY 82 is calculated at 10%.

IV. DATE 03-06-81PREPARED BY Judy CrondahlAGENCY AdministrationPHONE +65-2277

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Senator Ray

33-001 (Rev. 12/80)

Keith Specking

WORK ORDER REQUEST FORM

12- 0000

KEYWORDS: _____

ASSIGNED TO _____

REQUEST FOR: BILL ☒ RESOLUTION ☒ RESEARCH ☒ OTHER ☒

SUBJECT _____

REQUESTED FOR _____ BY _____ EXT. _____

* DELIVER TO _____ TAKEN BY _____

INSTRUCTIONS, EXPLANATIONS _____

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED ☒

AUTHORIZED TO CONFER WITH _____

RETURN _____

_____ TO REQUESTER

APPROVED: _____ Director, Legal Services

REVIEWED _____

IN 1/80 DUE _____

TYPED - Draft _____ DATE _____

Final _____ DATE _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

DRAFT ☒

FINAL ☒

Sec. 39.25.130. Extension of partially exempt and classified services. (a) After June 30, 1961, the personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position which was in the classified service on April 19, 1960, which, in the judgment of the board:

- (1) involves principal responsibility for the determination of policy;
- (2) involves principal responsibility for the way in which policies are carried out; or
- (3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

(b) No positions may be included in the partially exempt service under this section if the inclusion is inconsistent with federal requirements for state agencies supported in whole or in part by federal funds.

(c) After June 30, 1961, the personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position which was in the partially exempt service on April 19, 1960. (§ 7 ch 144 SLA 1960)

Cited in *Haffling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Article 3. Personnel Rules.

Section

- 140. Amendment of personnel rules
- 150. Scope of rules
- 153. Personnel rules for certain departments
- 155. Vocational substitution program

Sec. 39.25.140. Amendment of personnel rules. (a) The director of personnel shall prepare and submit to the commissioner of administration any proposed amendments to the personnel rules for all positions and employees subject to this chapter.

(b) The commissioner of administration shall review the amendments and submit them to the personnel board.

(c) At the time he submits the amendments to the personnel board, the commissioner of administration shall, by posting in public buildings throughout the state, give notice that the personnel board has the amendments under consideration. The amendments have the effect of law 30 days after they are submitted to the personnel board if not disapproved by the personnel board. The personnel board, if requested, may hold public hearings on the amendments.

(d) The rules may provide for exemptions and modifications which are necessary to assure the continuity of federal grants to agencies supported in whole or in part by federal contributions.

(e) The rules adopted under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act. The rules may be published in the Alaska Administrative Register and Code for informational purposes. (§ 12 ch 144 SLA 1960; am § 5 ch 5 SLA 1966)

Legislative history report. — For report on ch. 5, SLA 1966, see 1966 House Journal, pp. 50 and 51.

A right clearly created by statute cannot be taken away by regulation. Mueller v. Alaska State Bd. of Personnel, Sup. Ct. Op. No. 396 (File No. 738), 425 P.2d 145 (1967).

Stated in Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Cited in State in Bogenrife, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

Sec. 39.25.150. Scope of rules. The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval by the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; in the position classification plan all positions shall be grouped together into classes on the basis of duties and responsibilities; the position classification plan shall include for each class of position an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary position specifications;

(2) the preparation, maintenance, revision, and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan shall be prepared after consultation with the appointing authorities or their designee, and with representatives of interested employee groups; the pay plan shall be based upon the position classification plan, shall provide for fair and reasonable compensation for services rendered, and shall be based on the principle of like pay for like work; commissioners' salaries are not the maximum limit for the pay plan and in exceptional circumstances higher salaries may be specified; the pay plan may provide for uniform starting pay, increments, and area and time differentials; the pay plan prepared under this section may be amended, approved or disapproved by the legislature in regular or special session; after the pay plan is put into effect, no salary or wage payment may be made to a state employee covered by the pay plan unless the payment is in accordance with this chapter and the rules adopted under this chapter;

(3) the use of sound employee selection methods, including open competitive examinations to test the fitness of applicants for positions in the state service;

(4) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state

Title of Bill

BRC

Amending the State Personnel Act, *off date*

Ch
112

DATE/PG No.		
1981 2/20	288	Introduced/Referred <i>SA-Jud</i> (Hearing 3/31) (Hearing 5/14)
5/2	1092	Committee Report <i>d/pw/CS (changed off date added)</i> <i>Committee Report = to Jud (Hearing 1/27/82)</i>
4/7/82	818	<i>d/pw/CS (Per Noku) to Rer</i>
4/14/82	902	2nd Reading <i>CS adapted and adapted</i>
4/14	904	3rd Reading <i>passed</i>
		Reconsideration
	904	Vote: Ayes: <u>20</u> Nays: <u> </u> Passed <u> </u> Failed <u> </u> (Opposed voters: <u> </u>)
4/14	916	Sent to Other House:
4/15	1290	Introduced/Referred <i>SA Jud (SA mtg 4/19)</i>
4/23	1522	Committee Report <i>d/pw/CS F.N. 48 to Jud -</i>
5/19	1952	<i>Current R/P - Publicly d/m/p.</i> <i>Fin Adams, Duggan, Delisworth, Carney, Montgomery, No Rec.</i>
5/25	2032	<i>to Rer -</i> 2nd Reading <i>Am - to 3rd</i>

F.N.
HIS 60

B111 Number CSB193 (Jed) amitt

DATE

8/25/2033 3rd Reading passed opposite adopted

Reconsideration

2033 VOTE: Ayes: 51 Nays: 17 Passed ☒ Failed ☐
(Opposed voters: _____)

8/25/2045 Returned to Other House:

Sent to Governor: Date Needed For Action: _____

Action by Governor: Signed: _____
Without Signature: _____
Vetoed: _____

Chapter: 112 Effective Date: _____

Sustained:

Overridden:

COMMENTS:



Alaska State Legislature

HOUSE CALENDAR

OFFICIAL BUSINESS OF THE HOUSE
ONE HUNDRED THIRTY FIFTH DAY

Tuesday

Chaplain: Reverend Jon Paden
Church of Christ

May 25, 1982

Convenes: 10:00 a.m.

SECOND READING OF SENATE BILLS

- CSSB 193 (Jud) am - "An Act amending state personnel laws; eff. date"
-State Affairs report, p. 1522 replace with HCS CSSB 193 (SA) (same title) Fiscal note Suppl #48
-Judiciary report, p. 1896, replace w/HCS CSSB 193 (Jud) (same title)
-Finance report, p. 1952, replace w/HCS CSSB 193 (Jud) (same title) Fiscal note Supplement #60
-Held from 5/24 calendar.
- CSSB 252 (Fin) - "An Act relating to grants for water supply, sewerage and solid waste facilities; eff. date."
-C&RA report, p. 1864, replace w/HCS CSSB 252 (C&RA) (same title).
-Finance report, p. 1883, replace w/HCS CSSB 252 (Fin)(same title).
-Senate fiscal note attached to bill.
-Held over from 5/24/82 calendar.
- CS 2ndSSSB 275 (Res) am - "An Act relating to the compensation of persons collecting hunting and fishing license and tag fees; eff. date."
-Resources report, p. 1311.
-Finance report, p. 1653.
-Held over from 5/24/82 calendar.
- SB 611 - "An Act revising the criminal penalties for unlawful operation of an aircraft."
-Labor & Commerce report, p. 1228.
-Judiciary report, p. 1337.
-Two zero fiscal notes attached to bill.
-Finance report, p. 1488, replace w/HCS SB 611 (Fin) "An Act relating to operating a motor vehicle, aircraft, or watercraft while intoxicated."
-One zero fiscal note attached to bill.
-Two dollar fiscal notes in Supp. #47.
-Held over from 5/24/82 calendar.

SECOND READING OF SENATE BILLS, CONT'D

- CSSB 693 (Fin) - "An Act changing the termination date of the law giving the supreme court authority over court facilities; eff. date."
-Judiciary report, p. 1685.
-Zero fiscal note attached to bill.
-Finance report, p. 1840, replace w/HCS
CSSB 693 (Fin) "An Act relating to the number of superior court judges and judicial elections; eff. date."
-Two fiscal notes in Supp. #56.
-Returned to Finance 5/15/82, p. 1871.
-Finance report, p. 1896, replace w/HCS
CSSB 693 (2nd Fin) "An Act relating to the number of superior court judges; eff. date."
-Two fiscal notes Supp. 59.
-Held over from 5/24/82 calendar.
- SB 719 - "An Act providing that the Dept. of Education conduct a computer network study; eff. date."
-HESS report, p. 1825.
-Finance report, p. 1884.
-Fiscal note in Supp. #57.
-Held over from 5/24/82 calendar.
- SB 735 - "An Act relating to organization grants and transitional assistance for municipalities; eff. date."
-C&RA report, p. 1494.
-Finance report, p. 1895, replace w/HCS
SB 735 (Fin) "An Act relating to judicial elections; eff. date."
-Fiscal note Supp. # 59.
-Held over from 5/24 calendar.
- CSSB 741 (Fin) - "An Act relating to child support enforcement; eff. date"
-Rules report, p.
- Judiciary waived 5/13/82
-Held over from 5/24 calendar.
- CSSB 748 (Fin) - "An Act relating to interest on state bonds and notes; eff. date."
-Finance report, p. 1723, replace w/HCS
CSSB 748 (Fin) (same title).
-Held over from 5/24/82 calendar.
- SB 772 - "An Act making a special appropriation to the Dept. of Nat. Resources for construction of a plant quarantine station at the plant materials center (AS 03.22) operated in co-operation with the Institute of Agricultural Sciences; eff. date."
-Resources report, p. 1311.
-Finance report, p. 1654.
-From Rules, returned to Finance, p. 1790.
-Moved from Finance to Rules 5/14/82, p. 1853
-Held over from 5/24/82 calendar.

3/31

major changes

Q a.m.
(PR's for Nancy
(CB memo's Nancy
Cherie

pg 2
lines 6-25

Section 6. 39.25.080. Public Records
Existing statute

PR

* Nancy - copy of Neil Thomas' atty's report

Back to SB 193

Bruce Cummings

3 areas of concern

① adoption of PR's ≠ by APA

pg 8 / line 6-8: (d) ~~delete~~

def of public policy (f) - internal mgt matters
need for labor in exec branch

Sen Fisher: EEO overlap in selection (etc)

BC: issues addressed across barg. table. - Rules changed
by CB & statutory changes rather than on own initiative
K's vary

If these are matters of public policy are they
subject to barg

② Expansion of ~~pr~~ by adding LR staff. Career
employees.

③ Certificated teachers employed in schools op'd by state

(2)

3/31

Cherie Shelby

120 ~~38~~

leave in classif service

Her amendments

38 places Commercial Fish & Post sec Educ → clas

§12

140 - Amendment of Rules
Don't make subject to APT

§13

39.25.150 (3) delete efficiently line 4

§15 & §16

Title XVIII amendments

Bob Manners - NEA

for Correspondence Teachers
want them left exempt

Jerry Hiley (?) D of Educ

At Skills Center employees - Dept submit
written comment - leave in exempt service

Barbara Dale - Status of women

Discrepancies & minorities

Veteran's preference

Access into military limited

(23) def of disadvantaged
page 14 line 22 mental status

Susan Clark - AAUW

Exclusionary impact on ♀

Reward sacrifice / ease return civ status

③

3/31

Limit on time

system overweighted in favor of vet by 5 pts

- ① modify pt & place time limit
or ② amend def of vet to > those affected by war
(eg Aleut relocation / merchant marine, Red Cross, etc)

♀ in war: 2 million WWII shipyards / munitions,
factories - production

personal sacrifice, patriotism, danger

WWII: more deaths - industrial accid than combat

SB 104 - Vet's Pref addressed too

♀
♂

Sen Bradley - < to 181 days of service) to be
entitled

Handicapped ⇒ same pref as vet's

Most personnel are non-vets

Burt Finley - pro SB 104

Sen Bradley further expl 104

Bruce Cummings SB 104
7/24-hr

- (3) can be done - computerized tracking system
Ranks on eligible list chg daily
* delete & renumber

- (4) line 23 - progr mgr burden
presently 4-10 days

* suggestion delete from vet's pref & amend
SB 193 (AS 39.25.150) to specify time
for all.

④

3/31

Sen F asked Bruce to propose amdt's
Sen Bradley will get together w/ all of us
(BC, NG, Sen Ray, TBC) & CS

Summary of other chgs
(disabled vets)

line 6 pg 2 - job qualif - vet prom
before another: CB agn't

Cherie Shelley on SB 104

transition military to civilian life -
one time use of points / not avail. ad infinitum

#4 pg 1

Niel Thomas

Cautionary note: EEO bill conflict w/
vets pref.

Also At SCt interps anti-discrim law more
liberally than other cts / US SCt

Sen F: is any preference constitutional (?)

NT: limit amt of impact - CS AAUW amdt's
to est that ≠ discriminatory

SF: apply only to vets but limit still cause prob?
Given "suffered hardship" as leg finding?

3/26

Kay Schily

leg liaison says tenure laws also
cover to place in exempt service.
Dept of S.O. Schools abolished

Def. in Corresp Study § statute makes
corresp study area a school § 6, (8) of 150
work covers.

Admins of Corresp Study & some Seward people
are classified. Alaska Skills Center
in Seward. May be additional ones
created.

Gerry Hilby?

2/5/82 Senate Judicial CS&B 193

Com. chgs

pg 4/8 (E) AK Com Fish Entry Comm
(F) Post Sec Educ Comm

pg 18 Sec 20 STAF CS & § 21 Delete

pg 11/16
11/17 Vets pref

18/29 Effective Date 7/1/82

Fish & Game - 4 resource ^{divisions} ~~pos~~

712 perm seas - 56 > 120 days

① Cost of beris (

comparison 399 as nps & perm seas \$471,000

np 8% ben rate

pseas 15 3/4 % std / +10% pol.
+ cost of insurance

② Recruiting - lg reg F&G Tech II & III
Fish Cult II

400-500 positions

Com. Fish Anch Regl Office - 175 pos.

Surveyed 1979 cost \$3900

✓ 1980 \$14,600

✓ 1981 \$14,000 40 ppe

Short term positions - ppl don't come back

③ Recruiter's time - Apr-june lg 8- lg 20's
involved in recruiting effort

217
#75 mandays to fill 175 pos.

Conserv est \$28,000

2/5/82 Judiciary Committee

④ Local hire - not on reg

⑤ Try to get early start - recruiting in May for July position

⑥ College students

Sen. Parr: If 4 diff Divs can't coordinate recruitment that's an internal matter

Perm seas → remedy abuse of temp

Sen Ray: Just don't want to follow

Hold one wk for specific language

Sen Parr: Why paperwork & expense for short term jobs

Sen Ray:

Sen Parr: Why register for short term jobs

full wk monday - CSSB 193 (Judiciary)

Susan Clark - Veteran's Preference
limit use of pref pts for 10 yrs

RIF rts lim 10 yrs

Pts reduced slightly

→ ♀ who served WWII but ≠ vets

Sen Ray: staff prepare lang to → ♀

2/2 KK

Ex .110

(2) / (3)

just & judges

(4) / (10) / (15)

leg

~~(11) / (12)~~

(17) all licensed physicians

forest fire fighters

(18) petr engineers - one div.

170 Hearings & appeals - discrim (i)
enforcement outside exec branch

delete

120(15)

Chg subs → div dir

(17)

Dep Dir, DOJ Commerce

pg 10 L18^{.150}
delete

(12)

travel for transfer

- AP Manual addresses where non CB
~~delete~~

(25)

ex er pt → classified

13/15

(2)

applicants on the deptal elig. lists

13/27

(a) - judicial branch - sep. of powers issue

14/10
~~14/10~~

(e) Redraft to say by filing for office
person for fits pos

(f) sep of powers issue / multiple routes of appeal
if appeal pursued through other agency
w/ ^{sim} powers of relief, P Bd may defer
(adeq. remedy - H Rts Comm)

16/19

(i) Appeal by both ER & EE to CT

17/25

EE Political Rts

Not on state premises & on own
time - Not on-the-job

1/27 Senate Judiciary
Bob Simon, Limited Entry Comm

Should be 2 in 39.25.110 (12) - all ex.
minor issue: ϕ exec officer - 311 Div Dir's

Fred Muller - DOJ A

Concerns:

- ① pg 2 23 110(7) ^{certif. teachers} teachers as ex -
make them classified
- ② pg 8 §12 Am. Pers. Rules
Rules $\rightarrow$ APA Pers. system = internal
§ (c) - (h) deleted Replace w/ current stat.
- ③ Vets pref pg 11 # 20
allow
- ④ pg 12 # 25 delete - pg 4 & ex $\rightarrow$ classified
- ⑤ ~~§ 20~~ # 21 Post Sec & Lim Entry
delete placing in classified