

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1367 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

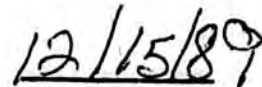


RECORDS CERTIFICATION



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Date

SCOMM

#51:14

Introduced: 2/20/81

Referred: State Affairs and Finance

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

1 IN THE SENATE

2 SENATE BILL NO. 195

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act limiting the adjustment of retirement benefits;
7 and providing for an effective date."

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

9 * Section 1. AS 14.25.173 is amended by adding a new subsection to read:

10 (b) An adjustment which requires repayment of benefits may not be
11 made under this section if

12 (1) the incorrect benefit was first paid two years or more
13 before the member or teacher or beneficiary was notified of the change
14 or error; and

15 (2) the change or error was not caused by the member or
16 teacher or beneficiary.

17 * Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

18 (b) An adjustment which requires repayment of benefits may not be
19 made under this section if

20 (1) the incorrect benefit was first paid two years or more
21 before the employee or beneficiary was notified of the change or error;

22 (2) the change or error was not caused by the employee or
23 beneficiary; and

24 (3) the change or error relates to the employee's credited
25 service with the state and *does relate to the EE's credited service* not with another participating employer.

26 * Sec. 3. This Act is retroactive to July 1, 1979.

27 * Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-
28 070(c).

29



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

MEMORANDUM

April 20, 1981

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer *TBC*
Administrative Assistant

SUBJECT: SB 194: Relating to Nepotism in State Employment

The present statute prohibiting nepotism in state employment is directed at relatives of the executive head of a department or agency. It prohibits the employment of anyone related within the second degree of kindred to the executive head. However, the Personnel Rules also prohibit the employment of persons related within the second degree of kindred to the head of the division or subdivision within which the person is working. (PR 13 09.2). In addition, the Rule requires that before a person may be employed in the same agency with a close relative, that the Director of Personnel and the appointing authority for the department or agency must give express approval to the appointment. (PR 13 09.3)

The scope of the Personnel Rules is broader than the scope of the statute. The Attorney General has advised the Division of Personnel that the Rules are therefore not completely enforceable. The Blue Ribbon Commission considered the issue and the majority recommends that the scope of the statute be enlarged to include the provisions of the Personnel Rules. While provisions against nepotism limit the opportunities of some Alaskans to find employment with particular offices in the state, the disadvantage to those people should be weighed against the appearance of impropriety and favoritism which is created if relatives of the head of a division or department are working within that division or department.

The Director of Personnel advised the commission that in the past he has routinely approved waivers for relatives to work in a non-supervisory status in the same office. The majority of the commission recommends that requirement for review of these situations be placed in

the statute to provide a mechanism for review should an instance of abuse arise.

SECTION BY SECTION ANALYSIS

Section 1. Subsection (a) prohibits the employment of a person related to the top-level managers of a department or agency. It encompasses the present substance of AS 39.10.010 and extends it to include deputy and assistant commissioners.

Subsections (b) and (c) extend the scope of the statute to include the provisions of the Personnel Rule. Subsection (b) prohibits the employment within a particular division of persons related to the division director. It applies to all three branches of government.

Subsection (c) provides that before two close relatives may work in the same office in the executive branch of government, the Director of Personnel and the person who is making the hiring decision must both approve the appointment in writing.

Section 2. Because the state is operating without an effective nepotism law, the commission recommends that the bill take effect immediately.

TBC:lmk
Attachment

§ 39.10.010 PUBLIC OFFICERS AND EMPLOYEES § 39.15.030

Sec. 39.10.010. Nepotism prohibited. It is unlawful for a person who is the spouse of or is related by blood within and including the second degree of kindred to the executive head of a principal state department or agency to be employed in that department or agency. (§ 1 ch 98 SLA 1959)

Am. Jur. 2d reference. — 63 Am. Jur. 2d, Public Officers and Employees, § 97.

Chapter 15. Official Bonds.

Section

- 10. Form, amount, and conditions
- 20. Obligation and effect
- 30. Action on bond
- 40. Recovery on defective bond
- 50. Procedure when bond becomes insufficient

Section

- 60. Number of sureties
- 70. Justification of sureties
- 80. Release of sureties
- 90. Proceedings for release of sureties
- 100. Failure to file new bond

Sec. 39.15.010. Form, amount, and conditions. The official bond of an officer or employee of the state required by statute, or rule or regulation under authority of law shall be in a form joint and several, and made payable to the state in the penal sum and with the conditions required by law. (§ 11-2-1 ACLA 1949)

Cross reference. — As to surety bonds furnished by the principal executive officer of each department and subordinate officials, see AS 39.05.050.

Am. Jur. 2d references. — 12 Am. Jur. 2d, Bonds, § 1 et seq.; 63 Am. Jur. 2d, Public Officers and Employees, §§ 122, 414-482.

Sec. 39.15.020. Obligation and effect. Bonds of state officers and employees are in force and obligatory upon the principal and sureties for breach of the condition of the bond committed during the time the officer or employee discharges the duties of or holds the office or appointment. Each bond is considered in force and obligatory upon the principal and sureties for the faithful discharge of all duties required of the officer or employee by any law enacted after the execution of the bond and this condition shall be set out in the bond. (§ 11-2-2 ACLA 1949)

Sec. 39.15.030. Action on bond. An official bond executed by a state officer or employee is in force and obligatory upon the principal and sureties to and for the state, and for the use and benefit of all persons injured or aggrieved by the wrongful act or default of the officer or employee in his official capacity or employment. A person injured or aggrieved may bring suit on the bond in his name. (§ 11-2-3 ACLA 1949)

1981

BILL NUMBER SB 195

Title of Bill

BRC

Limiting the Adjustment of Retirement Benefits

1981
2/20

DATE

289

Introduced/Referred

SA - Fin

(Hearing 4/7-4/9)

1982

3/19-6/19

Committee Report

Under Bradley Nolan - Motion d/p to Fin

2nd Reading

3rd Reading

Reconsideration

Vote: Ayes: _____ Nays: _____ Passed _____ Failed _____

(Opposed voters: _____)

Sent to Other House:

Introduced/Referred

Committee Report

2nd Reading

SB 195

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Labor Services

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01 (PERS)

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 STATE TRS MATCHING						
100 BENEFITS						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

Undoubtedly there will be some costs to the retirement system, but they cannot be measured. In most instances the individual adjustment would be small.

IV. DATE 4/02/81 PREPARED BY Paul B. Arnoldt, Director
 AGENCY Division of Retirement & Benefits

Ken Humphreys, for
gc

B111 Number _____

DATE

3rd Reading

Reconsideration

VOTE: Ayes: _____ Nays: _____ Passed _____ Failed _____

(Opposed voters: _____)

Returned to Other House:

Sent to Governor: Date Needed For Action: _____

Action by Governor: Signed: _____
Without Signature: _____
Vetoed: _____

Chapter: _____ Effective Date: _____

Sustained:

Overridden:

COMMENTS:

SB 195

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement & Benefits

Program Category Affected Labor Services and Elementary & Secondary Education

IRU, Program, or Subprogram(s) Affected 02-96-8-01-01-02 (TRS) 02-11-8-02-01-00 (TRS MATCH)

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 STATE TRS MATCHING						
100 BENEFITS						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
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FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

Undoubtedly there will be some costs to the retirement system, but they cannot be measured. In most instances the individual adjustment would be small.

IV. DATE 4/02/81

PREPARED BY

Ken Humphreys, for
Paul B. Arnoldt, Director

AGENCY

Division of Retirement & Benefits

PHONE

465-4460

Original: Legislative Finance

Introduced: 2/20/81
Referred: State Affairs and Finance

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

1 IN THE SENATE

2 SENATE BILL NO. 195

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act limiting the adjustment of retirement benefits;
7 and providing for an effective date."

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21 before the employee or beneficiary was notified of the change or error;

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23 beneficiary; and

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25 service with the state and not with another participating employer.

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29



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

MEMORANDUM

April 7, 1981

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Senate Bill 195: Limiting the Adjustment of Retirement Benefits

BACKGROUND

This bill remedies a problem which the Blue Ribbon Commission was advised of in testimony from a retired state employee. When the employee retired in 1976, she had been advised on four separate occasions by the staff of the Division of Retirement and Benefits that she was eligible for more than nine years of credited service with the state. Shortly after she retired the legislature amended the retirement laws and she was told that she would receive credit for an additional three years because of her military service. She began receiving retirement benefits on that basis.

In 1979 the division wrote to advise her that their original computations had been in error and that her years of employment with the University of Alaska could not be included in her credited service. Therefore, she had received over \$5000 in benefits which she would have to repay. They reduced the amount of her check by \$100 to be credited towards that overpayment, in addition to reducing the check to the amount she was actually entitled to receive. The basis for denying credit for the employee's period of service with the University of Alaska was a regulation adopted by the Division of Retirement and Benefits in 1978 -- two years after she had retired.

The employee appealed to the Public Employee Retirement Board, which can waive collection of overpayments in cases of hardship. In determining whether there would be hardship to the employee, the board considered her family's financial situation and found that she was not entitled to the waiver.

Commission members discovered that this was not an isolated instance. A number of retired state employees have undergone similar

experiences. They relied on assurances from the Division of Retirement and Benefits only to discover a considerable time later that errors had been made and that their benefits would be reduced.

The commission recommends that a two-year statute of limitations be placed on the collection of overpayments. Two years gives the Division of Retirement and Benefits ample time to audit its records and find and correct any errors made. After that period of time, a retired person should be freed from the burden of having to pay back the state for mistakes of the state's employees. This protection should be available only in cases where the retired person did not contribute to causing the error. It should not apply to persons working for employers other than the state, since those employers may not be in a financial position to absorb the cost of errors made by state employees.

SECTION BY SECTION ANALYSIS

Section 1 amends the Teachers Retirement System by prohibiting the Division of Retirement and Benefits from decreasing benefits in order to collect for a previous overpayment if two conditions are met. The first condition is that the overpayment began two years or more before the division told the retired teacher of the error. The second condition is that the teacher did not cause the error.

Section 2 amends the Public Employee Retirement System in the same way that section 1 amends the TRS. However, in this section there is an additional condition. The error in computation must relate to the employee's credited service with the state, and not with another participating employer.

Section 3 makes the Act retroactive in order to include the retired person who testified before the commission.

Section 4 provides that the Act takes effect immediately in order to address the hardship to retired state employees.

Introduced: 2/20/81
Referred: State Affairs

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

1 IN THE SENATE

2 SENATE BILL NO. 196

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the membership of the Public
7 Employees Retirement Board."

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

9 * Section 1. AS 39.35.030(b) is amended to read:

10 (b) One [THREE] board member [MEMBERS] shall be appointed by the
11 governor and shall serve at his pleasure [MEMBERS OF THE PERSONNEL
12 BOARD OF THE DEPARTMENT OF ADMINISTRATION]. The remaining four [TWO]
13 board members shall be members of the system [AND] elected by the
14 members of the system, and at least one of the elected board members
15 shall be retired.

16 * Sec. 2. Notwithstanding AS 39.35.030(b), as amended by sec. 1 of this
17 Act, a person serving on the Public Employees Retirement Board on the effec-
18 tive date of this Act who was from the personnel board of the Department of
19 Administration shall continue to serve until his successor is elected or
20 appointed by the governor.



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

MEMORANDUM

April 3, 1981

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer *TBC*
Administrative Assistant

SUBJECT: SB 196 Relating to the Membership of the Public
Employees Retirement Board.

This bill amends the Public Employees Retirement Act to change the membership of the Public Employees Retirement Board. The law presently requires that the three members who are appointed to the Personnel Board shall also serve on the PERB. AS 39.35.030. Those three individuals are also, by statute, appointed to the Labor Relations Agency, which is involved in collective bargaining issues. AS 23.40.250(3). The activities of both the LRA and the PERB have grown considerably recently. In the last legislative session, the PERB was made responsible for overseeing the supplemental employee benefit program and the deferred compensation program for state employees. AS 39.35.040(9) and (10). The increase in the number of state employees who are members of collective bargaining organizations has led to additional work for the LRA. The three members of the Personnel Board are citizen volunteers appointed by the Governor who are not employed by the state.

While the issues which are addressed by the Personnel Board are related to some of the issues addressed by the Labor Relations Agency, this is not the case with the subjects of concern to the Public Employees Retirement Board. Therefore, the Blue Ribbon Commission recommends that the members of the Personnel Board continue to serve as the members of the LRA and that they be removed from the PERB. The PERB should be composed of four elected members and one member appointed by the Governor. In addition, the commission recommends that one of the elected members should be a retired person to insure that those most directly affected by the system have a voice in the decision-making body.

Section 1 of the bill sets out the changes in membership of the PERS board which are discussed above.

Section 2 is a temporary measure to enable the board to continue to act until new members have been selected according to the new method.

TBC:lmk

FISCAL NOTE

FILE WITH BILL

I. REQUEST

Bill/Resolution No. Senate Bill No. 196
 Title An Act Relating to the Membership of the Public Employees Retirement Board
 Requested by Senator Fischer Date 4/03/81

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Labor Services

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01 (PERS)

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		14.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 STATE TRS MATCHING						
100 BENEFITS						
TOTAL	-0-	14.0	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS		14.0				
TRS						

POSITIONS

NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

Costs in FY82 are to conduct a PERS wide election of two Board members.

Term of office is six years.

IV. DATE 4/06/81 PREPARED BY Ken Humphreys, for Paul B. Arnoldt, Director
 AGENCY Division of Retirement & Benefits
 PHONE 465-4460
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) Senator Ray
 Office of the Governor (Keith Specking)

SB 196

Introduced: 2/20/81
Referred: State Affairs and
Judiciary

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

1 IN THE SENATE

2 SENATE BILL NO. 197

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act applying the Administrative Procedure Act
7 (AS 44.62) to adoption of regulations by state retire-
8 ment systems."

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

10 * Section 1. AS 39.35.042 is repealed and reenacted to read:

11 Sec. 39.35.042. REGULATIONS. Adoption of regulations under this
12 chapter is subject to the Administrative Procedure Act (AS 44.62).

13 * Sec. 2. AS 14.25.022 is repealed and reenacted to read:

14 Sec. 14.25.022. REGULATIONS. Adoption of regulations by the
15 administrator under this chapter is subject to the Administrative
16 Procedure Act (AS 44.62).

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JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

MEMORANDUM

April 3, 1981

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer *TBC*
Administrative Assistant

SUBJECT: SB 197 Applying the Administrative Procedure Act (AS 44.62)
to Adoption of Regulations by State Retirement Systems.

This bill amends the law to require that both the Public Employees Retirement Board and the Teachers Retirement System administrators comply with the Administrative Procedure Act when adopting regulations. Both retirement systems are presently exempted from the APA. The Blue Ribbon Commission recommends the change because of concern that regulations have been adopted in the past without adequate opportunity for public comment. Although rule-making under the APA may be more time-consuming than rule-making under the present methods of the retirement systems, the improved public notice requirements outweigh that disadvantage. In instances in which either retirement system is faced with a need for immediate change in regulations, the APA provides for emergency rule-making. AS 44.62.250.

Section 1 of the bill amends the Public Employees Retirement System statute to make the PERS subject to the APA rule-making requirements.

Section 2 amends the Teachers Retirement System statute to make the TRS subject to the APA rule-making requirements.

TBC:lmk

JEST

Bill/Resolution No. Senate Bill No. 197

Title An Act Applying the Administrative Procedure Act (AS 44.62) to Adoption of Regulation

Requested by Senator Vic Fischer

Date

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Labor Services

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01 (PERS)

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 STATE TRS MATCHING						
100 BENEFITS						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

SAA

SB 197

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement & Benefits

Program Category Affected Labor Services and Elementary & Secondary Education

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-02 (TRS) 02-11-8-02-01-00 (TRS MATCH

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
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500 EQUIPMENT						
600 LAND & STRUCTURES						
700 STATE TRS MATCHING						
100 BENEFITS						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

John A. Logan
Del
Je



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

SCOMM

#51:15

Original sponsor: Rules/Legislative Council

Offered: 5/17/82
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

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

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (A) Alaska Gas Pipeline Financing Authority;

28 (B) Alaska Permanent Fund Corporation;

29 (C) Alaska Energy Center;

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

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

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

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

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

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

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

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

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

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

1 mansion.

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (A) Alaska Public Broadcasting Commission;

10 (B) Professional Teaching Practices Commission;

11 (C) Parole Board;

12 (D) Board of Nursing;

13 (E) Real Estate Commission;

14 (F) Alaska Royalty Oil and Gas Development Advisory

15 Board;

16 (G) Alaska Historical Commission;

17 (H) Alaska State Council on the Arts;

18 (I) Alaska Police Standards Council;

19 (J) Council on Science and Technology;

20 (K) Older Alaskans Commission;

21 (10) Alaska Pioneers' Home managers;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 shall be designated as permanent part-time employees;

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

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

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

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

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

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

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

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

1 unique to their departments:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 Sec. 39.25.181. DEFINITIONS. In this chapter,

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

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

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

19 (C) prevent another from acquiring pertinent information;

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

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

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

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

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

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

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

8 (2) take part in a political campaign;

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

12 (4) register party preference;

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

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

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

19 * Sec. 20. AS 39.25.180 is repealed.

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

Original sponsor: Rules/Legislative Council

Offered: 5/17 /82
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

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

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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26 and (2) the exempt and partially exempt service as specifically pro-
27 vided.

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

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2 service and are exempt from the provisions of this chapter and the
3 rules adopted under it:

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

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

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

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

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

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

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

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

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

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

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

27 (A) Alaska Gas Pipeline Financing Authority;

28 (B) Alaska Permanent Fund Corporation;

29 (C) Alaska Energy Center;

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

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

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

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

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

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

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

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

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

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

1 mansion.

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5 plan established under this chapter and are compensated according to
6 the pay plan (AS 39.27.011).

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

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

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16 departments of the executive branch, including the assistant adjutant
17 general of the Department of Military Affairs;

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

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

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

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

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

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

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

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

9 (A) Alaska Public Broadcasting Commission;

10 (B) Professional Teaching Practices Commission;

11 (C) Parole Board;

12 (D) Board of Nursing;

13 (E) Real Estate Commission;

14 (F) Alaska Royalty Oil and Gas Development Advisory

15 Board;

16 (G) Alaska Historical Commission;

17 (H) Alaska State Council on the Arts;

18 (I) Alaska Police Standards Council;

19 (J) Council on Science and Technology;

20 (K) Older Alaskans Commission;

21 (10) Alaska Pioneers' Home managers;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (1) posted in public buildings throughout the state;
28 (2) published in one or more newspapers of general circulation
29 throughout the state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 shall be designated as permanent part-time employees;

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

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

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

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

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

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

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

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

1 unique to their departments:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 Sec. 39.25.181. DEFINITIONS. In this chapter,

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

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

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

19 (C) prevent another from acquiring pertinent information;

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

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

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

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

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

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

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

8 (2) take part in a political campaign;

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

12 (4) register party preference;

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

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

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

19 * Sec. 20. AS 39.25.180 is repealed.

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

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

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

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

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

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

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

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

IV. DATE 5/18/82 PREPARED BY Michael P. McMullen
AGENCY Administration - Division of Personnel
Original: Legislative Finance PHONE 465-4430
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

FICAL NOTE continued

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

(\$19.2 Thous.)

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

(\$42.2 Thous.)

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

(\$2.8 Thous.)

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

(\$.6 Thous.)

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

(\$2.0 Thous.)

- 6) printing of forms incorporating AAC references.

(\$1.0 Thous.)

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

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

Original sponsor: Rules/Legislative Council

Offered: 4/23/82
Referred: Judiciary

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

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

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) the compensation authorized for a state employee.

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

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

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

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

1 vided.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (19) firefighters employed by the Department of Natural

1 Resources for a fire emergency;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (A) Alaska Public Broadcasting Commission;

14 (B) Professional Teaching Practices Commission;

15 (C) Parole Board;

16 (D) Board of Nursing;

17 (E) Real Estate Commission;

18 (F) Alaska Royalty Oil and Gas Development Advisory

19 Board;

20 (G) Alaska Historical Commission;

21 (H) Alaska State Council on the Arts;

22 (I) Alaska Police Standards Council;

23 (J) Council on Science and Technology;

24 (K) Older Alaskans Commission;

25 (10) Alaska Pioneers' Home managers;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 order of their relative performance in the examinations;

2 (5) the procedure for certifying eligible candidates;

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

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

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

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

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

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

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

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

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

1 mance records;

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

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

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

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

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

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

1 November 7, 1975;

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

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

11 (21) the granting of employment preference to severely handi-
12 capped persons; this includes the right to provisional appointment
13 without competitive examination for periods up to four months and the
14 granting of eligibility to a severely handicapped person provisionally
15 appointed under the rules who demonstrates ability to perform the job
16 for permanent appointment without competitive examination; provisional
17 employment under this paragraph may not exceed four months during a
18 12-month period; "severely handicapped" as used in this paragraph means
19 persons certified by the director of the division of vocational reha-
20 bilitation to be severely handicapped;

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

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

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

1 exempt service and placed in the classified service;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 from the classified service to the personnel board.

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

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

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

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

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

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

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

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

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

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

15 Sec. 39.25.181. DEFINITIONS. In this chapter,

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

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

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

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

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

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

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

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

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

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

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

13 (2) take part in a political campaign;

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

16 (4) register party preference;

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

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

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

23 * Sec. 20. AS 39.25.180 is repealed.

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

Original sponsor: Rules/Legislative Council

Offered: 4/7/82
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

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

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 vided.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Resources for a fire emergency.

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (A) Alaska Public Broadcasting Commission;

10 (B) Professional Teaching Practices Commission;

11 (C) Parole Board;

12 (D) Board of Nursing;

13 (E) Real Estate Commission;

14 (F) Alaska Royalty Oil and Gas Development Advisory

15 Board;

16 (G) Alaska Historical Commission;

17 (H) Alaska State Council on the Arts;

18 (I) Alaska Police Standards Council;

19 (J) Council on Science and Technology;

20 (K) Older Alaskans Commission;

21 (10) Alaska Pioneers' Home managers;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 approval.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (5) the procedure for certifying eligible candidates;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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