

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1369 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

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

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

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

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

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

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

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

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

25 (7) the state forester in the Department of Natural Resour-
26 ces;

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

29 (9) not more than two special assistants to the commissioner

1 of each of the principal departments of the executive branch, but the
2 number may be increased if the partially exempt service is extended
3 under AS 39.25.130 to include the additional special assistants;

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

6 (A) Alaska Public Broadcasting Commission;

7 (B) Professional Teaching Practices Commission;

8 (C) Parole Board;

9 (D) Board of Nursing;

10 (E) Real Estate Commission;

11 (F) Alaska Royalty Oil and Gas Development Advisory

12 Board;

13 (G) Alaska Historical Commission;

14 (H) Alaska State Council on the Arts;

15 (I) Alaska Police Standards Council;

16 (J) Council on Science and Technology;

17 (11) Alaska Pioneers' Home managers;

18 (12) hearing examiners in the Department of Revenue;

19 (13) the comptroller in the division of treasury, Department
20 of Revenue;

21 (14) investment officers in the Department of Revenue;

22 (15) the chief of subsistence in the Department of Fish and
23 Game;

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

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

1 (18) the executive director and staff of the Alaska Public
2 Offices Commission;

3 (19) the director, deputy director, personnel analysts II,
4 labor relations analysts I, labor relations analysts II, senior negoti-
5 ators, and research directors of the division of labor relations in the
6 Department of Administration.

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

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

13 (1) involves principal responsibility for the determination
14 of policy;

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

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

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

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

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

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

28 (b) The commissioner of administration shall review the proposed
29 amendments and if he approves them, he shall submit them to the person-

1 nel board.

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

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

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

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

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

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

18 (4) the proposed amendments become effective 45 days after
19 they are submitted to the personnel board unless the board has dis-
20 approved them;

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

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

25 (1) recruitment;

26 (2) examinations;

27 (3) selection methods;

28 (4) prohibitions and penalties;

29 (5) public records;

- 1 (6) eligible lists;
- 2 (7) hours of work;
- 3 (8) merit increases; and
- 4 (9) hearings and appeals relating to matters listed in (1) -
- 5 (8) of this subsection.

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

7 Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall

8 provide for

9 (1) the preparation, maintenance, and revision by the direc-

10 tor of personnel, subject to approval of the commissioner of adminis-

11 tration and the personnel board, of a position classification plan for

12 all positions in the classified and partially exempt services; the

13 position classification plan shall include

14 (A) a grouping together of all positions into classes

15 on the basis of duties and responsibilities;

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

17 and responsibilities, training and experience qualifications, and

18 other necessary position specifications for each class of posi-

19 tions;

20 (2) the preparation, maintenance, revision and administra-

21 tion by the director of personnel of a pay plan for all positions in

22 the classified and partially exempt services; the pay plan (A) shall be

23 based upon the position classification plan; (B) shall provide for fair

24 and reasonable compensation for services rendered, and reflect the

25 principle of like pay for like work; (C) may be amended, approved, or

26 disapproved by the legislature in regular or special session; after the

27 pay plan is in effect, a salary or wage payment may not be made to a

28 state employee covered by the plan unless the payment is in accordance

29 with this chapter and the rules adopted under this chapter or unless

1 the payment is in accordance with a valid agreement entered into in
2 accordance with AS 23.40;

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

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

9 (5) the procedure for certifying eligible candidates;

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

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

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

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

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

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

1 (12) the payment of transportation costs when an employee
2 transfers from one area to another at the request of the employer;

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

5 (14) layoffs for reason of lack of money or work, abolition
6 of positions, or material changes in duties or organization; both
7 performance and seniority records shall be considered in the develop-
8 ment of layoff orders;

9 (15) the development, maintenance, and use of employee perfor-
10 mance records;

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

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

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

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

19 (20) the granting of employment preference rights to a veter-
20 an at each time application is made for employment not within the area
21 of promotion, when the veteran possesses the necessary qualifications
22 in the job classification applied for under this chapter; in the exami-
23 nation to determine the qualification of applicants for entrance into
24 the classified service under merit system examination, five additional
25 points shall be added to the passing grade of a veteran and ten addi-
26 tional points shall be added to the passing grade of a disabled veter-
27 an; if a position in the classified service is eliminated, employees
28 shall be released in accordance with rules which give due effect to all
29 factors; if all job qualifications are equal, the veteran shall be

1 given preference over the nonveteran and the veteran shall be kept on
2 the job; in this paragraph

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

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

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

16 (22) the granting of employment preference to severely handi-
17 capped persons; this includes the right to provisional appointment
18 without competitive examination for periods up to four months and the
19 granting of eligibility to a severely handicapped person provisionally
20 appointed under the rules who demonstrates ability to perform the job
21 for permanent appointment without competitive examination; provisional
22 employment under this paragraph may not exceed four months during a
23 12-month period; "severely handicapped" as used in this paragraph means
24 persons certified by the director of the division of vocational reha-
25 bilitation to be severely handicapped;

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

1 (24) the delegation, when feasible, of personnel responsibil-
2 ities and duties to the principal departments of the executive branch;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (f) Action affecting the employment status of a state employee or
19 an applicant for a position in state service, including appointment,
20 promotion, demotion, suspension, or removal, may not be taken or with-
21 held on the basis of unlawful discrimination due to race, sex, color,
22 religion, national origin, age, or handicap.

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

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

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

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

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

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

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

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

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

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

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

28 (g) An employee begins an appeal by filing a written request for
29 review of the action with the personnel board within 15 days of receiv-

1 ing written notice of the action from the appointing authority.

2 (h) If requested by the employee at the time of filing an appeal,
3 the personnel board shall hold a hearing to determine the reasonable-
4 ness of the the action taken by the appointing authority. If the
5 employee requests it, the hearing shall be open to the public. The
6 employee may be represented by another person and has the right to
7 present evidence. Technical rules of evidence do not apply to the
8 hearing.

9 (i) If the personnel board finds that the action complained of
10 was due to unlawful discrimination based on race, sex, color, religion,
11 national origin, political beliefs, age, handicap, or in violation of
12 the provisions of this chapter or the personnel rules, the employee
13 shall be reinstated to the position without loss of pay or leave bene-
14 fit for the period of dismissal, demotion, or suspension. In all other
15 cases, the board shall report its findings and recommendations to both
16 parties.

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

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

20 (b) If a person refuses to respond to a subpoena issued under
21 this section, or refuses to testify at a hearing authorized by AS 39.-
22 25.170, the personnel board may apply to the superior court for an
23 order requiring the person to respond to the subpoena or to testify.

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

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

28 Sec. 39.25.181. DEFINITIONS. In this chapter,

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

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

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

7 (C) prevent another from acquiring pertinent informa-
8 tion;

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

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

17 (4) "state employee" means a person employed by the state
18 who is paid a wage or salary, but does not include a person hired by
19 the state to work as an independent contractor.

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

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

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

25 (2) take part in a political campaign;

26 (3) express political opinions;

27 (4) register party preference;

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

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

3 (7) make contributions to a political party or a candidate
4 for public office.

5 * Sec. 20. AS 39.25.180 is repealed.

6 * Sec. 21. This Act takes effect July 1, 1981.
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FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 193 Page 1 of 4Title An Act amending the State Personnel Act (AS 39.25)Requested by Rules Committee (for the Blue Ribbon Commission) Date 02-20-81

II. FISCAL DETAIL

Agency Affected AdministrationProgram Category Affected General GovernmentBRU, Program, or Subprogram(s) Affected Personnel

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		56.4	62.1	68.3	75.1	82.6
200 TRAVEL		.7	.8	.9	1.0	1.1
300 CONTRACTUAL		6.4	7.0	7.7	8.5	9.4
400 COMMODITIES		6.0	.9	1.0	1.1	1.2
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		69.5	70.8	77.9	85.9	94.3

FUNDING (Thousands of Dollars)

GENERAL FUND		69.5	70.8	77.9	85.9	94.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		2	2	2	2	2
PART TIME						
TEMPORARY						

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

Personal Services: A Regulations Specialist II and a Clerk II will be needed to fulfill the requirements of the Administrative Procedures Act.

Travel was inflated at a rate of 12 per cent. All other factors were inflated at a rate of 10 per cent. FY 82 contains one time furnishing costs in commodities.

The cost of the Hearing Officer and Legal Notices will be sustained by the Personnel Board Budget.

IV. DATE March 12, 1981PREPARED BY Bruce CummingsAGENCY Division of PersonnelPHONE 465-4430

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) Senator Ray

cc: Keith Specking (Office of the Governor)

1	POSITION TITLE Regulations Specialist II				RANGE/STEP 16 A	BARG. UNIT. K	LOCATION Bureau	GOV	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE		LEG		
3	TYPE OF EXPENDITURE				JUSTIFICATION:					
	1		2		3					
4	PERSONAL SERVICES:				To properly implement Senate Bill 193, as it has been presented, will require the services of a Regulation Specialist II. The Regulation Specialist II will assist the Director of Personnel in the proper preparation and drafting of new or revised regulations under the Admin. Proc. Act.					
5	SALARY 2,291 per mo.		27,492							
6	BENEFITS 15.79 %		4,341							
7	FICA 6.13 %		1,685							
8	HEALTH INS. 150 per mo.		1,800							
9	TOTAL PERSONAL SERVICES		35,318							
10	TRAVEL		700							
11	CONTRACTUAL		3,200							
12	COMMODITIES		3,000							
13	EQUIPMENT									
14	OTHER									
15	TOTAL COST		complete 42,218							
16	CODE		FUNDING SOURCE							
17	FED RCPTS.		1002							
18	GF MATCH.		1003							
19	GEN. FUND		1001							
20	I-A RCPTS.		1004							
21	PGM RCPTS		1005							
22	OTHER									
23	CONTINUATION									
24	ADDITION									
FOR B&M USE ONLY										
4A KEY NUMBER					COLUMN NO.					

AGENCY Administration PROGRAM Centralized Administrative Services

BRU Personnel

COMPONENT Personnel

13 REQUEST FOR NEW POSITION.

Page 2 of 4

REVISED
DATE

FY 82

1	POSITION TITLE Clerk II				RANGE/STEP 7 A	BARG. UNIT. K	LOCATION Juneau	BOV	APPROV.	DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE		LEG		
3	TYPE OF EXPENDITURE				JUSTIFICATION:					
	1	2	3							
4	PERSONAL SERVICES:				To properly implement Senate Bill 193, as it has been presented, will require the services of a Clerk I. The Clerk I will assist the Regulation Specialist II in the proper distribution of the proposals and in the technical requirements.					
5	SALARY	1,319 per mo.	15,828							
6	BENEFITS	15.79 %	2,500							
7	FICA	6.13 %	970							
8	HEALTH INS.	150 per mo.	1,800							
9	TOTAL PERSONAL SERVICES		21,098							
10	TRAVEL									
11	CONTRACTUAL		3,200							
12	COMMODITIES		3,000							
13	EQUIPMENT									
14	OTHER									
15	TOTAL COST		27,298							
16	CODE	FUNDING SOURCE								
17		FED RCPTS. 1002								
18		GF MATCH. 1003								
19		GEN. FUND 1001		27,298						
20		I-A RCPTS. 1005								
21		PGM RCPTS 1004								
22		OTHER								
21	CONTINUATION									
22	ADDITION									
FOR B&M USE ONLY										
4A KEY NUMBER _____ COLUMN NO. _____										

AGENCY Administration PROGRAM Centralized Administrative Services

BRU Personnel

COMPONENT Personnel

Page 3 of 4

REVISED
DATE _____

**13 REQUEST FOR NEW
POSITION.**

FY 82

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 193 Page 4 of 4Title An Act amending the State Personnel Act

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected AdministrationProgram Category Affected General GovernmentBRU, Program, or Subprogram(s) Affected Labor Relations Agency (Personnel Board)

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		17.0	18.7	20.6	22.6	24.9
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		17.0	18.7	20.6	22.6	24.9

FUNDING (Thousands of Dollars)

GENERAL FUND		17.0	18.7	20.6	22.6	24.9
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Above costs assume costs of \$75/hour for a hearing Officer and a total of 120 hours; \$500/month for contracted secretarial services and 2.0 publications costs. Inflation beyond FY 82 is calculated at 10%.

IV. DATE 03-06-81PREPARED BY Judy CrondahlAGENCY AdministrationPHONE +65-2277

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Senator Ray

33-001 (Rev. 12/80)

Keith Specking

WORK ORDER REQUEST FORM

12- 0000

KEYWORDS: _____

ASSIGNED TO _____

REQUEST FOR: BILL ☒ RESOLUTION ☐ RESEARCH ☐ OTHER ☐

SUBJECT _____

REQUESTED FOR _____ BY _____ EXT. _____

* DELIVER TO _____ TAKEN BY _____

INSTRUCTIONS, EXPLANATIONS _____

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED ☐

AUTHORIZED TO CONFER WITH _____

RETURN _____

_____ TO REQUESTER

APPROVED: _____ Director, Legal Services

REVIEWED _____

IN 1/80 DUE _____

TYPED - Draft _____ DATE _____

Final _____ DATE _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

DRAFT ☐

FINAL ☐

Sec. 39.25.130. Extension of partially exempt and classified services. (a) After June 30, 1961, the personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position which was in the classified service on April 19, 1960, which, in the judgment of the board:

- (1) involves principal responsibility for the determination of policy;
- (2) involves principal responsibility for the way in which policies are carried out; or
- (3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

(b) No positions may be included in the partially exempt service under this section if the inclusion is inconsistent with federal requirements for state agencies supported in whole or in part by federal funds.

(c) After June 30, 1961, the personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position which was in the partially exempt service on April 19, 1960. (§ 7 ch 144 SLA 1960)

Cited in *Haffling v. Inlandboatmen's Union*, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Article 3. Personnel Rules.

Section

- 140. Amendment of personnel rules
- 150. Scope of rules
- 153. Personnel rules for certain departments
- 155. Vocational substitution program

Sec. 39.25.140. Amendment of personnel rules. (a) The director of personnel shall prepare and submit to the commissioner of administration any proposed amendments to the personnel rules for all positions and employees subject to this chapter.

(b) The commissioner of administration shall review the amendments and submit them to the personnel board.

(c) At the time he submits the amendments to the personnel board, the commissioner of administration shall, by posting in public buildings throughout the state, give notice that the personnel board has the amendments under consideration. The amendments have the effect of law 30 days after they are submitted to the personnel board if not disapproved by the personnel board. The personnel board, if requested, may hold public hearings on the amendments.

(d) The rules may provide for exemptions and modifications which are necessary to assure the continuity of federal grants to agencies supported in whole or in part by federal contributions.

(e) The rules adopted under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act. The rules may be published in the Alaska Administrative Register and Code for informational purposes. (§ 12 ch 144 SLA 1960; am § 5 ch 5 SLA 1966)

Legislative history report. — For report on ch. 5, SLA 1966, see 1966 House Journal, pp. 50 and 51.

A right clearly created by statute cannot be taken away by regulation. Mueller v. Alaska State Bd. of Personnel, Sup. Ct. Op. No. 396 (File No. 738), 425 P.2d 145 (1967).

Stated in Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Cited in State in Bogenrife, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

Sec. 39.25.150. Scope of rules. The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval by the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; in the position classification plan all positions shall be grouped together into classes on the basis of duties and responsibilities; the position classification plan shall include for each class of position an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary position specifications;

(2) the preparation, maintenance, revision, and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan shall be prepared after consultation with the appointing authorities or their designee, and with representatives of interested employee groups; the pay plan shall be based upon the position classification plan, shall provide for fair and reasonable compensation for services rendered, and shall be based on the principle of like pay for like work; commissioners' salaries are not the maximum limit for the pay plan and in exceptional circumstances higher salaries may be specified; the pay plan may provide for uniform starting pay, increments, and area and time differentials; the pay plan prepared under this section may be amended, approved or disapproved by the legislature in regular or special session; after the pay plan is put into effect, no salary or wage payment may be made to a state employee covered by the pay plan unless the payment is in accordance with this chapter and the rules adopted under this chapter;

(3) the use of sound employee selection methods, including open competitive examinations to test the fitness of applicants for positions in the state service;

(4) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state

Title of Bill

BRC

Amending the State Personnel Act, *off date*

Ch
112

DATE/PG No.		
1981 2/20	288	Introduced/Referred <i>SA-Jud</i> (Hearing 3/31) (Hearing 5/14)
5/2	1092	Committee Report <i>d/pw/cs (changed off date added)</i> <i>Committee Report = to Jud (Hearing 1/27/82)</i>
4/7/82	818	<i>d/pw/cs (Per Noku) to Rer</i>
4/14/82	902	2nd Reading <i>CS adapted and adapted</i>
4/14	904	3rd Reading <i>passed</i>
		Reconsideration
	904	Vote: Ayes: <u>20</u> Nays: <u> </u> Passed <u> </u> Failed <u> </u> (Opposed voters: <u> </u>)
4/14	916	Sent to Other House:
4/15	1290	Introduced/Referred <i>SA Jud (SA mtg 4/19)</i>
4/23	1522	Committee Report <i>d/pw/cs F.N. 48 to Jud -</i>
5/19	1952	<i>Current R/P - Publicly d/m/p.</i> <i>Fin Adams, Duggan, Delisworth, Carney, Montgomery, No Rec.</i>
5/25	2032	<i>to Rer -</i> 2nd Reading <i>Am - to 3rd</i>

F.N.
HIS 60

B111 Number CSB193 (Jed) amitt

DATE

8/25 2033 3rd Reading passed opposite adopted

Reconsideration

2033 VOTE: Ayes: 51 Nays: 17 Passed ☒ Failed ☐
(Opposed voters: _____)

8/25 2045 Returned to Other House:

Sent to Governor: _____ Date Needed For Action: _____

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

Chapter: 112 Effective Date: _____

Sustained: _____

Overridden: _____

COMMENTS:



Alaska State Legislature

HOUSE CALENDAR

OFFICIAL BUSINESS OF THE HOUSE
ONE HUNDRED THIRTY FIFTH DAY

Tuesday

Chaplain: Reverend Jon Paden
Church of Christ

May 25, 1982

Convenes: 10:00 a.m.

SECOND READING OF SENATE BILLS

- CSSB 193 (Jud) am - "An Act amending state personnel laws; eff. date"
-State Affairs report, p. 1522 replace with HCS CSSB 193 (SA) (same title) Fiscal note Suppl #48
-Judiciary report, p. 1896, replace w/HCS CSSB 193 (Jud) (same title)
-Finance report, p. 1952, replace w/HCS CSSB 193 (Jud) (same title) Fiscal note Supplement #60
-Held from 5/24 calendar.
- CSSB 252 (Fin) - "An Act relating to grants for water supply, sewerage and solid waste facilities; eff. date."
-C&RA report, p. 1864, replace w/HCS CSSB 252 (C&RA) (same title).
-Finance report, p. 1883, replace w/HCS CSSB 252 (Fin)(same title).
-Senate fiscal note attached to bill.
-Held over from 5/24/82 calendar.
- CS 2ndSSSB 275 (Res) am - "An Act relating to the compensation of persons collecting hunting and fishing license and tag fees; eff. date."
-Resources report, p. 1311.
-Finance report, p. 1653.
-Held over from 5/24/82 calendar.
- SB 611 - "An Act revising the criminal penalties for unlawful operation of an aircraft."
-Labor & Commerce report, p. 1228.
-Judiciary report, p. 1337.
-Two zero fiscal notes attached to bill.
-Finance report, p. 1488, replace w/HCS SB 611 (Fin) "An Act relating to operating a motor vehicle, aircraft, or watercraft while intoxicated."
-One zero fiscal note attached to bill.
-Two dollar fiscal notes in Supp. #47.
-Held over from 5/24/82 calendar.

SECOND READING OF SENATE BILLS, CONT'D

- CSSB 693 (Fin) - "An Act changing the termination date of the law giving the supreme court authority over court facilities; eff. date."
-Judiciary report, p. 1685.
-Zero fiscal note attached to bill.
-Finance report, p. 1840, replace w/HCS
CSSB 693 (Fin) "An Act relating to the number of superior court judges and judicial elections; eff. date."
-Two fiscal notes in Supp. #56.
-Returned to Finance 5/15/82, p. 1871.
-Finance report, p. 1896, replace w/HCS
CSSB 693 (2nd Fin) "An Act relating to the number of superior court judges; eff. date."
-Two fiscal notes Supp. 59.
-Held over from 5/24/82 calendar.
- SB 719 - "An Act providing that the Dept. of Education conduct a computer network study; eff. date."
-HESS report, p. 1825.
-Finance report, p. 1884.
-Fiscal note in Supp. #57.
-Held over from 5/24/82 calendar.
- SB 735 - "An Act relating to organization grants and transitional assistance for municipalities; eff. date."
-C&RA report, p. 1494.
-Finance report, p. 1895, replace w/HCS
SB 735 (Fin) "An Act relating to judicial elections; eff. date."
-Fiscal note Supp. # 59.
-Held over from 5/24 calendar.
- CSSB 741 (Fin) - "An Act relating to child support enforcement; eff. date"
-Rules report, p.
- Judiciary waived 5/13/82
-Held over from 5/24 calendar.
- CSSB 748 (Fin) - "An Act relating to interest on state bonds and notes; eff. date."
-Finance report, p. 1723, replace w/HCS
CSSB 748 (Fin) (same title).
-Held over from 5/24/82 calendar.
- SB 772 - "An Act making a special appropriation to the Dept. of Nat. Resources for construction of a plant quarantine station at the plant materials center (AS 03.22) operated in co-operation with the Institute of Agricultural Sciences; eff. date."
-Resources report, p. 1311.
-Finance report, p. 1654.
-From Rules, returned to Finance, p. 1790.
-Moved from Finance to Rules 5/14/82, p. 1853
-Held over from 5/24/82 calendar.

3/31

major changes

Q a.m.
(PR's for Nancy
(CB memo's Nancy
Cherie

pg 2
lines 6-25

Section 6. 39.25.080. Public Records
Existing statute

PR

* Nancy - copy of Neil Thomas' atty's report

Back to SB 193

Bruce Cummings

3 areas of concern

① adoption of PR's ≠ by APA

pg 8 / line 6-8: (d) ~~delete~~

def of public policy (f) - internal mgt matters
need for labor in exec branch

Sen Fisher: EEO overlap in selection (etc)

BC: issues addressed across barg. table. - Rules changed
by CB & statutory changes rather than on own initiative
K's vary

If these are matters of public policy are they
subject to barg

② Expansion of ~~pr~~ by adding LR staff. Career
employees.

③ Certificated teachers employed in schools op'd by state

(2)

3/31

Cherie Shelby

120 ~~38~~

leave in classif service

Her amendments

38 places Commercial Fish & Post sec Educ → clas

§12

140 - Amendment of Rules
Don't make subject to APT

§13

39.25.150 (3) delete efficiently line 4

§15 & §16

Title XVIII amendments

Bob Manners - NEA

for Correspondence Teachers
want them left exempt

Jerry Hiley (?) D of Educ

At Skills Center employees - Dept submit
written comment - leave in exempt service

Barbara Dale - status of women

Discrepancies & minorities

Veteran's preference

Access into military limited

(23) def of disadvantaged
page 14 line 22 mental status

Susan Clark - AAUW

Exclusionary impact on ♀

Reward sacrifice / ease return civ status

③

3/31

Limit on time

system overweighted in favor of vet by 5 pts

- ① modify pt & place time limit
or ② amend def of vet to > those affected by war
(eg Aleut relocation / merchant marines, Red Cross, etc)

♀ in war: 2 million WWII shipyards / munitions,
factories - production

personal sacrifice, patriotism, danger

WWII: more deaths - industrial accid than combat

SB 104 - Vet's Pref addressed too

♀
♂

Sen Bradley - < to 181 days of service) to be
entitled

Handicapped ⇒ same pref as vet's

Most personnel are non-vets

Burt Finley - pro SB 104

Sen Bradley further expl 104

Bruce Cummings SB 104
7/24-hr

- (3) can be done - computerized tracking system
Ranks on eligible list chg daily
* delete & renumber

- (4) line 23 - progr mgr burden
presently 4-10 days

* suggestion delete from vet's pref & amend
SB 193 (AS 39.25.150) to specify time
for all.

④

3/31

Sen F asked Bruce to propose amdt's
Sen Bradley will get together w/ all of us
(BC, NG, Sen Ray, TBC) & CS

Summary of other chgs
(disabled vets)

line 6 pg 2 - job qualif - vet prom
before another: CB agn't

Cherie Shelley on SB 104

transition military to civilian life -
one time use of points / not avail. ad infinitum

#4 pg 1

Niel Thomas

Cautionary note: EEO bill conflict w/
vets pref.

Also At SCt interps anti-discrim law more
liberally than other cts / US SCt

Sen F: is any preference constitutional (?)

NT: limit amt of impact - CS AAUW amdt's
to est that ≠ discriminatory

SF: apply only to vets but limit still cause prob?
Given "suffered hardship" as leg finding?

3/26

Kay Schily

leg liaison says tenure laws also
cover to place in exempt service.
Dept of S.O. Schools abolished

Def. in Corresp Study § statute makes
corresp study area a school § 6, (8) of 150
work cover.

Admins of Corresp Study & some Seward people
are classified. Alaska Skills Center
in Seward. May be additional ones
created.

Gerry Hilby?

2/5/82 Senate Judicial CS&B 193

Com. chgs

pg 4/8 (E) AK Com Fish Entry Comm
(F) Post Sec Educ Comm

pg 18 Sec 20 STAF CS & § 21 Delete

pg 11/16
11/17 Vets pref

18/29 Effective Date 7/1/82

Fish & Game - 4 resource ^{divisions} ~~positions~~

712 perm seas - 56 > 120 days

① Cost of beris (

comparison 399 as nps & perm seas \$471,000

np 8% ben rate

pseas 15 3/4 % std / +10% pol.
+ cost of insurance

② Recruiting - lg reg F&G Tech II & III
Fish Cult II

400-500 positions

Com. Fish Anch Regl Office - 175 pos.

Surveyed 1979 cost \$3900

✓ 1980 \$14,600

✓ 1981 \$14,000 40 ppe

Short term positions - ppl don't come back

③ Recruiter's time - Apr-june lg 8- lg 20's
involved in recruiting effort

217
175 mandays to fill 175 pos.

Conserv est \$28,000

2/5/82 Judiciary Committee

④ Local hire - not on reg

⑤ Try to get early start - recruiting in May for July position

⑥ College students

Sen. Parr: If 4 diff Divs can't coordinate recruitment that's an internal matter

Perm seas → remedy abuse of temp

Sen Ray: Just don't want to follow

Hold one wk for specific language

Sen Parr: Why paperwork & expense for short term jobs

Sen Ray:

Sen Parr: why register for short term jobs

full wk monday - CSSB 193 (Judiciary)

Susan Clark - Veteran's Preference
limit use of pref pts for 10 yrs

RIF rts lim 10 yrs

Pts reduced slightly

→ ♀ who served WWII but ≠ vets

Sen Ray: staff prepare lang to → ♀

2/2 KK

Ex .110

(2) / (3) just & judges
(4) / (10) / (15) leg
~~(11) / (12)~~

(17) all licensed physicians
forest fire fighters
(18) petr engineers - one div.

170 Hearings & appeals - discrim (i)
enforcement outside exec branch

delete

120(15) Chg subs → div dir

(17) Dep Dir, DOJ Commerce

pg 10 L18^{.150} ~~delete~~ (12) - travel for transfer
AP Manual addresses where non CB
~~delete~~

(25) ex er pt → classified

13/15

(2) applicants on the deptal elig. lists

13/27

(a) - judicial branch - sep. of powers issue

14/10
~~14/10~~

(e) Redraft to say by filing for office
person for fits pos

(f) sep of powers issue / multiple routes of appeal
if appeal pursued through other ^{g-judicial} agency
w/ ^{sim} powers of relief, P Bd may defer
(adeq. remedy - H Rts Comm)

16/19

(i) Appeal by both ER & EE to CT

17/25

EE Political Rts Not on state premises & on own
time - Not on-the-job

1/27 Senate Judiciary
Bob Simon, Limited Entry Comm

Should be 2 in 39.25.110 (12) - all ex.
minor issue: ϕ exec officer - 311 Div Dir's

Fred Muller - DOJ A

Concerns:

- ① pg 2 23 110(7) ^{certif. teachers} teachers as ex -
make them classified
- ② pg 8 §12 Am. Pers. Rules
Rules $\rightarrow$ APA Pers. system = internal
§ (c) - (h) deleted Replace w/ current stat.
- ③ Vets pref pg 11 ϕ c20
allow
- ④ pg 12 ϕ 25 delete - pg 4 ϕ ex $\rightarrow$ classified
- ⑤ ~~§ 20~~ ϕ 21 Post Sec ϕ him Entry
delete placing in classified



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.

James O. Smith
Signature of Camera Operator

12/15/89
Date

SCOMM

#51:16



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

June 9, 1982

TO: Members of the Blue Ribbon Commission

FROM: Teresa B. Cramer *TBC*
Administrative Assistant

SUBJECT: Legislation Sponsored by the Commission

Enclosed are copies of HCS CSSB 193(Jud) am H, amending the State Personnel Act, and SCR 44, extending the life of the Blue Ribbon Commission. Both measures were sponsored by the Commission and passed the Legislature this session. In addition, a copy of CCS HB 697, authorizing preference for local hire, is included for your information.

HCS CSSB 193(Jud) am H. STATE PERSONNEL ACT

The Legislature made several changes to SB 193 as it moved through the House and Senate. The major changes are noted below.

Section 7. AS 39.25.110. EXEMPT SERVICE.

The bill was amended to include changes made to this statute during the First Session of the Legislature. In addition, the staff of the Governor's and Lieutenant Governor's offices are moved from the partially exempt to the exempt service except for those who are employees of councils, boards and commission. (See AS 39.25.110(20) and 39.25.-120(5).) Paragraph (7) continues to place correspondence teachers and teachers in skill centers in the exempt service.

Sections 11, 12 and 13. AS 39.25.140. AMENDMENT OF PERSONNEL RULES.

The amended bill requires additional public notice when there are proposed amendments to the Personnel Rules. The original bill required that amendments affecting matters of public policy be adopted in accordance with the Administrative Procedure Act, but this requirement has been deleted. The amended Rules are required to be published in the Administrative Code for informational purposes.

Section 14. AS 39.25.150. SCOPE OF THE RULES.

Paragraph (19) changes the language concerning the veterans' preference system, but does not change the basic structure of the system. Paragraph (24) adds language to provide for a transition period for employees whose positions are moved from the exempt or partially exempt service into the classified service. The transition period is intended to assist them in finding employment in the classified service.

Section 16. AS 39.25.160. GENERALLY.

Subsection (e) has language added to make clear that when a classified or partially exempt employee becomes a candidate for state or national office, his or her resignation is automatically effective on the date of filing a declaration of candidacy.

In addition to these changes the Legislature also deleted some recommendations of the Commission. Exempt and partially exempt employees will not have rights of appeal to the Personnel Board in cases of unlawful discrimination. The staff of the Division of Labor Relations is not placed in the partially exempt service. Those employees remain in the classified service.

CCS HB 697. LOCAL PREFERENCE

This bill in its original form would have eliminated most of the hiring system controls for nonpermanent positions lasting 120 days or less. The Conference Committee Substitute provides instead for a streamlined hiring process for nonpermanent and permanent seasonal positions when there are no local residents on the register. The hiring authority may select an individual from referrals made by the job service office of the Department of Labor serving the area.

RETIREMENT AND NEPOTISM LEGISLATION

The bills sponsored by the Commission to make changes in the retirement laws did not pass the Legislature, nor did SB 194, amending the nepotism laws.

TBC:lmk
Enclosures



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

May 24, 1982

TO: Representative Jack Fuller, Vice Chairman

FROM: Teresa B. Cramer *Jerry*
Administrative Assistant

SUBJECT: Amendment to HCS CSSB 193(Jud)

Page 6, line 28: After "executive director", delete "and". Insert
",". After "deputy director" insert ", hearing officers, and admini-
strative law judges"

The full text of paragraph (6) would then read:

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

This amendment would incorporate changes made to the State Personnel
Act after SB 193 was first introduced.

TBC:lmk

A M E N D M E N T

TO: HCS CSSB 193(Jud)

Page 6, Line 28:

After "executive director", delete "and", insert ","

After "deputy director" insert

", hearings officers, and administrative judges"

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

MEMORANDUM

TO: Representative Jack Fuller
Vice-Chairman

FROM: Teresa B. Cramer
Administrative Assistant

DATE: May 24, 1982

RE: HCS CSSB 193 (Jud) - Amending State Personnel Laws

The Blue Ribbon Commission sponsored Senate Bill 193 as a comprehensive revision of the State Personnel Act. It makes changes in some personnel practices, clarifies some provisions of the Act and makes it consistent with the Public Employment Relations Act. The State Personnel Act was written in 1961 and has not been revised as a whole since that time.

Page 2
Lines 6-25

Section 6. Amending AS 39.25.080. PUBLIC RECORDS.

This section sets out those personnel records which will be open to public inspection. All other personnel records will be kept confidential.

The current law provides that all records are public except those which the Personnel Rules make confidential. In fact, the amendment would not change the existing practice since those items listed are the only personnel records now open to the public.

Page 4
Line 4

Section 7. Amending AS 39.25.110. EXEMPT SERVICE.

This section adds statutory reference to employees of the Citizen's Advisory Commission on Federal Areas in Alaska (11)(G), petroleum engineers and petroleum geologists employed by the Oil and Gas Conservation Commission (14), employees of the state who reside in foreign countries (17), employees of the Alaska Seafood Marketing Institute (18), and firefighters employed by DNR for a fire emergency (19).

Page 4
Line 28

The House Committee Substitute adds paragraph (20) which changes employees of the Office of the Governor and the Lt. Governor from the partially exempt to the exempt service. Employees of councils, boards, or commissions established by statute in those offices are left in the partially exempt service.

Page 5
Line 2

Section 8. Amending AS 39.25.120. PARTIALLY EXEMPT SERVICE.

There was considerable debate about whether to place the employees of the Division of Labor Relations who are responsible for negotiating labor relations contracts into the partially exempt service. The current House Committee Substitute does not place them in the partially exempt service.

The Department of Administration recommended that these employees remain in the classified service to encourage career employees who would develop expertise in the area and to shield them from undue political pressure.

They are currently classified employees who are not members of any bargaining unit. At one time they were members of the Confidential Employees Association.

Page 5
Line 25

Paragraph (5) provides that employees of councils, boards and commissions established in the Office of the Governor or the Lt. Governor are in the partially exempt service. This retains current law. Other employees of the Office of the Governor are moved into the exempt service by the amendment to AS 39.25.110(20) (page 4, line 28 above).

Page 7
Line 22

Section 11. Amending AS 39.25.140(c). AMENDMENT OF PERSONNEL RULES.

The House Committee Substitute retains the existing procedures for amendment of the Personnel Rules. It adds requirements in paragraphs (2), (3), and (4) for greater notification to the public and to those Alaskans who have expressed an interest in the subject.

The Blue Ribbon Commission heard testimony from individuals that existing procedures on notification of rule changes were inadequate. People who wished to raise issues about the effect of some proposals did not learn of the amendments before the Personnel Board until after they had been adopted.

Page 8
Line 5

Section 12. Amending AS 39.25.140 (e). AMENDMENT OF PERSONNEL RULES.

This section changes existing law to provide that the Personnel Rules shall be published in the Alaska Administrative Code. Currently the law provides that they may be. Publication of the Rules will provide better notice to Alaskans concerned about state employment of the regulations governing that system.

Although collective bargaining has limited the application of the Rules to state employees they still remain effective in part for the state workforce. Any limits on their application could be indicated at the time of publication.

Page 8
Line 10

Section 13. Amending AS 39.25.140 (e). AMENDMENT OF PERSONNEL RULES.

Two subsections are added. Subsection (f) is a safeguard in case someone who has requested notification of rule changes inadvertently is omitted from the mailing list.

Subsection (g) retains current law that amendments are effective 30 days after approved by the Personnel Board.

Page 8
Line 16

Section 14. Amending AS 39.25.150. SCOPE OF THE RULES.

This section remains basically the same as the current law with the following exceptions:

Page 10
Line 21

(15) no longer sets a limit of 30 days to a period of disciplinary suspension.

Page 10
Line 23

(16) adds a requirement that the Personnel Rules include procedures for resolving disputes from the general public.

Page 11
Line 1

(19) sets out the provisions for veterans' preference in state employment in different form. The substance of the preference is basically unchanged. The definition of veteran is amended to require that an individual have served 181 days in active service instead of the present 90 days. This is in conformance with federal veterans' preference system. The definition of disabled veteran is also changed slightly. It no longer requires that an individual have a 10% service connected disability but instead specifies that the individual be entitled to compensation from the Veterans' Administration.

Page 12
Line 12

(22) provides that the Personnel Rules shall include procedures for programs which may be set up to facilitate the employment of disadvantaged persons. These programs may require some changes in usual personnel procedures.

Page 12
Line 16

(24) adds a requirement that the Rules provide for assistance in finding work to partially exempt or exempt employees whose positions are moved into the classified service. Classified employees must pass examinations to be hired. Exempt and partially exempt employees do not have to meet these merit system standards and may be unable to qualify for the positions which they previously held.

Page 14
Line 29

Section 17. AS 39.25.175. PROCEDURE

This section clarifies existing powers of the Personnel Board.

Page 16
Line 3

Section 19. AS 39.25.192. EMPLOYEE POLITICAL RIGHTS.

The political rights listed here exist in current law, as part of AS 39.25.160.

Paragraph (3) adds that while engaged on official business a state employee may not display or distribute partisan political material.

Paragraph (7) is new language to put into statute existing law permitting state employees to make political contributions.

May 15, 1982

TO: Members of the House Judiciary Committee

FROM: Teresa B. Cramer *IBC*
Administrative Assistant, Blue Ribbon Commission

SUBJECT: Amendment to HCS CSSB 193(Jud)

House Judiciary has proposed deleting the portion of the bill amending the State Personnel Act which had provided that those Personnel Rules which addressed matters of public policy should be adopted in accordance with the Administrative Procedures Act. One of the major concerns of members of the Blue Ribbon Commission in proposing this procedure was to insure that people affected by those rule changes would be notified of the proposals and have an opportunity to make their comments known to the Personnel Board before any changes were made. Accordingly, I would suggest that if the Rules are not made subject to the Administrative Procedures Act, that additional notice requirements be added to the State Personnel Act. The provisions suggested below are taken from the notice requirements of the APA with some changes to reflect the particular situation of the Personnel Rules.

Insert a new section 11 before the present Section 11 (page 7, lines 22-26 in the May 10, 1982, work draft):

Section ____ . AS 39.25.140(c) is repealed and reenacted to read:

(c) At least 30 days before the adoption, amendment, or repeal of a Personnel Rule, the secretary to the personnel board shall provide notice that the personnel board has the proposed action under consideration. The notice shall be

(1) posted in public buildings throughout the state;

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

(3) mailed to every person or group who has filed a request for notice of proposed action with the secretary to the personnel board;

(4) furnished to all incumbent State of Alaska legislators and the Legislative Affairs Agency.

Section ____ . AS 39.25.140 is amended by adding new subsections to read:

(d) The failure to mail notice to a person as provided in this section does not invalidate an action taken by the personnel board.

(e) The amendments have the effect of law 30 days after they are submitted to the personnel board. The board, if requested, may hold public hearings on the amendments.

Section _____. As 39.25.140(e) is renumbered and amended to read:

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

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 14, 1982

SUBJECT: HCS CSSB 193 (Judiciary)

TO: Representative Ramona L. Barnes
Chairman, House Judiciary Committee

FROM: *THA* Linn H. Asper
Legislative Counsel

You have asked for an analysis of the changes made by the Judiciary Committee in the proposed Judiciary committee substitute for SB 193. The changes and the effect of the changes are as follows: (References are to the May 14, 1982 draft of the committee substitute)

1. In *Sec. 11, the proposed AS 39.25.140 has been deleted. This means that the comprehensive amendments to personnel rules adoption procedures that were passed by the Senate have been eliminated in favor of existing law on the subject. The Judiciary committee substitute changes AS 39.25.140(e) by making publication of personnel rules in the Alaska Administrative Register and Code mandatory instead of permissive.
2. In *Sec. 12, the proposed AS 39.25.150(3) has been changed to add language requiring open competitive examinations, when appropriate, in the employee selection process under the personnel rules. This change encourages the use of open competitive examinations in the state employee selection process without requiring them that they be used.
3. In *Sec. 12, the proposed AS 39.25.150(5) has been changed to add language to encourage the hiring of local residents. Since local hire provisions face constitutional difficulties the added language does not make local hire mandatory, instead providing for local hire "when appropriate".

May 14, 1982

4. In *Sec. 12, the proposed AS 39.25.150(22) deletes language that would allow personnel rules to provide for limitation of competition in state employment hiring decisions for disadvantaged persons. The deletion of this language does not mean that the personnel rules could not include a limited competition plan, but the legislative affirmation of such a plan has been removed.

5. In *Sec. 17, the proposed AS 39.25.192(3) has been changed by adding language to more clearly delineate what political conduct a state employee not engage in while engaged on official business of the state.

6. The proposed amendment to AS 39.25.170 has been deleted in the committee substitute, which means that the existing law regarding hearings and appeals upon dismissal, demotion or suspension of a state employee would continue to apply. The effect of this change would be to eliminate the expansion of employee hearing and appeal rights that is contemplated in the Senate passed version of the bill.

LHA:ljb



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

M E M O R A N D U M

May 13, 1982

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer *TBC*
Administrative Assistant

SUBJECT: Possible Amendment to HCS CSSB 193(Jud)

Since the House Judiciary Committee is considering deleting the section of SB 193 which provided that the Personnel Rules be adopted according to the APA, I thought it might be possible to propose language to them which would require that notice of any proposed Rule changes be widely published. I think that this was one of the major reasons why members of the Blue Ribbon Commission wanted the Rules to be adopted through the APA procedures. The language which I suggest below is taken from the notice requirements of the APA (AS 44.62.190), with changes to reflect the particular situation of the Personnel Rules. Section 11 (page 7, lines 22-26 in the May 10, 1982 work draft) would be replaced with the following:

AS 39.25.140(c) is repealed and reenacted to read:

(c) At least 30 days before the adoption, amendment, or repeal of a Personnel Rule, notice that the personnel board has the proposed action under consideration shall be

- (1) posted in public buildings throughout the state;
- (2) published in one or more newspapers of general circulation throughout the state, as the division of personnel prescribes;
- (3) mailed to every person who has filed a request for notice of proposed action with the division of personnel or the personnel board;

(4) when appropriate in the judgment of the division of personnel (A) mailed to a person or a group of persons whom the division of personnel believes is interested in the proposed action, and (B) published in the additional form and manner the division prescribes;

(5) furnished to all incumbent State of Alaska legislators and the Legislative Affairs Agency.

AS 39.25.140 is amended by adding new subsections to read:

(d) The failure to mail notice to a person as provided in this section does not invalidate an action taken by the personnel board.

(e) The amendments have the effect of law 30 days after they are submitted to the personnel board. The board, if requested, may hold public hearings on the amendments.

AS 39.25.140(e) is relettered and amended to read:

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

TBC:lmk

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(e) is amended to read:

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

27 * Sec. 12. AS 39.25.150 is repealed and reenacted to read:

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

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

MEMORANDUM

May 11, 1982

SUBJECT: HCS CSSB 193 (Judiciary)

TO: Representative Ramona L. Barnes
Chairman, House Judiciary Committee

FROM: *LHA* Linn H. Asper
Legislative Counsel

You have asked for an analysis of the changes made by the Judiciary Committee in the proposed Judiciary committee substitute for SB 193. The changes and the effect of the changes are as follows: (References are to the May 10, 1982 draft of the committee substitute)

1. In *Sec. 8, the proposed AS 39.25.120(c)(17) has been deleted. This change removes various state employees in the division of labor relations, Department of Administration, from the partially exempt service.
2. In *Sec. 11, the proposed AS 39.25.140 has been deleted. This means that the comprehensive amendments to personnel rules adoption procedures that were passed by the Senate have been eliminated in favor of existing law on the subject. The Judiciary committee substitute changes AS 39.25.140(e) by making publication of personnel rules in the Alaska Administrative Register and Code mandatory instead of permissive.
3. In *Sec. 12, the proposed AS 39.25.150(3) has been changed to add language requiring open competitive examinations, if possible, in the employee selection process under the personnel rules. This change encourages the use of open competitive examinations in the state employee selection process without requiring them that they be used.

Representative Ramona L. Barnes
Page 2
May 11, 1982

4. In *Sec. 12, the proposed AS 39.25.150(5) has been changed to add language to encourage the hiring of local residents. Since local hire provisions face constitutional difficulties the added language does not make local hire mandatory, instead providing for local hire "when appropriate".

5. In *Sec. 12, the proposed AS 39.25.150(22) deletes language that would allow personnel rules to provide for limitation of competition in state employment hiring decisions for disadvantaged persons. The deletion of this language does not mean that the personnel rules could not include a limited competition plan, but the legislative affirmation of such a plan has been removed.

6. In *Sec. 17, the proposed AS 39.25.192(3) has been changed by adding language to more clearly delineate what political conduct a state employee not engage in while engaged on official business of the state.

7. The proposed amendment to AS 39.25.170 has been deleted in the committee substitute, which means that the existing law regarding hearings and appeals upon dismissal, demotion or suspension of a state employee would continue to apply. The effect of this change would be to eliminate the expansion of employee hearing and appeal rights that is contemplated in the Senate passed version of the bill.

LHA:jdn

May 10, 1982

Honorable Bill Ray
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Ray,

This letter is in response to your recent telephone call to Deputy Commissioner Fred Muller regarding the Administrative Procedure Act (APA) requirement in SB 193 (amendments to the State personnel laws).

Our difficulty with Section 12 of the bill, which requires that amendments to those personnel rules that involve matters of public policy be adopted in accordance with the APA, is a concern that while considerable resources would be consumed by this process other needed improvements to the personnel system could not be addressed.

With the increased desire of the legislature and ourselves to make the personnel system more responsive to the public, our direction has been to streamline the process making it faster and more accurate. We have been automating functions that historically have been very labor intensive. My direction has been to continue these efforts toward a more objective personnel system based on merit principles that is responsive to the needs of both state managers and the public.

Because less than 16 employees are wholly covered by the personnel rules, we are concerned about the efficient use of limited resources to follow a process that will have such limited impact. We do not dispute the idea that those people who want to know what the rules are should have greater access to them. To accomplish this we have proposed an interim compromise where the rules would be formatted and published in the Alaska Administrative Register and Code. This would address the need for public access, and allow us to continue making the system more timely and responsive.

You have asked Fred Muller to review those rules and procedures, that due to their nature, are internal and should be excluded in law from the APA. He did consult with the Attorney General's office on your request. Assistant Attorney General Art Peterson has prepared a memo on this subject

May 10, 1982

which I have enclosed with this letter. In summary, Mr. Peterson concludes that based on the language of the bill, the intent of the drafters (the Blue Ribbon Commission), and the intermingling of related concepts throughout the personnel rules, there are no rules that can stand alone.

SB 193, with the few changes that have been made, is a good bill and a tribute to you and the Commission. We have, and will continue to work positively and professionally with you in the best interests of the State. If the bill is to become a reality this session we need your help. All we ask is that you give us the opportunity to see if the public's need is satisfied by publishing the rules in the register and code. We invite the Commission to review and scrutinize our efforts during this period. If this doesn't work, we will join with the Blue Ribbon Commission in further addressing this critical issue.

Respectfully,



W. R. Hudson
Commissioner

WRH/bal

cc: Fred Muller
Keith Specking

Enclosure

MEMORANDUM

State of Alaska

TO: William R. Hudson
Commissioner
Department of Administration

DATE: May 7, 1982

FILE NO: 366-652-82

TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Handling of
personnel rules
under various
versions of SB 193

By: 
Arthur H. Peterson
Assistant Attorney General

Questions

On your behalf, Deputy Commissioner Fred Muller orally requested, today, this department's comments concerning:

1. the interpretation of proposed AS 39.25.140(c), in CSSB 193 (Jud) am, the Senate-passed version, and HCS CSSB 193 (SA), the latest House version; that statute would provide that personnel-rule amendments concerning matters of "public policy" would have to be adopted under the Administrative Procedure Act (APA);
2. interpretation of a variation on that idea, which would require personnel-rule amendments on certain statutorily specified subjects to be adopted under the APA;
3. interpretation of a proposal to require publication of the personnel rules in the Alaska Administrative Code (AAC), but not to require that their adoption or amendment be handled under the APA.

1.

Under the wording of the Senate-passed bill and the latest House version, identified above, two kinds of problems immediately arise: (1) Does the language really intend to distinguish between all of the current personnel rules plus adoption of new ones, on the one hand, and amendments to the rules, on the other hand? Would a new rule adopted in its entirety after the effective date of this Act be considered an amendment for the purposes of this provision? (2) What does the term "public policy" mean, and which of the personnel rules would fall within that term? Related to this first problem is subsection (h) of proposed AS 39.25.140, which requires "the amended rules" to be published in the Alaska Administrative Register and Code for informational purposes.

It makes little sense to have the current personnel rules published as they are now while having any amendments to them published in the AAC following the APA procedures. Such a split-publication approach would be confusing to the public as well as to the employees covered by those rules and the people charged with administering those rules. In addition, if a new rule is adopted, the confusion would be compounded by publishing it in only one or the other of the two possible places; yet duplication would be wasteful. This leads to the conclusion that all of the current personnel rules plus new rules plus amendments to both the current ones and the new ones should be published in the Alaska Administrative Code.

Having reached that conclusion, it would make little sense to adopt new rules without following the APA procedures, and to adopt "amendments" under the APA. The current rules could be placed in the AAC without going through the APA procedures, but even that would require a substantial effort to review them, put them in appropriate style and format, and weed out material that is not appropriate to the AAC. If all new personnel rules, and amendments to the current ones and the new ones, are to be adopted under the APA, one may question whether the delays necessitated by AS 44.62.060 (legal review and approval by attorney general), 44.62.180 (standard 30-day effective date), and 44.62.190 -- 44.62.210 (public notice and hearing) are worth the effort when so few people, considering the extent of coverage by collective bargaining agreements, are still covered by these general personnel rules.

The reference to "public policy" presents an interpretation question not too much different from that presented by the phrase "affects the public" in existing AS 44.62.640-(a)(2), the definition of "regulation". In applying both terms, our advice would be to err on the side of over-inclusion rather than under-inclusion. This is consistent with a long and growing line of supreme court decisions. Following the APA helps assure an opportunity for public involvement and eliminates an issue for potential litigation.

In the present context, it would be very difficult to distinguish between those personnel rules which "concern matters of public policy" and those which do not. In information furnished to this department by Director of Personnel Ken Kareen, the Blue Ribbon Commission on

personnel matters has suggested nine subjects that are matters of public policy, but they specifically state that the list is not all-inclusive. For example, the list includes recruitment and examinations. But where does that leave the personnel rule on classification. This department would have to answer that question by saying that classification is so integrally related to recruitment and examinations that the "amendment" of the personnel rule on classification would indeed be covered by the APA. The interrelationship of the subjects covered by the various personnel rules is such that there would be virtually nothing that could be dealt with in isolation and declared simply to be a matter of "internal management" that the proposed AS 39.25.140(d) would exempt from the APA procedures.

2.

The conclusion in the preceding paragraph pretty well suggests the answer to the second question posed by Deputy Commissioner Muller. If the statute were to attempt to enumerate certain personnel-rule subjects to be covered by the APA, your department would have to recognize that, although there might be a specific rule on examinations, for example, other rules containing provisions which affect examinations would have to be treated the same way as the rule which is primarily concerned with examinations. This interweaving of various related concepts throughout the personnel rules would make such a list difficult to write and difficult to administer. Again, erring on the side of including too much in the APA procedures would be the safest course. It is certainly the course least likely to inspire litigation.

3.

In Keith Specking's May 5, 1982 letter to Representative Ramona Barnes, Chairwoman of the House Judiciary Committee, where the bill now resides, he proposed an amendment to existing AS 39.25.140(e), which would require (instead of merely authorize) the personnel rules to be published in the Alaska Administrative Register and Code for informational purposes. If the idea behind some of these proposals is to increase public awareness and opportunity to read the various personnel rules, perhaps requiring that they be published in the AAC would do the job. I do not know the motivation behind these various proposals, so I cannot comment in depth on the likely success of this

proposal. Again, given the current limited applicability of these general personnel rules, one may ask whether the value of this publication of them would be worth the effort and expense.

Additional Comments

The proposed AS 39.25.140 presents some additional problems.

Subsection (d), with its reference to "internal management," appears to be distinguishing the provisions of that sort from those covered by subsection (c) regarding "public policy," somewhat similar to existing AS 44.62.640(a)(2). However, that distinction could be made clearer, and the exemption of these "internal management" provisions from the APA could be made clearer.

Subsection (e) refers to "the proposed amendments" without saying whether it is talking about the public policy ones or the internal management ones. Subsection (e), authorizing the personnel board to hold public hearings, would not make sense if applied to the public policy amendments, because, under subsection (c), they would already be covered by the mandatory hearing provisions of the APA.

Subsection (f) also uses the ambiguous "the proposed amendments," saying that the board may amend them. Does that mean that the board may amend them before they are adopted, which would seem to go without saying (especially under AS 44.62.210(a), with regard to the public policy ones), or after they are adopted, which would also seem to go without saying?

Subsection (g), also referring to "the proposed amendments," is similarly ambiguous. Is it the intent of its 45-day effective date provision to supersede AS 44.62.180, or does it only apply to the "internal management" regulations? This whole section (proposed AS 39.25.140) needs attention and should be rewritten.

WLC/AHP/11b



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

May 6, 1982

TO: Senator Bill Ray

FROM: Teresa B. Cramer *IBC*
Administrative Assistant

SUBJECT: House Judiciary Action on SB 193

The House Judiciary Committee heard HCS CSSB 193(SA) yesterday afternoon. They asked that a workdraft be prepared with four amendments proposed by the Governor, three of which are contrary to Blue Ribbon Commission recommendations.

Amendment 1. Labor Relations Division Employees.

Page 7
Line 8

House Judiciary voted to delete paragraph (17) of AS 39.25.120. The paragraph adds the employees of the Labor Relations Division who are responsible for negotiating on behalf of the state to the partially exempt service. The effect of the Judiciary Committee amendment is to leave those employees in the classified service. Fred Muller advised the committee that he had spoken with Senator Ferguson who was initially in favor of placing them in the partially exempt service. According to Fred, Senator Ferguson now regrets having made the amendment on the Senate floor which added this paragraph.

A majority of the Blue Ribbon Commission had recommended that these employees be placed in the partially exempt service. There was not unanimity on the question. Those who favored the recommendation believed that these employees should be made more responsive to the policies of the Governor.

Amendment 2. Adopting the Personnel Rules according to the APA.

Page 8
Line 1

House Judiciary voted to require only that the Personnel Rules be published in the Administrative Code. The amendment does not require that the Rules be adopted in

accordance with the APA. Fred Muller testified that there would be a tremendous slow-down if the Rules had to be amended through APA procedures. It could require six to eight months to change procedures in the Division of Personnel. He suggested that publishing the Rules would let people know what was in them. He did not address the question I had raised of letting people have an opportunity to comment on changes which they believed inadvisable before the Rules were adopted.

Amendment 3. Local Hire.

Page 10
Line 2

This amendment is the same as the one proposed for HB 697 (the nonpermanent bill) and the commission favors it. The House Judiciary Committee adopted it.

Amendment 4. Appeals to the Personnel Board in Cases of Unlawful Discrimination.

Page 15
Line 20

The Committee voted to delete the entire section concerning appeals (Section 16) and leave the law as it is now, which limits appeals to classified employees. Fred pointed out that the Human Rights Commission already has jurisdiction over these cases and would probably be better able to process the cases than the Personnel Board. The Committee felt that it was unnecessary to have two avenues of appeal for partially exempt and exempt employees who are discriminated against. They apparently did not agree that it was desirable to have an in-house review mechanism.

TBC:lmk



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 5, 1982

The Honorable Ramona Barnes
Chairwoman, House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Chairwoman Barnes:

HCS CS SB 193 (SA) is now before your committee. It is my understanding that amendments previously requested by the Governor were included by the House State Affairs Committee. It has also come to my attention that Commissioner Hudson had requested amendments which were not included. These amendments are fully supported by this office.

Please amend HCS CS SB 193 (SA) as follows:

opposed by majority of BLC
Amendment 1:

Page 7, line 8

Change semi-colon to period so that line reads:

Offices Commission (;) .

Page 7, line 9

Delete paragraph 17. *(places LR negotiators in partially exempt service)*

opposed by majority of BLC
Amendment 2:

Page 8, line 1

Delete existing section 12 and insert new section 12 to read:

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

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

May 5, 1982

Amendment 3:

OK Page 10, line 2

Add language to paragraph 5 so that it reads:

- (5) the procedure for certifying eligible candidates (;) including preference for local residents under appropriate circumstances ;

Amendment 4:

Page 15, line 20

Change existing Section 16(c) to:

- (c) An employee in the executive branch of state governments who has been dismissed, demoted, or suspended due to unlawful discrimination based on race, religion, color, or national origin, or because of age, handicap, sex, marital status, change in marital status, pregnancy, or parenthood may appeal the action to the State Commission for Human Rights or the personnel board.

The first requested amendment would result in Labor Relations working-level staff remaining in the classified service. Retaining this status maintains the integrity of the ongoing relationship between the State and labor organizations representing State employees, and provides a buffer from union applied political pressure on the professional staff. Retention of knowledge of the intricate workings of the State provides a continuity at the bargaining table that takes years to develop. The director of this division is already in the partially exempt service and is therefore subject to replacement at the discretion of those in higher authority.

Amendment two represents a compromise between present law and the current proposal. This amendment would command the publication of Personnel Rules in the Administrative Code thus providing greater public opportunity for review. It would also provide a period of time for the State to assess the impact of placing the Personnel Rules in the Administrative Code.

Amendment three is offered with the intent of providing more employment opportunities for rural residents.

BEC did not intend to limit appeals presently ~~State does not~~ preclude two

The Honorable
Ramona Barnes

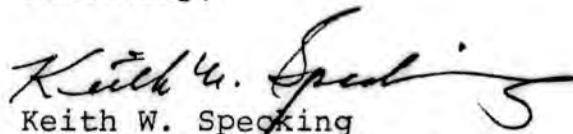
-3-

May 5, 1982

Amendment four is also a compromise between the proposed act and current practice. This amendment would have the effect of legally assuring an administrative hearing for employees who believe they have been discriminated against but avoiding the costs of redundant administrative processes. The employee could exercise the choice of appealing the action through AS 18.80 with the Human Rights Commission or pursuing relief from the personnel board.

Thank you for your consideration of these amendments.

Sincerely,



Keith W. Speeking
Legislative Assistant
to the Governor

cc: The Honorable Bill Ray
Chairman
Blue Ribbon Commission
on the Personnel Act

The Honorable William R. Hudson
Commissioner, Department of Administration



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

M E M O R A N D U M

April 30, 1982

TO: House Judiciary Committee

FROM: Teresa B. Cramer *IBC*
Administrative Assistant

SUBJECT: HCS CSSB 193 (SA) Amending State Personnel Laws

The Blue Ribbon Commission sponsored Senate Bill 193 as a comprehensive revision of the State Personnel Act. It makes changes in some personnel practices, expands the protections granted to employees in the exempt and partially exempt services and makes the Act consistent with the Public Employment Relations Act.

Those sections of the bill which present significant changes are analyzed briefly below.

Page 2
Lines 6-25

Section 6. Amending AS 39.25.080. PUBLIC RECORDS.

This section sets out those personnel records which will be open to public inspection. All other personnel records will be kept confidential.

The current law provides that all records are public except those which the Personnel Rules make confidential. In fact, the amendment would not change the existing practice since those items listed are the only personnel records now open to the public.

Page 2
Line 27 ff.

Section 7. Amending AS 39.25.090. COVERAGE OF CHAPTER.

This amendment provides that the State Personnel Act applies to exempt positions as specifically provided. The Committee Substitute gives added rights of appeal to exempt employees of the executive branch in cases of unlawful discrimination. (See Section 16)

Section 8. Amending AS 39.25.110. EXEMPT SERVICE.

Page 5
Line 2

The House Committee Substitute adds paragraph (20) which changes employees of the Office of the Governor and the Lt. Governor from the partially exempt to the exempt service. Employees of councils, boards, or commissions established by statute in those offices are left in the partially exempt service.

Page 4
Line 7 ff

In addition, this section does add statutory reference to employees of the Citizen's Advisory Commission on Federal Areas in Alaska (11)(G), petroleum engineers and petroleum geologists employed by the Oil and Gas Conservation Commission (14), employees of the state who reside in foreign countries (17), employees of the Alaska Seafood Marketing Institute (18), and firefighters employed by DNR for a fire emergency (19).

Page 7
Line 9

Section 9. Amending AS 39.25.120. PARTIALLY EXEMPT SERVICE.

In paragraph (17) the bill adds those employees of the Division of Labor Relations who are responsible for negotiating labor contracts with state employee organizations to the partially exempt service. These employees are currently members of the classified service but do not belong to any bargaining unit and are not members of any union or employee association. At one time they were members of the Confidential Employees Association.

Page 8
Line 1 ff

Section 12. Amending AS 39.25.140. AMENDMENT OF PERSONNEL RULES.

The Committee Substitute requires that those amendments to the Personnel Rules which are matters of public policy shall be adopted according to the Administrative Procedures Act. (Subsection (c), page 7, line 28)
The current law entirely exempts the Personnel Rules from the APA.

For those rules which are not matters of public policy, the Committee Substitute maintains the current system of adoption, but adds that the Personnel Board

may amend rules proposed to it (Subsection (f)). The Committee Substitute also requires that amended rules shall be published in the Administrative Code, (Subsection (h)).

Page 8
Line 29 ff

Section 13. Amending AS 39.25.150. SCOPE OF THE RULES.

This section remains basically the same as the current law with the following exceptions.

Page 11
Line 2

(15) no longer sets a limit of 30 days to a period of disciplinary suspension.

Page 11
Line 4

(16) adds a requirement that the Personnel Rules include procedures for resolving disputes from the general public.

Page 11
Line 10

(19) sets out the provisions for veterans' preference in state employment in different form. The substance of the preference is basically unchanged. The definition of veteran is amended to require that an individual have served 181 days in active service instead of the present 90 days. This is in conformance with federal veterans' preference system. The definition of disabled veteran is also changed slightly. It no longer requires that an individual have a 10% service connected disability but instead specifies that the individual be entitled to compensation from the Veterans' Administration.

Page 12
Line 21

(22) provides that the Personnel Rules shall include procedures for programs which may be set up to facilitate the employment of disadvantaged persons and permits the procedures to limit competition for hiring for those programs.

Page 12
Line 27

(24) adds a requirement that the Rules provide for assistance in finding work to partially exempt or exempt employees whose positions are moved into the classified service. Classified employees must pass examinations to be hired. Exempt and partially exempt employees do not have to meet these merit system standards and may be unable to qualify for the positions which they previously held.

Page 13 Section 14. Amending AS 39.25.153. PERSONNEL OFFICERS.
Line 4 ff

Subsection (a) provides that all personnel officers shall be employees of the department in which they serve.

Subsection (b) amends the powers granted to the personnel officers listed in the statute. These powers have never been exercised. They are retained in limited form by the Committee Substitute.

Page 13 Section 15. Amending AS 39.25.160. GENERALLY.
Line 28

Most of this section remains unchanged. The following subsections have been amended.

Page 14 Subsection (c) extends protection from being
Line 7 required to make a political contribution to all state employees. The current law protects only classified employees.

Page 14 Subsection (e) adds a requirement that partially
Line 12 exempt employees resign from state employment when seeking political office. The subsection also clarifies when the employee's position becomes vacant.

Page 14 Subsection (f) extends protection from unlawful
Line 18 discrimination to all state employees and applicants for state service. The current law is limited to members of the classified service.

Page 15 Section 16. Amending AS 39.25.170. HEARINGS AND
Line 11 ff APPEALS UPON DISMISSAL, DEMOTION OR SUSPENSION.

This section changes the statutes to reflect caselaw and adds that employees in the executive branch of state government who have been unlawfully discriminated against may appeal to the Personnel Board. The current law limits the protection of the State Personnel Act and the scope of appeals to the Personnel Board to members of the classified service. (Subsection (c)).

House Judiciary Committee
April 30, 1982
Page Five

The Committee Substitute provides in Subsection (i) that executive branch employees who the Personnel Board finds have been unlawfully discriminated against will be reinstated without loss of pay. This remedy is currently available only to classified employees. The Committee Substitute adds that the decision of the Personnel Board may be appealed to the Superior Court.

TBC:1mk

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C

JUNEAU, ALASKA 99811

465-2200

April 20, 1982

Honorable Ray Metcalfe
Chairman, House State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

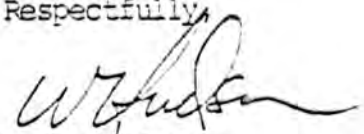
Dear Mr. Chairman:

CSSB 193 (Jud) am, amending the State's personnel laws, has been referred to your committee. We request that you make the following changes:

1. Delete Sec. 39.25.120(17)
2. Delete Section 12
3. Add to Sec. 39.25.150(5)
(;) including preference for local residents under appropriate circumstances;
4. Delete Section 16

Your consideration of these changes is greatly appreciated.

Respectfully,


W. R. Hudson
Commissioner

WRH/mjc

cc: Honorable Ramona Barnes
Chairwoman, House Judiciary
Committee

Keith Specking
Legislative Assistant
Office of the Governor

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS SB 193 (Jud)

Title An Act amending state personnel laws; and an effective date

Requested by _____ Date 04-16-82

II. FISCAL DETAIL

Agency Affected Administration

Program Category Affected Personnel

BRU, Program, Or Subprogram(s) Affected personnel, Personnel Board

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

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		42.2	22.6	24.2	25.8	27.7
200 TRAVEL		7.6	6.9	7.5	8.3	9.1
300 CONTRACTUAL		26.2				
400 COMMODITIES		.6	.6	.7	.8	.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		76.6	30.1	32.4	35.7	37.6

FUNDING (Thousands of Dollars)

GENERAL FUND		76.6	30.1	32.4	35.7	37.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

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

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

Section 12 of CS SB 193 (Jud) am provides for adoption of amendments to the Personnel Rules that concern public policy under the Administrative Procedures Act, and for amended Rules (including those not concerning public policy) to be published in the Alaska Administrative Register and Code. CS SB 193 (Jud) am makes several minor changes to the Personnel Act that will require amending the Personnel Rules. The major costs for FY 83 are:

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

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

IV. DATE 04-16-82

PREPARED BY Michael P. McMullen
AGENCY Administration - Division of Personnel

Original: Legislative Finance PHONE 465-1430

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

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

(\$19.2 Thous.)

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

(\$42.2 Thous.)

- 3) travel and per diem for attorney and the Personnel Board for two hearings to adopt the rules and amendments as Code.

(\$2.8 Thous.)

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

(\$.6 Thous.)

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

(\$2.0 Thous.)

- 6) printing of forms incorporating AAC references.

(\$1.0 Thous.)

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

Section 13 of CS SB 193 (Jud) am contains a significant change in the definition and preference accorded to veterans. In addition to the need to amend the Personnel Rules accordingly, there is a need to incorporate the new provision in the automated Applicant Tracking System. This one time contractual service cost is estimated at \$4 thousand.

Section 16 of CS SB 193 (Jud) am duplicates AS 18.80 providing hearing and appeal rights to partially exempt and exempt employees of the Executive Branch for actions allegedly in violation of the employees' Civil Rights. It is assumed that these employees will file appeals in the same proportion to their numbers as other executive branch employees file complaints under AS 18.80 for the same actions. Each will require a two day hearing before the Personnel Board. Travel and per diem costs for FY 83 are \$4.8 thousand. They are inflated 10% annually. On this basis, four complaints per year are projected. Each complaint will require two days of Personnel Board business.

Point 1

AMEND THE PERSONNEL ACT

Object: INCREASE LOCAL HIRE

Action

Amend Alaska Statute 39.25.150 (6) to enable the adoption of personnel rules to provide for local preference. The specific language would be: "the procedure for certifying eligibles including preference for local residents under appropriate circumstances; . . ."

Costs

There is no executive branch cost associated with this change.

Fred Muller



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

April 19, 1982

TO: House State Affairs Committee

FROM: Teresa B. Cramer *TBC*
Administrative Assistant

SUBJECT: CSSB 193 (Jud) am

The Blue Ribbon Commission sponsored Senate Bill 193 as a comprehensive revision of the State Personnel Act. It makes changes in some personnel practices, expands the protections granted to employees in the exempt and partially exempt services and makes the Act consistent with the Public Employment Relations Act.

Those sections of the bill which present significant changes are analyzed briefly below.

Page 2
Lines 6-25

Section 6. Amending AS 39.25.080. PUBLIC RECORDS.

This section sets out those personnel records which will be open to public inspection. All other personnel records will be kept confidential.

The current law provides that all records are public except those which the Personnel Rules make confidential. In fact, the amendment would not change the existing practice since those items listed are the only personnel records now open to the public.

Page 2
Line 27 ff.

Section 7. Amending AS 39.25.090. COVERAGE OF CHAPTER.

This amendment provides that the State Personnel Act applies to exempt positions as specifically provided. The Committee Substitute gives added rights of appeal to exempt employees of the executive branch in cases of unlawful discrimination. (See Section 16)

Page 3
Line 2 ff.

Section 8. Amending AS 39.25.110. EXEMPT SERVICE.

This section does not change the existing membership of the exempt service. It does add statutory reference to employees of the Citizen's Advisory Commission

on Federal Areas in Alaska (11)(G), petroleum engineers and petroleum geologists employed by the Oil and Gas Conservation Commission (14), employees of the state who reside in foreign countries (17), employees of the Alaska Seafood Marketing Institute (18), and firefighters employed by DNR for a fire emergency (19).

Page 7
Line 5

Section 9. Amending AS 39.25.120. PARTIALLY EXEMPT SERVICE.

In paragraph (17) the bill adds those employees of the Division of Labor Relations who are responsible for negotiating labor contracts with state employee organizations to the partially exempt service. These employees are currently members of the classified service but do not belong to any bargaining unit and are not members of any union or employee association. At one time they were members of the Confidential Employees Association.

Page 7
Line 20 ff

Section 12. Amending AS 39.25.140. AMENDMENT OF PERSONNEL RULES.

The Committee Substitute requires that those amendments to the Personnel Rules which are matters of public policy shall be adopted according to the Administrative Procedures Act. (Subsection (c), page 7, line 28)
The current law entirely exempts the Personnel Rules from the APA.

For those rules which are not matters of public policy, the Committee Substitute maintains the current system of adoption, but adds that the Personnel Board may amend rules proposed to it (Subsection (f)). The Committee Substitute also requires that amended rules shall be published in the Administrative Code, (Subsection (h)).

Page 8
Line 19 ff

Section 13. Amending AS 39.25.150. SCOPE OF THE RULES.

This section remains basically the same as the current law with the following exceptions.

Page 10
Line 21

(15) no longer sets a limit of 30 days to a period of disciplinary suspension.

Page 10
Line 25

(16) adds a requirement that the Personnel Rules include procedures for resolving disputes from the general public.

Page 10
Line 29

(19) sets out the provisions for veterans' preference in state employment in different form. The substance of the preference is basically unchanged. The definition of veteran is amended to require that an individual have served 181 days in active service instead of the present 90 days. This is in conformance with federal veterans' preference system. The definition of disabled veteran is also changed slightly. It no longer requires that an individual have a 10% service connected disability but instead specifies that the individual be entitled to compensation from the Veterans' Administration.

Page 12
Line 11

(22) provides that the Personnel Rules shall include procedures for programs which may be set up to facilitate the employment of disadvantaged persons and permits the procedures to limit competition for hiring for those programs.

Page 12
Line 17

(24) adds a requirement that the Rules provide for assistance in finding work to partially exempt or exempt employees whose positions are moved into the classified service. Classified employees must pass examinations to be hired. Exempt and partially exempt employees do not have to meet these merit system standards and may be unable to qualify for the positions which they previously held.

Page 12
Line 23 ff

Section 14. Amending AS 39.25.153. PERSONNEL OFFICERS.

Subsection (a) provides that all personnel officers shall be employees of the department in which they serve.

Subsection (b) amends the powers granted to the personnel officers listed in the statute. These powers have never been exercised. They are retained in limited form by the Committee Substitute.

Page 13
Line 18

Section 15. Amending AS 39.25.160. GENERALLY.

Most of this section remains unchanged. The following subsections have been amended.

Page 13
Line 26

Subsection (c) extends protection from being required to make a political contribution to all state employees. The current law protects only classified employees.

Page 14
Line 2

Subsection (e) adds a requirement that partially exempt employees resign from state employment when seeking political office. The subsection also clarifies when the employee's position becomes vacant.

Page 14
Line 8

Subsection (f) extends protection from unlawful discrimination to all state employees and applicants for state service. The current law is limited to members of the classified service.

Page 15
Line 1 ff

Section 16. Amending AS 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION OR SUSPENSION.

This section changes the statutes to reflect caselaw and adds that employees in the executive branch of state government who have been unlawfully discriminated against may appeal to the Personnel Board. The current law limits the protection of the State Personnel Act and the scope of appeals to the Personnel Board to members of the classified service. (Subsection (c)).

The Committee Substitute provides in Subsection (i) that executive branch employees who the Personnel Board finds have been unlawfully discriminated against will be reinstated without loss of pay. This remedy is currently available only to classified employees. The Committee Substitute adds that the decision of the Personnel Board may be appealed to the Superior Court.

TBC:lmk

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JUNEAU EMPIRE, THURSDAY, APRIL 15, 1982

Senate votes to change state personnel rules

By The Associated Press

The state Senate voted Wednesday to revamp the State Personnel Act, which is the set of rules governing the state work force.

One change made by the bill (CSSB193 Judiciary amS) deals with preference rights granted to veterans who apply for state jobs. To be granted preference, a veteran must have completed 181 in active service, rather than 90 days as is required under current law. The change was made to conform with federal law.

Another change made in the bill was to place several sensitive positions — including certain petroleum geologists, firefighters employed in emergencies and employees of the

Alaska Seafood Marketing institute — in the "exempt service" category. That basically means the employees cannot belong to collective bargaining units and can be hired and fired at will.

Sen. Frank Ferguson, D-Kotzebue, successfully proposed an amendment on the Senate floor to include negotiators and other members of the state Division of Labor Relations in the partially exempt category, which means they also could not belong to state unions.

Ferguson argued that all collective bargaining agreements for state employees are negotiated by division officials. "So they're negotiating for themselves" under the present system, Ferguson said. He said such action constitutes a "conflict of interest."

The bill also defines which personnel records are public, and states that all other personnel records are to be confidential.



JUNEAU ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

April 14, 1982

TO: Senator Bill Ray, Chairman
FROM: Teresa B. Cramer *IBC*
Administrative Assistant
SUBJECT: CSSB 193 (Jud)

I have set out those sections of CSSB 193(Jud) which make substantive changes to the State Personnel Act and discussed briefly the nature of the change. I have not addressed the sections of the bill which make changes to improve the clarity of the language or to bring the law into accord with current practice.

Page 2
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