

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1363 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

scoring system, since there may be substantially more than five applicants who would have to be considered. However, the commission does suggest that, where feasible, interviews be offered to those applicants as well.

REGIONALIZING REGISTERS

Filling positions in rural areas can be time consuming. Applicants for state employment indicate the locations in which they will accept employment. Many specify that they are interested in positions anywhere in the state. However, it frequently turns out that the "anywhere" shown on the application does not include the places in which vacancies occur. The Personnel Rules require that when an eligible list (register) exists for a position (most positions have registers) those on the register must be considered before the agency may specially recruit for the position. Therefore, the agency must work the register, even when it expects on the basis of past experience that it will not find anyone interested, before it can take special steps to fill the position through local recruitment.

The commission discussed a variety of solutions, but none were without substantial disadvantages. Special registers for rural areas would not necessarily reduce the number of applications from people looking for work, and would require extra staff time for the Division of Personnel. Limiting applicants to regional registers, on which only residents of the area could appear, would violate equal employment opportunity laws, and would be unfair to applicants who

wanted to move from one part of the state to another. Therefore, while noting that this can be a severe problem for an agency trying to fill a position in a timely fashion, the commission makes no recommendations without further study.

OTHER PERSONNEL PRACTICES

RECOMMENDATIONS AGAINST REHIRE

A final Performance Evaluation Report is prepared when an employee in the classified or partially exempt service ends his or her state employment. The evaluation is prepared by the employee's immediate supervisor, called the rater. The supervisor rates the employee's performance in the indicated areas and states, on the line for Recommended Action, whether or not the employee should be considered for rehire by the state. The evaluation is reviewed by the Division Reviewer (the division director or his or her designee) and by the department reviewer.

Before either of these reviewers considers the form, the rater is supposed to explain the evaluation to the employee, who is to receive a copy. The employee also has an opportunity to indicate whether or not he or she agrees with the Report and to add comments. The "Performance Rater's Guide to Performance Evaluations" indicates that if any disagreements between Reporting Officers lead to changes in the evaluation, then a new report should be prepared and the changes made known to the employee.

None of the Personnel Rules or Division of Personnel Director's Memoranda speak to the issue of when it is appropriate to recommend against rehire, except in the case of an employee who leaves without giving 14 calendar days notice. The Personnel Rules require that for an employee to separate in good standing the notice must have been given unless the department chooses to waive that requirement. PR 11 02.0. In other situations, it is left to the management of each department to set the policy for when to recommend against rehire. If an employee's conduct has been so unsatisfactory that he or she has been dismissed, the rater will usually recommend against rehire.

An employee who separates in good standing from a permanent or probationary position may be re-employed without re-examination and without having to be hired through the register. The department may consider only that applicant when a vacancy becomes available. In addition, the former employee's name may be added to the eligible list for the job class from which he or she separated without re-examination.

A Memorandum from the Director of the Division of Personnel dated September 11, 1969 indicates the effects of separation not in good standing. It states in full:

A former employee of the State who resigned in good standing may be re-employed without certification or re-examination under the provisions of Personnel Rule 5 12. However, if an employee did not leave State service in good standing he cannot benefit from the above Rule and is not eligible for re-employment with the State.

"Good standing" means separation under circumstances other than:

1. Dismissal.
2. Resigned in lieu of dismissal due to unsatisfactory job performance.
3. When supervisor has stated on the separating Personnel Evaluation "Not Recommended for Re-Hire."

An employee who did not resign in good standing is not categorically barred forever from State employment. He may be considered for re-employment by way of open competition provided he has demonstrated satisfactory full time paid employment elsewhere for a period of time equalling the probationary period for the job class.

The Division of Personnel reviews the Performance Evaluation Reports which recommend against rehire to establish whether the report is internally consistent: is the recommendation supported by the comments in the narrative section and do the employee's comments raise questions about the appropriateness of the recommendation? If the report is internally consistent, then no further review is undertaken, and the staff remove the employee's name from the registers on which it previously appeared.

If there are questions about the recommendation, the division reviews the employee's personnel file to determine whether past evaluations tend to support the present recommendation and they talk with the reviewers about the circumstances of the case. If the unsatisfactory performance related to only one facet of the position, then the employee may be removed only from those job classes in which those skills are important. For example, a poor

supervisor might be removed from registers requiring supervisory skills but be left on registers not requiring those skills. In cases in which a recommendation against rehiring suggests that a personality conflict influenced the poor work performance, the employee's name might remain on open competitive registers, permitting him or her to compete with other applicants for positions, but he or she might be denied the preferences given through rehire rights.

The consequences of separation not in good standing, as would occur with a recommendation against rehire, are severe. The commission has heard testimony from individuals placed in this situation and believes that recommendations against rehire should be made only after careful review of the facts of each case. The commission recommends that each performance evaluation which includes a recommendation that the employee not be rehired be reviewed by the staff of the Division of Personnel prior to its becoming part of the employee's personnel file to establish that the circumstances warrant the recommendation given.

TRAINING

The need for training is a frequently misunderstood area of personnel management. It does not mean that the state is hiring unqualified employees. Training adds to the basic knowledge of an employee. Through training employees increase their value to the state.

For a more extensive discussion of the reasons for providing training and the system which should be used see Appendix F.

EQUAL EMPLOYMENT OPPORTUNITY AND PROMOTION

The commission has heard testimony that the merit principle which favors filling positions through promotion limits the opportunity for minority persons to fill higher-level positions.

While the commission is sympathetic to equal employment opportunity goals and is concerned that the state have an effective program, the Equal Employment Opportunity Division has the expertise and authority to address these issues, and therefore the commission makes no recommendations.

FILLING PERMANENT POSITIONS

Testimony was presented that many permanent positions were left vacant, while the work was performed by temporary employees at a savings to the state but at a cost to the employees. This is a potential abuse of merit principles of fair employment practices. Therefore, the commission sponsored its nonpermanent bill during the last regular session. With the passage of the bill, which effectively restricts employment of nonpermanents, the commission expects that agencies will fill their permanent positions.

CREDIT FOR LEVEL OF WORK PERFORMED

Some state employees find that they are doing tasks which are not reflected in their job description and that they do not receive credit for the level of their performance when they apply for promotion. The commission believes that adequate methods exist now to solve this problem.

Each job description is reviewed during the yearly personnel evaluation. If the duties of the position have changed, then the supervisor is supposed to initiate a reclassification action so that the job description accurately reflects the duties of the position. If this is done, then employees will receive credit for their performance. Procedures also exist for documenting short-term work on projects which are outside an employee's normal duties. The commission recognizes that keeping position descriptions current is an important management responsibility.

AUDITS OF THE PERSONNEL SYSTEM

The operation of the state's personnel system should be reviewed periodically to identify areas in which changes are needed. The commission discussed whether the audits should be performed by the Division of Personnel or whether the Budget and Audit Committee of the legislature should be given this responsibility. The Budget and Audit Committee lacks expertise in personnel matters and its procedures are also more cumbersome. If the Division of Personnel is able to delegate more of its primary tasks to user departments, then its staff should be able to review and audit the departmental actions more thoroughly.

The commission recommends that either the Division of Personnel or the Legislative Budget and Audit Committee should periodically audit the operation of the personnel system of the state. The results of that audit should be presented to the legislature.

DISCIPLINARY MEASURES

The Personnel Rules permit an appointing authority to suspend (PR 11 03.0), demote (PR 11 05.2) or dismiss (PR 11 06.1) an employee for delinquency or misconduct. Just cause must be established in cases of dismissal or involuntary demotion, but not for suspension. In addition, the Rules state that any person who willfully violates any provision of the Personnel Rules is guilty of a misdemeanor and that anyone convicted immediately forfeits his or her office or position. PR 13 18.0. The Director of the Division of Personnel has authority to act when the head of the affected department has failed to take action within a reasonable time. PR 13 18.1. Any employee found in violation of the prohibitions in Rule 13 shall be dismissed, whether or not criminal charges have been filed. PR 11 05.2. Rule 13 forbids various kinds of political activity, bribery for state employment, engaging in illegal discrimination, and certain kinds of financial conflict of interest situations.

The collective bargaining contracts with classified employee unions have not modified these Rules, although some address cause for discipline. Therefore, the provisions of these Rules apply to all classified employees. They also apply in part to employees in the partially exempt service.

The requirement that violation of the Rules be considered a misdemeanor is not applied because in many

instances, the penalty is too harsh. The commission recommends that a graduated system of penalties be devised to include penalties appropriate to the seriousness of the offense. This should be accompanied by policies indicating when it is appropriate to admonish an employee, when suspension should be considered, when a fine should be assessed, and in what cases the more severe dismissal or involuntary demotion should be imposed.

CHAPTER V

PERSONNEL LAWS & REGULATIONS

REVISION OF THE LAWS AFFECTING PERSONNEL

Many of the statutes which provide for employees of boards, commissions and authorities are found only in the statutes which create those entities. There is no cross-reference in the State Personnel Act. A comprehensive revision of all these laws should be undertaken by the Blue Ribbon Commission so that the State Personnel Act is the authority for all personnel-related matters.

REVISION OF THE PERSONNEL RULES

The Personnel Rules should be revised to reflect existing employment practices and to indicate to what extent the Rules have been affected by collective bargaining. This review should be undertaken by the Blue Ribbon Commission after it completes its revision of the State Personnel Act so that the Personnel Rules will be in accordance with the revised act.

APPENDICES

APPENDIX A

STATUTE ON EXEMPT POSITIONS

Section 39.25.110. Exempt service. The following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

- (1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;
- (2) justices of the supreme court, judges of the superior court, judges and magistrates of other state courts established by law;
- (3) the administrative director and all other employees of the state court system, and employees and members of the Judicial Council;
- (4) the chief administrative officer of each house of the legislature;
- (5) all employees of the state legislature and its agencies;
- (6) the head of each principal department in the executive branch;
- (7) officers, members of the teaching staff, and employees of the University of Alaska;
- (8) certificated teachers employed by the state to teach in schools operated by the state;
- (9) patients and inmates employed in state institutions;
- (10) persons employed in a professional capacity to make a temporary and special inquiry, study, or examination as authorized by the governor, the legislature, or a legislative committee;
- (11) members of boards, commissions, or authorities, except as otherwise provided by law;
- (12) personnel 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 collective bargaining agreements provided in AS 23.40.040;
- (13) commissioners of the Alaska Public Utilities Commission;
- (14) the executive officer of the Alaska Commission on Postsecondary Education;
- (15) commissioners and employees of the Alaska Commercial Fisheries Entry Commission;
- (16) the ombudsman and his staff;
- (17) the members, executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;
- (18) certified teachers and noncertified employees employed by a regional educational attendance area established and organized under AS 14.08.031-14.08.041 to teach in, administer or operate schools under the operation, control and management of a regional educational attendance area school board;
- (19) licensed physicians, as defined in AS 47.30.340(9), employed by the division of mental health and developmental disabilities, Department of Health and Social Services;

APPENDIX B

EXEMPT POSITIONS IN STATE GOVERNMENT

According to a computer printout provided by the Division of Finance of the Department of Administration, there are 364 exempt employees of the state who are not legislative or judicial branch employees, employees of the University of Alaska, teachers on contract with the state, or ferry system employees. The computer run was made on October 23, 1979, and contains the names of those who received a paycheck in the month of September and who were still shown as on the payroll on the date of the run. Vacant positions do not appear. Where it seemed helpful, the authority by which the position was placed in the exempt service is indicated.

OFFICE OF THE GOVERNOR

Total exempt employees: 51

Governor	1
Lieutenant Governor	1
Alaska Commercial Fisheries Entry Commission (28 exempt employees)	
Commissioners	3

Administrative Section

Executive Director	1
Administrative Assistant	1
Secretary I-III	3
Clerk Typist	1

Research Division

Director of Research & Planning	1
Systems Analyst/EDP Coordinator	1
EDP Programmer IV	1
Research Analysts	2
EDP Programmers	2
Fisheries Coordinator/Research Analyst	1
Research Technicians	3
Research Economist	1
Data Processing Apprentice	1

Permit Section

Coordinator of Vessel Licensing/ Permit Renewals	1
Administrative Assistant	1
Document Processing Clerks	3

Application Section

Hearing Officers	3
Applications Analysts	2

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- (2) justices of the supreme court, judges of the superior court, judges and magistrates of other state courts established by law;
- (3) the administrative director and all other employees of the state court system, and employees and members of the Judicial Council;
- (4) the chief administrative officer of each house of the legislature;
- (5) all employees of the state legislature and its agencies;
- (6) the head of each principal department in the executive branch;
- (7) officers, members of the teaching staff, and employees of the University of Alaska;
- (8) certificated teachers employed by the state to teach in schools operated by the state;
- (9) patients and inmates employed in state institutions;
- (10) persons employed in a professional capacity to make a temporary and special inquiry, study, or examination as authorized by the governor, the legislature, or a legislative committee;
- (11) members of boards, commissions, or authorities, except as otherwise provided by law;
- (12) personnel 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 collective bargaining agreements provided in AS 23.40.040;
- (13) commissioners of the Alaska Public Utilities Commission;
- (14) the executive officer of the Alaska Commission on Postsecondary Education;
- (15) commissioners and employees of the Alaska Commercial Fisheries Entry Commission;
- (16) the ombudsman and his staff;
- (17) the members, executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;
- (18) certified teachers and noncertified employees employed by a regional educational attendance area established and organized under AS 14.08.031-14.08.041 to teach in, administer or operate schools under the operation, control and management of a regional educational attendance area school board;
- (19) licensed physicians, as defined in AS 47.30.340(9), employed by the division of mental health and developmental disabilities, Department of Health and Social Services;

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

(21) employees of the Alaska Gas Pipeline Financing Authority.

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Governor	1
Lieutenant Governor	1
Alaska Commercial Fisheries Entry Commission (28 exempt employees)	
Commissioners	3
<u>Administrative Section</u>	
Executive Director	1
Administrative Assistant	1
Secretary I-III	3
Clerk Typist	1
<u>Research Division</u>	
Director of Research & Planning	1
Systems Analyst/EDP Coordinator	1
EDP Programmer IV	1
Research Analysts	2
EDP Programmers	2
Fisheries Coordinator/Research Analyst	1
Research Technicians	3
Research Economist	1
Data Processing Apprentice	1
<u>Permit Section</u>	
Coordinator of Vessel Licensing/ Permit Renewals	1
Administrative Assistant	1
Document Processing Clerks	3
<u>Application Section</u>	
Hearing Officers	3
Applications Analysts	2

The computer printout shows 28 filled positions in the commission. A list of employees and positions from the commission dated October 23, 1979 shows 32 positions, with two vacancies (one commissioner and one director of research and planning). The positions are listed as they appear on the commission's list, but the total number of positions as given on the computer printout are reflected to keep the totals consistent. The commission and its employees were placed in the exempt service by AS 39.25.110(15).

D-2 Lobbying	15
Delta Barley Project	2
Special Projects Office Head	1
Special Projects Regulations Reform	1
Legislative Assistant	1
Bottom Fish Coordinator	1

DEPARTMENT OF ADMINISTRATION

Total exempt employees: 2

Commissioner of Administration	1
Coordinator, Word Processing*	1

* The department is in the process of deciding whether to transfer this position to the classified service or to reclassify it as Special Assistant to the Commissioner which would place it in the partially exempt service.

DEPARTMENT OF LAW

Total exempt employees: 1

Attorney General	1
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DEPARTMENT OF REVENUE

Total exempt employees: 8

Commissioner of Revenue	1
Executive Director, Municipal Bond Bank Authority AS 39.25.110(17)	1
Alaska Renewable Resources Corporation Trustees	3
Secretaries I-III	3

AS 37.12.060: The executive director and all employees of the board (Trustees of the Alaska Renewable Corporation) are in the exempt service under AS 39.25.

DEPARTMENT OF EDUCATION

Total exempt employees: 44

Commissioner of Education	1
Correspondence Study Substitute Teachers	4
Skill Center Substitute Teachers	3
Alaska Post Secondary Education Commission (28 exempt employees)	
Executive Director	1
Assistant Director	1
Assistant Director, Academic Planning & Research	1
Program Coordinator	1
Program Review Officer	1
Project Review Officer	1
Administrative Assistant II	1
Research Analyst I	1
Accounting Clerk III	1
Clerk Typists II-IV	3
Data Clerk	1
Secretary	1
Repayment Officer	1
Loan Repayment Clerk	6
Repayment Clerk	1
Collections Specialist	2
Collections Assistant	1
Loan Awards Officer	1
Awards Clerk	1
Loan Awards Specialist	1
School Food Services	
School Food Service Consultants	7
School Food Service Instructor	1

Substitute teachers are paid on an hourly rate, and food service consultants and instructors are paid on a daily rate.

By statute, the executive officer of the Alaska Commission on Post Secondary Education is a member of the exempt service. The staff of the commission receives compensation as fixed by the commission and are, apparently, placed in the exempt service because of that provision. AS 14.40.913.

The State Personnel Act places all certified teachers in the exempt service. AS 39.25.110(8) and (18). As noted above, the computer printout did not include teachers on contract with the state. However, apparently that general exclusion does not apply to substitute teachers, since some of the positions on the printout are for substitutes.

DEPARTMENT OF HEALTH & SOCIAL SERVICES

Total exempt employees: 6

Commissioner of Health & Social Services	1
Regional Psychiatrist, S.E. Region	1
Staff Psychiatrist API	1
Medical Officer II, API	1
Director, Division of Mental Health and Developmental Disabilities	1
Medical Superintendent, API	1

Licensed physicians employed by the Division of Mental Health and Developmental Disabilities are placed in the exempt service by AS 39.25.110(19).

DEPARTMENT OF LABOR

Total exempt employees: 1

Commissioner of Labor	1
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DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

Total exempt employees: 18

Commissioner of Commerce & Economic Development	1
Commissioners, P.U.C. (AS 39.25.110(13))	5
Commissioners, Alaska Pipeline Commission	3
Commissioners, Alaska Transportation Commission	3
Counsel on Trade and Commerce, Tokyo	1
Alaska Power Authority Executive Director	1
Engineer Planner	1
Clerk Typist III	1
Executive Secretary (clerical)	1
Principal Economist	1

The Board of Directors of the Alaska Power Authority may hire an executive director whose compensation they shall establish. The executive director is subject to the provisions of AS 39.25. (See AS 44.56.145(c)). This statute does not require that the executive director be placed in the exempt service, nor does it make any statements concerning the service in which the other staff members of the Authority shall be placed.

DEPARTMENT OF MILITARY AFFAIRS

Total exempt employees: 124

Commissioner of Military Affairs	1
National Guards	123

The national guards on the payroll are there for purposes of establishing the amount of reenlistment bonus for which they qualify should they reenlist. They are not employees in the accepted sense of the word.

DEPARTMENT OF NATURAL RESOURCES

Total exempt employees: 102

Commissioner of Natural Resources	1
Special Assistant to Commissioner	1
Emergency Firefighters	60
Youth Conservation Corps Enrollees	21
Alaska Oil & Gas Conservation Commission	
Commissioner	1
Director, Oil & Gas Conservation Commission	1
Chief Petroleum Geologist	1
Petroleum Geologists	2
Chief Petroleum Engineer	1
Petroleum Engineer	3
Petroleum Reservoir Engineers	2
Petroleum Geophysicist	1
Petroleum Geologist & Geophysicist	1
Petroleum Inspectors	3
Systems Analyst II	1
Drafting Technician III	1
Secretary I	1

Petroleum Engineers & Geologists:

Petroleum engineers and geologists employed in a professional capacity by the Department of Natural Resources, except for those employed in the Division of Geological & Geophysical Surveys, are placed in the exempt service by AS 39.25.110(20). The commission employs three typists and two statistics technicians who are in the classified service in addition to the positions listed above.

Emergency Firefighters:

The Commissioner of Natural Resources is empowered to hire emergency firefighting personnel and to establish classifications and rates of pay for the emergency firefighting personnel consistent with the compensation paid by other firefighting agencies to meet emergency needs. AS 41.15.030(b).

DEPARTMENT OF FISH & GAME

Total exempt employees: 1

Commissioner of Fish & Game	1
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DEPARTMENT OF PUBLIC SAFETY

Total exempt employees: 1

Commissioner of Public Safety	1
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DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Total exempt employees: 2

Commissioner of Environmental Conservation	1
Deputy Commissioner	1

The computer run contains an error. Deputy Commissioners are in the partially exempt service.

DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS

Total exempt employees: 1

Commissioner of Community & Regional Affairs	1
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DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

Total exempt employees: 2

Commissioner of Transportation & Public Facilities	1
Another employee	1

The computer printout contains another error. It shows an employee who is in the classified service as being in the exempt service.

TOTAL EXEMPT EMPLOYEES ON THE COMPUTER PRINTOUT: 364

APPENDIX C

STATUTE ON PARTIALLY EXEMPT POSITIONS

Section 39.25.120. Partially exempt service. The following positions in the state service constitute the partially exempt service and are subject to this chapter and the rules adopted under it only as specifically provided in this chapter. Positions in the partially exempt service shall be included in the position classification plan established under this chapter, and these positions shall be compensated according to the pay plan. Persons holding positions in the partially exempt service are not required to take examinations, qualify or earn a place on a register, nor are they eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension. Positions in the partially exempt service are specifically exempt from the rule established under section 150(3)-(11), (14), (15), (18) of this chapter. They are also specifically exempt from sections 170 and 180 of this chapter and as stated in section 160(a) of this chapter:

- (1) assistant commissioners of the principal of departments of the executive branch;
- (2) the directors, division of personnel, division of public health, division of medical assistance, and those other directors of the major divisions of the principal departments of the executive branch as are specifically designated by the governor;
- (3) attorney members of the staff of the Department of Law;
- (4) one private secretary for each head of a principal department in the executive branch;
- (5) all employees of the Office of the Governor and the lieutenant governor, including the staff of the governor's mansion and the attorney members of the staff of the public defender agency, but not including the nonattorney members of the staff of that agency;
- (6) Repealed by section 4 chapter 78 SLA 1971.
- (7) Repealed by section 9 chapter 47 SLA 1974.
- (8) the director and deputy director of the division of tourism in the Department of Commerce and Economic Development;
- (9) regional directors of the Department of Transportation and Public Facilities;
- (10) the executive director and deputy director of the Alaska Public Utilities Commission;
- (11) the state forester, in the Department of Natural Resources.

APPENDIX D

PARTIALLY EXEMPT POSITIONS IN STATE GOVERNMENT

This information is taken from computer printout R01-02N-0160, dated September 27, 1979. The printout provides information on classified and partially exempt positions in the state and indicates whether or not they are presently filled. It does not provide any information on the exempt positions in the state.

OFFICE OF THE GOVERNOR

Positions in office: 308 (231 filled)

Partially exempt positions in office: 266 (205 filled)

Note that the seven positions in the Office of Telecommunications are included in the total number of positions in the Office of the Governor. However, Telecommunications has recently been transferred out of the Governor's Office and therefore, those positions are not included in the number of partially exempt positions.

EXECUTIVE OFFICE OF THE GOVERNOR

Executive Assistant to the Governor	2
Administrative Assistant to the Governor	1
Press Secretary	1
Legislative Assistant	1
Special Assistant to the Governor III	6
Special Assistant to the Governor II	1
Special Assistant to the Governor I	3
Research Analyst III	1
Research Analyst II	1
Policy and Program Manager IV	1
Policy and Program Specialist II	1
Accountant II	1
Accounting Technician II	1
Accounting Clerk II	1
Administrative Officer III	1
Administrative Assistant II	1
Administrative Assistant I	1
Executive Secretary III	1
Executive Secretary I	6
Secretary I	3
Clerk Typist III	3
Clerk IV	1
Clerk III	1
Receptionist in Governor's Office	1
Personnel Officer I	1
Information Officer III	1
Information Officer I	1

MANSION STAFF

Executive Resident Cook	1
Executive Resident Housekeeper	2
Administrative Assistant I	1

HISTORICAL COMMISSION

Executive Director	1
Historian II	1
Secretary I	1

INTERNATIONAL FISHERIES AND EXTERNAL AFFAIRS

Director	1
Research Analyst II	1
Executive Secretary I	2
Information Officer II	1
Policy and Program Manager IV	2
Policy and Program Manager III	1

ALASKA STATE COUNCIL ON THE ARTS

Policy and Program Specialist II	1
Fine Arts Administrator	3
Administrative Assistant I	1
Accounting Technician I	1
Clerk Stenographer III	1
Clerk Typist III	1

CRIMINAL JUSTICE PLANNING

This agency was recently transferred to the Office of the Governor. The positions retained their classified and partially exempt status.

Executive Director of Governor's Commission	1
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PUBLIC DEFENDER

Only the attorney members of the staff of the Public Defender are in the partially exempt service. The support staff are in the classified service.

Public Defender	1
Attorney V	6
Attorney IV	13
Attorney III	4

ALASKA POLICE STANDARDS COUNCIL

Council Administrator	1
Training Coordinator	1
Clerk IV	1

ELECTIONS

Division Director	1
Elections Supervisor II	2
Elections Supervisor I	2
Administrative Assistant III	1
Administrative Assistant I	2
Clerk V	1
Clerk III	5
Clerk Typist III	1
Clerk Typist II	2

LIEUTENANT GOVERNOR'S OFFICE

Policy and Program Manager III	1
Policy and Program Manager II	1
Research Analyst III	2
Executive Secretary II	1
Secretary I	1
Clerk V	1
Publications Technician	1

ALASKA PUBLIC OFFICES COMMISSION

Executive Director	1
Assistant Director	1
Research Analyst II	1
Regulations Specialist II	1
Secretary I	1
Clerk IV	2
Clerk III	1

PIPELINE COORDINATOR'S OFFICE

Deputy Coordinator	1
Administrative Officer III	1
Accountant III	1
Accounting Technician I	1
Secretary III	1
Clerk IV	1
Clerk Typist III	1
Field Surveillance Officer	1
Field Surveillance Supervisor	1
Permafrost Engineer	1
Arctic Hydrologist	1
Ecologist IV	1
Land Management Officer IV	1
Pipeline Engineer	1
Information Officer III	1

INTERNAL AUDIT

This office was recently transferred to the Office of the Governor. All positions were transferred from the classified to the partially exempt service.

State Internal Auditor	1
Deputy State Internal Auditor	1
Internal Auditor IV	3
Internal Auditor III	6
Internal Auditor I	2

DIVISION OF POLICY DEVELOPMENT AND PLANNING

Division Director	1
State/Federal Assistant Coordinator	1
Deputy Director	1
Policy and Planning Manager III	1
Policy and Planning Manager II	1
Policy and Planning Manager I	1
Policy and Program Specialist III	2
Policy and Program Specialist II	5
Policy and Program Specialist I	3
Planner IV	2
Planner III	1
Project Assistant	1
Research Analyst III	1
Research Analyst II	2
Research Analyst I	1
Executive Director of Growth Policy	1
Natural and Physical Science Planner	2
Management Analyst III	1
Management Analyst II	2
Management Analyst I	1
Publications Specialist II	1
Administrative Assistant II	2
Administrative Assistant I	2
Secretary I	1
Accounting Technician II	1
Data Control Clerk II	1
Clerk IV	1
Clerk Typist III	7

BUDGET AND MANAGEMENT

Division Director	1
Deputy Director	1
Program Budget Analyst V	4
Program Budget Analyst IV	9
Program Budget Analyst III	6
Program Budget Analyst I	1
Program Budget Technician	2

Economist III	1
Economist II	1
Secretary I	1
Clerk IV	1
Clerk Typist III	1
Clerk Typist II	1

HUMAN RIGHTS COMMISSION

Division Director	1
Field Representative III	4
Field Representative II	8
Field Representative Trainee	4
Associate Attorney	1
Secretary I	1
Administrative Assistant III	1
Clerk IV	4
Clerk Typist III	1

DEPARTMENT OF ADMINISTRATION

Positions in department: 665 (592 filled)
 Partially exempt positions in department: 15 (all filled)

Deputy Commissioner	1
Secretary III	1
Special Assistant	1
Division Director	8
Pioneer Home Manager	4

DEPARTMENT OF LAW

Positions in department: 203 (187 filled)
 Partially exempt positions in department: 111 (107 filled)

Deputy Attorney General	1
Secretary III	1
Chief Prosecutor	1
Attorneys III-VI	104
Associate Attorneys I-II	4

DEPARTMENT OF REVENUE

Positions in department: 300 (250 filled)
 Partially exempt positions in department: 16 (14 filled)

Deputy Commissioner	2
Secretary III	1
Revenue Hearing Examiner	2
Division Director	5
Treasury Comptroller	1
Investment Officer I-III	5

DEPARTMENT OF EDUCATION

Positions in department: 347 (303 filled)

Partially exempt positions in department: 9 (all filled)

Secretary III	1
Division Director	4
Special Assistant	1
Deputy Commissioner	1
Executive Director, AEBC	1
Executive Secretary, PTPC	1

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Positions in department: 1,871 (1,619 filled)

Partially exempt positions in department: 20 (14 filled)

Secretary III	1
Deputy Commissioner	3
Division Director	4
Special Assistant II	1
Executive Director of Parole Board	1
Staff Psychiatrist	1

OLDER AMERICANS/SCSEP PROGRAM	
Employment Security Specialist IB	5
Clerical Aide	1
Clerk II	1
Community Health Aide	1
Clerk I	1

DEPARTMENT OF LABOR

Positions in department: 736 (553 filled)

Partially exempt positions in department: 8 (7 filled)

Deputy Commissioner	1
Special Assistant	1
Secretary III	1
Division Director	5

DEPARTMENT OF COMMERCE

Positions in department: 293 (260 filled)

Partially exempt positions in department: 19 (18 filled)

Executive Director of Pipeline Commission	1
Deputy Commissioner	1
Secretary III	1
Division Director	9
Executive Officer of Nursing Board	1
Executive Secretary of Real Estate Commission	1

Deputy Tourism Director	1
Deputy Insurance Director	1
Executive Director of Public Utilities Commission	1
Deputy Director of Public Utilities Commission	1
Regional Loan Manager	1

DEPARTMENT OF MILITARY AFFAIRS

Positions in department: 100 (88 filled)

Partially exempt positions in department: 3 (all filled)

Secretary III	1
Division Director	1
Assistant Adjutant General	1

DEPARTMENT OF NATURAL RESOURCES

Positions in department: 779 (539 filled)

Partially exempt positions in department: 12 (all filled)

Secretary III	1
Deputy Commissioner	1
Executive Director, AROGDAB	1
Special Assistant	2
Division Directors	6
Resources Planner/Analyst*	1

*This position is expected to be placed in the classified service by the Personnel Board within the next few months. The present incumbent was hired from the classified register and was not advised that the position was in the partially exempt service. The department considers him to be on probationary status (which is applicable only to the classified service).

DEPARTMENT OF FISH AND GAME

Positions in department: 666 (566 filled)

Partially exempt positions in department: 11 (10 filled)

Deputy Commissioner	2
Secretary III	1
Special Assistant	1
Division Director	6
Chief of Subsistence	1

DEPARTMENT OF PUBLIC SAFETY

Positions in department: 806 (710 filled)

Partially exempt positions in department: 8 (all filled)

Secretary III	1
Deputy Commissioner	1
Division Director	6

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Positions in department: 133 (109 filled)

Partially exempt positions in department: 6 (4 filled)

Division Director	3
Secretary III	1
Deputy Commissioner	1
Administrative Officer III	1

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

Positions in department: 154 (128 filled)

Partially exempt positions in department: 7 (6 filled)

Secretary III	1
Deputy Commissioner	1
Division Director	5

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

There are three codes for this department, and the following information is organized by those sections:

CODE 24 - Highways

Positions in section: 1,259 (807 filled)

Partially exempt positions in section: 5 (4 filled)

Division Director	5
-------------------	---

CODE 25

Positions in section: 1,202 (984 filled)

Partially exempt positions in section: 25 (21 filled)

Deputy Commissioner	4
Assistant Commissioner	2
Division Director	16
Special Assistant	2
Secretary III	1

CODE 26

Positions in section: 425 (362 filled)

Partially exempt positions in section: 2 (both filled)

Airport Manager, Anchorage	1
Airport Manager, Fairbanks	1

APPENDIX E

POSITIONS PROPOSED FOR REMOVAL FROM BARGAINING RIGHTS

This information was taken from a computer printout dated February, 1979, which Bruce Carr of the Division of Personnel and Labor Relations made available to the commission. Positions which are presently permitted to organize under the Public Employment Relations Act and which are proposed to be excluded from bargaining are listed below. Most of those indicated are either Deputy Directors or Assistant Directors.

Unless otherwise indicated, the following positions are in the Supervisory Unit of the Alaska Public Employees Association. Those presently in the General Government Unit of APEA are marked (G). Positions which are not presently in a bargaining unit but are in the classified service are marked (E). There are five in the state.

OFFICE OF THE GOVERNOR

There are no changes proposed. Most positions in the Office of the Governor are already placed in the partially exempt service by statute.

DEPARTMENT OF ADMINISTRATION

- Deputy State Internal Auditor*
- Deputy Director of Labor Relations (E)
- Deputy Director of Personnel (E)
- Deputy Director of Finance
- Deputy Director of General Services and Supply
- Assistant Director of General Services and Supply
- Deputy Director of Data Processing
- Assistant Director of Data Processing, AJIS
- Deputy Director of Retirement and Benefits

*This position has been transferred from the Department of Administration to the Office of the Governor as of August 16, 1979. The position is now in the partially exempt service and is not involved in collective bargaining.

DEPARTMENT OF LAW

There are no changes proposed. All of the attorneys in the Department of Law are already members of the partially exempt service by statute.

DEPARTMENT OF REVENUE

Deputy Director of Revenue Administrative Services
Chief of Enforcement Operations
Administrative Chief of Support Enforcement
Chief of Audit Services (2 positions)
Chief of Revenue Intelligence Services

DEPARTMENT OF EDUCATION

Deputy Director of Education Program Support
Deputy Director of Education Field Services
Deputy Director of Administrative Support
Deputy Director of Vocational Rehabilitation
Deputy Director of State Libraries and Museums

DEPARTMENT OF HEALTH & SOCIAL SERVICES

Assistant Director of Public Health
Assistant Director of Mental Health
Deputy Director of Corrections
Assistant Director of Corrections

DEPARTMENT OF LABOR

Assistant Director of Support Services
Deputy Director of Workmen's Compensation
Assistant Director of Employment Security (2 positions)

DEPARTMENT OF COMMERCE

Deputy Director of Economic Enterprise
Deputy Director of Public Utilities Commission
Executive Director of Alaska Transportation Commission
Assistant Director of Veterans Affairs
Deputy Director of Business Loans

DEPARTMENT OF MILITARY AFFAIRS

Chief of Staff
Deputy Director of Alaska Disaster Office

DEPARTMENT OF NATURAL RESOURCES

Deputy Director of Lands (2 positions)
Deputy Director of Parks

DEPARTMENT OF FISH & GAME

Executive Director of Fish & Game Boards (G)
Deputy Director of Fish & Game Administration
Assistant Director of Fish & Game Boards
Deputy Director of Commercial Fisheries
Deputy Director of Game
Deputy Director of Sport Fish

DEPARTMENT OF PUBLIC SAFETY

Lt. Colonel of Public Safety (2 positions)
Assistant State Fire Marshall
Deputy Director of Motor Vehicles

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

No changes are proposed for the employees of this department.

DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS

Deputy Director of Manpower Division

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

Assistant Director of Financial Management
Deputy Director of Advance Planning/Special Projects
Deputy Director of Highways Administration
Deputy Director of Communications
Transportation Maintenance Manager III

TOTAL: 54 positions

APPENDIX F

TRAINING FOR STATE EMPLOYEES

The commission has considered the question of the training provided by the state to its employees and recommends that the approach of the state towards training be reevaluated and that the following recommendations be implemented. The commission finds that the state has neglected this important area of personnel management for a considerable time in the mistaken belief that training is a luxury which can be cut from budgets without affecting the quality or the cost of the services provided to Alaskans. Training should not be indiscriminately provided however. The state should develop a system of evaluating the training needs of its employees and of monitoring the effectiveness of the programs in which it participates, so that training is vocationally oriented, effective and cost efficient.

REASONS FOR PROVIDING TRAINING

The hiring process establishes which candidates meet the minimum qualifications for a position and from those, which one is the best qualified to do the job. The standard is based on minimum qualifications for the position. Most new employees will need to improve some skills which the particular position emphasizes or become familiar with additional areas in which they lack knowledge. Furthermore, almost all jobs grow and change as new developments in the industry or field of study changes the appropriate methods

and skills and also as programs shift emphasis from one area to another. In order to meet the challenge of new technology or of changed focus, appropriate training must be provided.

A distinction should be made between training and orientation. All employers must orient new employees to their expectations about conduct, performance, and benefits (leave, insurance, retirement, etc.). Employers must also explain the structure, missions and objectives of the program in which employees will work.

Training, on the other hand, provides or enhances knowledge and skills which, for a variety of reasons, an employee does not have when selected for the position. Employees need training to keep pace with change, to improve existing skills, to develop new skills, to relate their tasks to the entire program, and to better supervise or manage other employees. Supervisors must be informed of equal employment opportunity laws and requirements.

1. Keeping pace with change. Employees in fields experiencing rapid technological advances need training to remain current in their areas of expertise. Otherwise, they are not able to do the job that is required by the state. For example, if the state wishes to use more advanced computer technology, it must either train its employees or hire new employees who are well versed in the science. Since data processing continues to change, the state can expect to continuously replace data processing

employees if it does not provide an adequate training program. New employees may have the necessary technical skills, but they will have no background experience with specialized state programs. Therefore, the state will have to train the new employees in those aspects of the job instead of training incumbents in new technology.

The Department of Transportation and Public Facilities has developed a training program for mechanics of both light and heavy duty equipment. Employees take a competency-based test which consists of both written and performance components. The test was developed by a national testing organization to use nation-wide. There are four skill levels, and employees receive a certificate for each test they successfully complete. The agency's goal is to have all of its mechanics fully certified through this program. They are a long way from reaching that level of knowledge and performance. Test performance also helps the department to identify areas in which employees need training.

The department provides training for the mechanics through a variety of methods. For job-related courses offered by community colleges, the department provides a portion of the costs of books and tuition. Sometimes vendor programs, generally offered out-of-state, are the most economical alternative. In other cases, the department may have an employee who is competent to train others in a particular skill. Occasionally, the department contracts with an outside firm to provide inhouse training in a specialized area.

Given the changes in automotive technology, no mechanic, however competent, can keep abreast of all developments without on-going training. With training, the agency hopes to perform their duties in a reasonable and cost-efficient fashion with an acceptable quality of performance, and to make their services competitive with or better than those of private industry.

Employees also need training in any program where legal standards frequently change. For example, unemployment insurance appeal employees attend a nation-wide program sponsored by the U.S. Department of Labor every two years to learn the developments in the laws, regulations and procedures governing the unemployment insurance program. Similarly, the state must plan to provide funds to train its employees whenever it significantly changes the standards and procedures of a program.

2. Improving existing skills. The Division of Personnel used to hold a training session in Better Writing Skills which was directed to state employees at a variety of levels who were responsible for writing documents as part of their job duties. This program has stopped because the division's training budget was not funded.

Courses for improving skills are provided at minimal cost to the state by equipment retailers. For example, IBM sponsors training sessions for state employees who use the complex word processing equipment to enable them to take advantage of special features available on the machines.

3. Developing new skills. The state has created trainee positions in order to hire people who need training to qualify for the beginning level of a job class. These trainee positions enable the state to provide an affirmative action program, as required by state and federal laws, and to open career fields to citizens of the state for whom the educational or experience requirements of the first level in the job class would be an insurmountable barrier. The trainee positions are structured with the expectation that the state will provide substantial on-the-job training to the people hired.

4. Interdisciplinary training. Interdisciplinary training serves to advise employees of developments outside their primary field and to inform them of the entire picture in which they have a part. It is important in areas where many agencies have overlapping responsibility, as is the case in the natural resources area or in insurance, banking and economic development. In the data processing field, programs to cross-train managers and data processing programmers about each others' needs would improve the state's use of data processing.

Interdisciplinary training can serve to meet administrative needs of the state. Program managers need to know how to prepare proposed budgets for review by the executive branch and for action by the legislature. They also need to develop skills in budgeting their resources in order to avoid cost overruns.

Employees who deal directly with the public in potentially tense situations can better diffuse hostility if they have some knowledge of transactional analysis. During the winter of 1977-78, the unemployment insurance office in Anchorage had to have uniformed guards in the building during working hours because of the intensity of feelings. The Department of Labor contracted with a Seattle firm to provide on-site training in transactional analysis to the staff to help them cope with the stressful situation.

5. Supervisory training. In its investigation of the state personnel system, the commission has found that many problems would be avoided or solved by better management practices. Effective managers and supervisors who accept, understand and persist in their decision-making roles are the key to avoiding or reducing turnover, absenteeism, and non-productivity of their employees. Training for supervisors, especially those without previous supervisory experience, should be one of the highest priorities on the state's training agenda. Supervisors must know and apply the Personnel Rules and the terms of collective bargaining agreements which govern the working conditions of their employees. They must know how to properly evaluate and, when necessary, discipline employees by applying contract terms accurately and by building a clear record of what steps they have taken to correct problems. In addition to this technical side, supervisors must know how to motivate their work force. They need to develop leadership skills, communication skills and ability to measure job performance.

Supervisors are required to write annual performance evaluations of their employees. To make the experience benefit both the employees and the program, the evaluations should point out the strengths and weaknesses of the employee's past performance, identify areas in which the employee's skills or knowledge need to be improved and the resources to accomplish that, and examine the duties of the position to determine whether the position is classified properly. Evaluations can be emotionally difficult for both employees and supervisors. To improve the evaluations done, supervisors should be required to participate in a program designed to improve their skills.

Managerial employees are selected for their skills in their program area and are expected to assimilate the knowledge needed to supervise their employees when they accept their appointment. To the extent that this does not happen, the state creates problems for itself which can lead to union grievances and monetary awards, poor morale, rapid turnover and poorly run programs. All of these increase the costs of government to the citizens of Alaska. Better supervisors would reduce this cost, and training would help to improve the performance of supervisors.

6. Complying with Equal Employment Opportunity programs. To avoid violation of the laws of the land and large monetary awards from litigation, supervisors must comply with the federal and state statutes on hiring and promoting their employees. These complex requirements can be difficult to adhere to. Records need to be maintained to demonstrate

compliance. The Division of Equal Employment Opportunity in the Department of Administration offers a course to supervisors on the legal requirements which apply, and on the unconscious ways in which people may discriminate. It is designed to insure that the state meets the minimum standards. This training should be made mandatory for any supervisor responsible for hiring employees.

7. Employee development. Some agencies will partially reimburse employees for the cost of relevant college courses they successfully complete. This varies depending on the policy of the department and the funds available. Coursework may make the employee eligible for promotion or provide insight into related areas.

CONCLUSION AND RECOMMENDATIONS

Because Alaska has not recognized the worth of training programs, the state has not developed a comprehensive policy for training for state employees, nor has it attempted to coordinate and evaluate what training is presently received by employees. The state needs a central training office. Responsibilities of the office should include arranging training sessions and programs on those subjects common among the departments and agencies, including supervisory skills, interdisciplinary training, clerical skills, and labor relations and Personnel Rule courses. This central office should identify general training needs, evaluate courses and develop a system to record each employee's training history in his or her personnel file. The annual

evaluation session could be used to consider what training each employee needs. The supervisor would be responsible for suggesting training programs to be developed either by the agency or by the central training office.

Because there is no coordinated program, the departments duplicate some courses, while ignoring other needs which could be economically provided to the larger pool of all state employees. Coordination should not usurp the prerogatives of the departments or their responsibility to provide programmatic training. The departments are best able to evaluate the need for training in their particular areas of expertise and to decide which kind of training best fills those needs. The coordinating center should advise and assist the departments when requested. It should also determine when departments were unnecessarily offering duplicate courses and should make information available to all departments on the training courses being offered so that interested staff of other departments can attend any department's courses as space permits.

Providing training effectively will insure that the state gets the most for its personal-services dollar, and will encourage employees who have become skilled in their areas to remain with the state, thus building on the investment which the state makes in any long term employee, even now, when training is neglected.

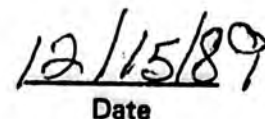


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REPORT OF THE
BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
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TWELFTH ALASKA STATE LEGISLATURE
FIRST SESSION

Senator Bill Ray
Chairman

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Prepared by:
Staff of the
Blue Ribbon Commission on
the State Personnel Act
Pouch AG
Juneau, Alaska 99811

February, 1981

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INTRODUCTION

In 1978 the Alaska State Legislature created the Blue Ribbon Commission on the State Personnel Act and charged it with making a comprehensive review of the state personnel system. The commission was directed to consider refinements in light of collective bargaining and the growth of the number of state employees, to examine the question of the decentralization of the hiring of state employees, and to consider the deficiencies which had been revealed in reports from the Division of Legislative Audit and from the Ombudsman. See Appendix A, Legislative Resolve No. 27, 1978.

Since its inception, the commission has worked on the issues it was directed to consider, sponsoring legislation and making its recommendations known in annual reports to the legislature. In 1980, at the request of the commission, the legislature extended its life for another year, noting that because of the complex, inter-related nature of the issues facing the commission, more time was needed to resolve them. See Appendix B, Legislative Resolve No. 38, 1980.

Membership on the commission includes representatives from the groups and persons most concerned about the state personnel system. In addition to legislators, there are representatives from the public employee unions and associations representing state employees, from the Department of Administration and the Division of Personnel, from the Ombudsman, from state agencies, and from the public. This diversity and expertise enables the commission to fully consider the questions before it.

During the past year, the commission has focused on two main areas. It has concluded a comprehensive review of the State Personnel Act and also is recommending changes in the nepotism law of the state. In addition, testimony from retired Alaskans raised issues about the state retirement systems which the commission considered. As a result of this work, the commission is sponsoring three bills amending the retirement systems.

There are issues which the commission was unable to address this year which are discussed briefly in this report. Further study is needed before recommendations can be made on these topics. Because its work is not ended, the commission is requesting that the legislature extend its life for another year.

CHAPTER I

BILLS AMENDING THE STATE PERSONNEL SYSTEM AND THE RETIREMENT SYSTEMS

The commission is proposing two bills amending the personnel system. The first is a comprehensive revision of the State Personnel Act, to make changes in personnel practices, to expand the protections granted employees in the exempt and partially exempt services, and to make the Act consistent with the Public Employment Relations Act. The second bill amends the nepotism statute to give statutory authorization to support the present language of the Personnel Rules.

The commission is sponsoring three bills amending the state's retirement systems. The first limits the state's power to adjust retirement benefits where, through no fault of the retired state employee, the state has been making overpayments for more than two years. This measure is proposed because the resulting total overpayment can be substantial and the mandatory reduction of the retired person's monthly check can cause serious financial difficulties. The second bill sponsored by the commission makes changes in the membership of the Public Employee Retirement Board. The third bill requires that regulations adopted for both the Public Employee Retirement System and the Teachers Retirement System be subject to the Administrative Procedure Act.

SENATE BILL 193: AMENDING THE STATE PERSONNEL ACT
(AS 39.25)

PURPOSE

The amendments proposed to the State Personnel Act are the result of work done by the commission over the past two years. The bill makes several major changes in the Act as well as making it more comprehensive, more consistent with the Public Employee Relations Act, and more clearly written.

The bill provides that those Personnel Rules which are matters of public policy are subject to the rule-making requirements of the Administrative Procedure Act. This will offer an increased opportunity for public comment before adoption of rules affecting the public.

The commission resolved the question of whether the state should move towards a centralized or a decentralized system of personnel administration by placing the present decentralized system in the Act. However, the bill limits the authority personnel officers presently have to operate independently from the Division of Personnel. Decentralization provides the best working relationship between the departments and the division.

Partially exempt and exempt employees of the state are granted increased protection from discrimination, including the right to appeal to the Personnel Board should they believe that they have been disciplined on the basis of unlawful discrimination.

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In addition to these major changes, the bill makes a number of other amendments which are discussed in the analysis below.

SECTION BY SECTION ANALYSIS

Section 1. AS 39.040 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.

(SB 193, page 1, line 9)

Comment

This section makes a stylistic amendment to conform to the Manual of Legislative Drafting. The substance is not changed.

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.

(SB 193, page 1, line 17)

Comment

This section deletes the obsolete requirement that members of the Personnel Board be qualified electors of the state. It also eliminates the reference to officers. The definition of state employees in section 18 includes

state officers. (See section 18, page 34 infra)

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);

(SB 193, page 1, line 22)

Comment

The bill transfers all of the substantive requirements for amending the Personnel Rules to AS 39.25.140 and proposes changes in those procedures. (See section 12, page 16, infra)

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;

(SB 193, page 1, line 29)

Comment

Members of the partially exempt service may appeal to the Personnel Board in certain situations by case law. In addition, appeal rights are granted to partially exempt and exempt employees in cases of prohibited discrimination in the proposed amendments to AS 39.25.170. Therefore, the reference to the classified service in this paragraph is deleted.

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.

(SB 193, page 2, line 3)

Comment

The Personnel Board does not have statutory authority for employing staff members at present. The proposed language places any employees of the board in the classified service. The members of the commission considered that Personnel Board employees should be protected from the possibility of arbitrary action or undue influence to which they might be exposed if they were placed in the partially exempt or exempt 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.

(SB 193, page 2, line 6)

Comment

Current law provides that the state personnel records are public except for those which the rules require to be kept confidential. The Personnel Rules provide that except for examination materials, performance evaluations, personal history or other confidential materials so designated by the Director of Personnel, employee records are public records. (PR 14 07.0) The commission decided that it was more appropriate to indicate what materials actually are open to the public, and to make the remaining records confidential. The public materials are listed in subsection (b).

Subsections (c) and (d) set out new material to confirm a person's right to examine his own files and to establish when an applicant may review written examination materials.

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 partially exempt and exempt services (SERVICE) as specifically provided.

(SB 193, page 2, line 26)

Comment

Since amendments proposed to AS 39.25.170 extend limited appeal rights to members of the exempt service, the coverage of the chapter has changed.

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

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

- (1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;
- (2) justices of the supreme court, judges of the court of appeals, judges of the superior court, and judges and magistrates of other state courts established by law;
- (3) employees of the state court system, and employees and members of the Judicial Council;
- (4) employees of the state legislature and its agencies;
- (5) the head of each principal department in the executive branch;
- (6) officers and employees of the University of Alaska;
- (7) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 - 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;
- (8) patients and inmates employed in state institutions;
- (9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor, the legislature, or a legislative committee;
- (10) members of boards, commissions, or authorities;

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

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

(12) the executive officer of the Alaska Commission on Post-secondary Education;

(13) the ombudsman and his staff;

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

(15) licensed physicians, as defined in AS 47.30.340(9), employed by the division of mental health and developmental disabilities, Department of Health and Social Services;

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

(17) 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;

(18) 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.

(SB 193, page 3, line 2)

Comment

The phrase "unless otherwise provided by law" is added to the introductory section. Obsolete or redundant paragraphs have been deleted and the list has been

reorganized for clarity.

Judges of the Court of Appeals have been added to paragraph (2). In paragraph (9), the wording has been changed from "temporary and special inquiry" to "temporary or special inquiry". For a table comparing the order and content of the new sections with the existing statute, see Appendix C.

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

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

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

(SB 193, page 4, line 25)

Comment

The bill restructures AS 39.25.120 and changes the references to other sections of the State Personnel Act to conform to amendments made since this section was adopted and amendments proposed in the bill. The substance of the beginning section is not changed.

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

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

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

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

(4) one private secretary for each head of a principal department in the executive branch;

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

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

(7) the state forester in the Department of Natural Resources;

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

(9) not more than two special assistants to the commissioner of each of the principal departments of the executive branch;

(10) the principal executive officer of the following boards, councils or commissions:

(A) Alaska Public Broadcasting Commission;

(B) Professional Teaching Practices Commission;

(C) Parole Board;

(D) Board of Nursing;

(E) Real Estate Commission;

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

(G) Alaska Historical Commission;

(H) Alaska State Council on the Arts;

(I) Alaska Police Standards Council;

(J) Council on Science and Technology;

- (11) Alaska Pioneers' Home managers;
- (12) hearing examiners in the Department of Revenue;
- (13) the comptroller in the division of treasury, Department of Revenue;
- (14) investment officers in the Department of Revenue;
- (15) the chief of subsistence in the Department of Fish and Game;
- (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.
- (19) the director, deputy director, personnel analysts II, labor relations analysts I, labor relations analysts II, senior negotiators, research directors of the division of labor relations in the Department of Administration.

(SB 193, page 5, line 8)

Comment

The bill adds deputy commissioners to paragraph (1) and makes specific reference to the assistant adjutant general of the Department of Military Affairs and to regional directors in the Department of Transportation and Public Facilities.

Paragraph (2) places all division directors in the partially exempt service. The State Personnel Act currently provides that division directors who are listed in the paragraph and any others designated by the Governor are members of the partially exempt service. Since the

Governor designates all division directors to be partially exempt, the commission considered the change to be appropriate.

Paragraph (9) is a new provision placing special assistants to commissioners in the partially exempt service. This reflects current practice. The commission considered that the number should be limited to two special assistants. If a commissioner needs more than two, the Personnel Board has the authority under AS 39.25.130 to add additional positions. (See section 10, page 16, infra)

Paragraphs (10)(A) - (E) and paragraphs (11) - (16) add several positions to the section. These positions are now in the partially exempt service but are not listed in the State Personnel Act. Similarly, paragraph (17) places the deputy director of insurance in the partially exempt service.

Paragraph (19) places those employees responsible for representing the state in collective bargaining negotiations in the partially exempt service. They are now in the classified service but are not members of any collective bargaining unit. The majority of the commission considered that it was important for these employees to be directly responsive to the policies of the administration.

For a table comparing the statute with the provisions of the bill, see Appendix D.

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.

(SB 193, page 7, line 7)

Comment

The Personnel Board exercises the power to move positions from the classified service to the partially exempt service over positions created after April 19, 1960, as well as over positions created before that date. The commission considered this exercise of power to be appropriate and therefore the bill amends the statute by deleting reference to the dates.

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).

(SB 193, page 7, line 19)

Comment

As in section 10 above, the reference to dates in

AS 39.25.130(3) has been deleted since the Personnel Board has traditionally acted to change positions created after April 19, 1960, as well as those created before that date.

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 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.

(d) If the proposed amendments concern matters of public policy, the personnel board shall adopt them in accordance with the Administrative Procedure Act (AS 44.62).

(SB 193, page 7, line 24)

Comment

The bill makes several changes in AS 39.25.140. In subsections (a) and (b), the Commissioner of Administration is given the power to approve or disapprove amendments proposed by the Director of Personnel. In paragraph (d) those amendments which concern matters of public policy are made subject to the rule-making provisions of the Administrative Procedure Act. The State Personnel Act presently exempts adoption of the Personnel Rules from the APA. The commission found that additional opportunity for public notice and comment should

be provided over those subjects which affect the public and therefore recommends the change in the rule-making procedures. (Note that subsection (f) sets out topics which are included within "matters of public policy".)

(e) If the proposed amendments relate only to the internal management of the state agencies

(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.

(SB 193, page 8, line 9)

Comment

Those amendments to the Personnel Rules which relate only to the internal management of state agencies are adopted under the procedures of this subsection. These procedures are substantially identical to those now set out in the State Personnel Act.

In paragraph (2) the bill permits the Personnel Board to appoint a hearing officer to conduct hearings on amendments. The Personnel Board is granted the power to amend the proposed rules in paragraph (3), a power which it does not now have.

The bill provides in paragraph (4), that the amendments take effect 45 days after submission to the Board, rather than the present 30 days. The additional time gives the board an opportunity to consider any written or oral testimony received from the public. Paragraph (5) requires that the amended rules be published in the Alaska Administrative Register and Code. Publication of the rules in the Code is discretionary now.

(f) In this section "matters of public policy" include, but are not limited to, matters concerning

- (1) recruitment;
- (2) examinations;
- (3) selection methods;
- (4) prohibitions and penalties;
- (5) public records;
- (6) eligible lists;
- (7) hours of work;
- (8) merit increases; and
- (9) hearings and appeals relating to matters listed in (1) - (8) of this subsection.

(SB 193, page 8, line 23)

Comment

The topics listed are those which the commission believed were of most concern to the public. Personnel Rules on recruitment, examinations, selection methods, and eligible

lists all affect members of the public if they apply for state employment. The prohibitions and penalties applying to state employees define their conduct and are important to all citizens of the state. The hours which state employees work are similarly of widespread concern as are merit increases.

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

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

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval of the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; the position classification plan shall include

(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;

(SB 193, page 9, line 6)

Comment

The bill restructures paragraphs (1) and (2) to make

their content clearer. In addition, paragraph (2) is amended to refer to the Public Employment Relations Act and to set out that it is legal for the state to pay employees in accordance with a collective bargaining agreement even if the agreement does not conform to the state pay plan.

Provisions in the State Personnel Act which specify that the pay plan be prepared after consultation with appointing authorities and employee representatives and that commissioners' salaries are not the maximum limit for the pay plan are deleted. There is nothing in the law to prevent the pay plan from providing for salaries exceeding those of commissioners. Since collective bargaining agreements between the state and employee representatives now set pay levels for almost all the classified employees, there is considerable consultation with employee representatives before salary levels are established.

(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;

(SB 193, page 10, line 3)

Comment

This paragraph is rewritten to more clearly state the standards for employee selection methods which the Personnel Rules will implement.

(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;

(SB 193, page 10, line 6)

Comment

The bill reorders and rephrases paragraphs (4) - (15). The substance is unchanged. For a table comparing the bill with the Act, see Appendix E.

(16) the establishment of disciplinary measures which may include disciplinary suspension without pay;

(SB 193, page 11, line 11)

Comment

The State Personnel Act currently limits the imposition of disciplinary suspension without pay to 30 days in any 12-month period. The bill deletes that limit. The commission is continuing to work to develop a comprehensive framework of graduated disciplinary measures which will be more effective than the present system.

(17) the procedures for review of disputed personnel actions, and for resolving employee and interagency grievances, and for resolving grievances of the general public concerning the operation of the state personnel system;

(SB 193, page 11, line 13)

Comment

This paragraph is amended to require that the Personnel Rules include procedures for resolving grievances of the public concerning the state personnel system. These would include problems arising out of applying for state employment, state employment examinations, and the selection process.

~~(18)~~ (18) hours of work for all employees in the state service;

(19) methods and procedures covering overtime work and pay;

(20) the granting of employment preference rights to a veteran at each time application is made for employment not within the area of promotion, when the veteran possesses the necessary qualifications in the job classification applied for under this chapter; in the examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran and ten additional points shall be added to the passing grade of a disabled veteran; if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job; in this paragraph

(A) "veteran" means a person with 90 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and November 7, 1975;

(B) "disabled veteran" means a veteran who is rated by the United States Veterans' Administration as having at least a 10 percent service-connected disability;

(21) 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;

(22) 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;

(SB 193, page 11, line 17)

Comment

The bill reorders and rephrases paragraphs (18) - (22). The substantive content is unchanged. For a table comparing the bill with the Act, See Appendix E.

(23) 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;

(SB 193, page 12, line 26)

Comment

This paragraph is added to the State Personnel Act to provide statutory authority for the adoption of Rules to implement programs such as the Comprehensive Employment and Training Act (CETA) or the Senior Community Service Employment Program (SCSEP). The language is taken from the Model Public Personnel Administration Law.

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

(25) other rules and administrative regulations, not inconsistent with this chapter, which are necessary for its enforcement.

(SB 193, page 13, line 1)

Comment

The bill renumbers these paragraphs. They are identical with provisions in the State Personnel Act.

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

Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal depart-

ment of the executive branch has a personnel officer, the personnel officer shall be employed by and located within that department.

(SB 193, page 13, line 5)

Comment

Subsection (a) of the bill provides that personnel officers shall be departmental employees. This resolves the question of whether they should be centralized as employees of the Division of Personnel stationed in the individual departments, or whether they should be decentralized as employees of the departments they serve, in favor of decentralization. The commission considered that the working relationship of the personnel officer with the commissioner and staff of the department was crucial to his or her effectiveness and that this relationship could be impaired if he or she were not an employee of the department. Since not all departments have a personnel officer (the Department of Law does not), the bill does not require each department to have one.

(b) Subject to the provisions of (d) of this section, the personnel officers for the Departments of Transportation and Public Facilities, Fish and Game, Education, Labor, and Health and Social Services, have the following powers with respect to the classes of positions unique to their departments:

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

(2) to administer and score examinations and to place successful applicants on the eligible lists;

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

(SB 193, page 13, line 9)

Comment

This section of the State Personnel Act grants to the personnel officers for certain departments the power to amend the Personnel Rules for classes of employees unique to their departments. This power has never been used. The commission recommends that the actions which a departmental personnel officer may take independently from the Division of Personnel be more clearly and more narrowly defined and that they no longer have the power to amend the Personnel Rules.

This section does not change which personnel officers are granted authority to act under AS 39.25.153 except to delete reference to the Department of Highways and to substitute the Department of Transportation and Public Facilities. However, instead of giving the named personnel officers the power to amend the Personnel Rules, subsection (b) sets out the actions they may take. The commission considered that these are the areas where the ability to act quickly is most likely to be crucial to the success of a departmental program.

During the past year the Director of Personnel has delegated the classification authority for some classes to certain personnel officers. This has been done under AS 39.25.150(21), which permits delegation of personnel

functions, rather than under this section. The agreement extends beyond the scope of AS 39.25.153 which is limited to positions unique to the department.

(c) The initial determination of classes of positions unique to the departments listed in (b) of this section shall be made by the personnel officer of the department in consultation with the commissioner of his department subject to the approval of the director of personnel in the Department of Administration.

(d) The assumption of a power set out in (b) of this section must be approved by the commissioner of administration and must be in harmony with the merit principle of personnel administration (AS 39.25.-010).

(SB 193, page 13, line 21)

Comment

Subsection (c) is taken from existing language in AS 39.-25.153. Subsection (d) is new language giving the Department of Administration some control over the actions of the personnel officers and emphasizing the importance of the merit principle of employment.

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

Sec. 39.25.160. GENERALLY. (a) A classified employee or an exempt employee in a position named in AS 39.25.110(3) may not take an active part in the management of a political party above the precinct level.

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

(c) A person may not require an assessment, subscription, contribution, or service for a political party from a state employee.

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

(e) An employee in the classified or partially exempt service who seeks nomination or becomes a candidate for state or national elective political office shall immediately resign any position held in the state service.

(SB 193, page 13, line 29)

Comment

That part of the existing AS 39.25.160(a) which grants political rights to state employees is placed in section 19 of the bill. (See page 35, infra)

All of these subsections have been rephrased for style, but their content is unchanged except as noted in the following comments.

The bill adds the phrase securing or making to subsection (b). The scope of subsection (c) is expanded to cover all state employees, not just those in the classified service. Subsection (e) extends the requirement for resignation when seeking nomination to political office to members of the partially exempt service.

(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 taken or withheld on the basis of unlawful discrimination due to race, sex, color, religion, national origin, age, or handicap.

(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 discrim-

ination due to political beliefs.

(SB 193, page 14, line 18)

Comment

Protection against discrimination in employment is extended by subsection (f) not only to classified service employees but to members of the partially exempt and exempt service. The categories of unlawful discrimination are increased from race and religion to include sex, color, national origin, age and handicap. The provision which protects members of the classified service from discrimination based on political beliefs is placed in subsection (g). The bill prohibits only unlawful discrimination.

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

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

(SB 193, page 14, line 28)

Comment

A requirement that a person act knowingly is added to subsection (h). Otherwise, these two subsections are not substantively changed.

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

Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR SUSPENSION. (a) An employee may be dismissed, demoted, or suspended by delivery of written notice of the proposed action and the reason for it from the appointing authority to the employee.

(SB 193, page 15, line 7)

Comment

This subsection adds to the statute a requirement that the notice of disciplinary action given to the employee be in writing. It also requires that the notice set out the reasons for the action.

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

(c) An employee who has been dismissed, demoted, or suspended due to unlawful discrimination based on race, sex, color, religion, national origin, age, or handicap 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 based on political beliefs may appeal the action to the personnel board.

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

(f) An employee who is on leave without pay from a position in the classified service and who is employed by the state in another capacity, either in the exempt or partially exempt service, may appeal a dismissal from the classified service to the personnel board.

(SB 193, page 15, line 12)

Comment

These subsections set out the employees who are granted appeal rights.

Subsection (b) repeats the existing statutory provision.

Subsection (c) is based on the expanded scope of AS 39.25.160(f) which extends protection from unlawful discrimination to partially exempt and exempt state employees and expands the classes of people protected from discrimination.

Subsection (d) extends protection against disciplinary action based on political beliefs to classified employees who are not in permanent status as well as to permanent classified employees.

Appeal rights granted by AS 39.25.150(7) are repeated in subsection (e). Subsection (f) is based on current practice and is consistent with the rationale of subsection (e).

(g) An employee begins an appeal by filing a written request for review of the action with the personnel board within 15 days of receiving 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. Technical rules of evidence do not apply to the hearing.

(SB 193, page 15, line 28)

Comment

These subsections set out existing provisions of AS 39.25.-170(a). The new language makes clear that an employee must request his appeal in writing, that the employee has the right to determine whether the hearing is open to the public, that the employee's representative need not be an attorney, and

that the technical rules of evidence do not apply to the proceedings.

(i) If the personnel board finds that the actic complained of was due to unlawful discrimination based on race, sex, color, religion, national origin, political beliefs, age, handicap, 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 to both parties.

(SB 193, page 16, line 9)

Comment

The substance of subsection (i) is found in AS 39.25.170(b). The new subsection repeats the expanded classes protected from discrimination to all of those listed in the new AS 39.25.160.

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 contempt of court.

(SB 193, page 16, line 17)

Comment

The power to subpoena witnesses is already granted to the Personnel Board in AS 39.25.070(6). This new section sets out the procedures which the board may follow should