

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1370 SCOMM 51: BLUE RIBBON COMM. ON STATE PERSONNEL ACT 1978-1983

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 3
Line 29 ff.

Section 9. Amending AS 39.25.120. PARTIALLY EXEMPT SERVICE.

Although the structure of this section is changed, the substance of the current law is not changed by the Committee Substitute.

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

MEMORANDUM

TERRY CRAMER FOR COMMENT
State of Alaska

TO: W. R. Hudson, Commissioner
Department of Administration

DATE: March 3, 1982

FILE NO

TELEPHONE NO: 465-4100

Serg
FROM: Ronald O. Skoog, Commissioner
Department of Fish and Game

SUBJECT: Amendments to 39.25.199

Your memo dated February 11, 1982, expressed concern about representatives of my Department testifying on CSSB 193 in contradiction to the recommendations of your Department. You realize, of course, that this is an area where our Departments disagree and, since we have not been able to resolve our differences, I believe it necessary to represent the concerns of Fish and Game.

You point out also that our testimony "...was done without notifying or coordinating your effort with this Department." I regret we did not do so, and I apologize for that lack. However, I wish to point out myself that your Department did not notify us of your recommendations nor attempt to coordinate your position with ours. Frankly, I would have expected you to do so, considering your role and responsibility in providing administrative services to the line Departments. This issue and the existing law has had considerable adverse impact on my Department, and I presume it has on other Departments as well. In that light, it seems logical to presume you would have negotiated a State position among the Departments concerned.

Our recent testimony is not the first time that we have brought forward concerns about non-permanent/seasonal hires. Russell H. Clark, our former Director of Administration, testified before House Resources on February 12, 1981, at their request. He also sent a letter to Senator Ray of the Blue Ribbon Commission on March 6, 1981, and one to Sandra Withers on March 24, 1981. The memo to Ms. Withers specifically requested that Labor Relations negotiate a letter of understanding with APEA to allow more flexibility in hiring 120-day-or-less non-permanents. APEA was in agreement with this action. As far as I can determine, no action was taken. I also have been told informally that APEA is still willing to make the necessary changes. You and I and our respective Deputies discussed the problem several months ago. It was brought up by Representative Fuller at the last Blue Ribbon Commission meeting.

Beverly Reaume, our current Director of Administration, brought up the problem at a meeting of the Directors of Administration "subcommittee on personnel" and your staff in December 1981. During the past year we have offered many suggestions ranging from minor changes to exemption of some provisions for employees working less than 120 days ("short-term" hires). Unfortunately, each time we are told that we are guilty of poor planning and that we are not making a good faith effort to abide by the law.

March 3, 1982

I have to disagree strongly on both counts--we have made adequate plans and we have made a good faith effort to hire under the system. We now have spent two field seasons under the system and what we are telling you is that "Yes, we can hire according to the existing law but the product is not worth the cost." We are faced with ever increasing demands from the public and fewer dollars to meet those demands. It is intolerable to me to spend these scarce resources on recruiting short-term employees. Furthermore, the public has made it very clear that they are tired of bureaucratic red tape, of which the current system is a prime example.

Let me respond specifically to the five recommendations contained in your February 11, 1982, memorandum.

First: You suggest we use non-permanent employees instead of permanent seasonals for less-than-120-days positions.

Fish and Game decided to establish these short-term positions as permanent seasonals based on two premises:

1. AS 39.25.195(c)(3) states the criteria to be used for establishing non-permanent positions.

"The hiring department or agency has certified that an immediate need exists and the director determines that the hiring department or agency could not reasonably have been expected to anticipate and met through the creation of a permanent position;...."

Fish and Game determined that its needs not only could be anticipated but also that these positions do occur each year and, therefore, we were obligated to establish "permanent seasonals" to comply with the law.

2. Furthermore, the red tape and possible civil penalties inherent in hiring non-permanents makes that option extremely unattractive.

Second: You suggest centralized recruiting as a means for achieving greater efficiency and for resolving the problem of competition between Divisions.

1. We have suggested to your Director of Personnel that the Department be given a master list of each classification used for short-term employment on a periodic basis. This list then could be worked for openings anticipated during that period and all hires made from that copy. Although Mr. Kareen has expressed support for centralized working of registers, he thus far has insisted on a separate register for each PCN. We can use responses from some previous register but we must contact all the additions to

each new register, as well as discard potential candidates among responses from previous registers because they have been removed from the register for one reason or the other. There still remains a gray area for people who failed to respond the first time, but are still on the register. Failure to respond runs about 80% when working most of the registers for short-time positions. Sometimes the candidates do not receive our letter until after the response date so they do not bother to respond. A good many of these not only may be available but desirable for the job. In other words, we need some modifications in procedural requirements on your part before greater centralization on our part is worthwhile.

2. Our short-term jobs are found predominantly in the following classifications: Fish and Game Technician II, III, IV; Fish Culturist I, II, III; and Fishery Biologist I. It is not at all unusual to find the same person on all seven registers. Just because someone is not interested in a Fish and Game Technician I job does not relieve us of having to contact him for a Fish and Game Technician III position, so we end up contacting the same person several times as various positions are to be filled.
3. Competition for the same people is due partly to the same person being on multiple registers. I do not believe we can say to a person that has just accepted a Fish Culturist I job that he is now not eligible for consideration as a Fish Culturist II. Likewise, we cannot tell a person that once he has accepted a one-month job that he is not eligible for consideration for a three-month job, nor that once he has accepted a job in Juneau he cannot consider an opening in Ketchikan, which might be his home. It is such factors as these that cause "competition" within the Department and defy resolution.

Third: You presented several suggestions for solving the "local hire" problem.

1. Local hire is indeed a problem under the current regulations. Many of our potential local hires are from the Fish Culturist I and Fish and Game Technician I, II, and III registers. Each of these registers contains 400-600 names of people who say they will work anywhere in the State. The ability to reach a given person in a local area by working the register in a legitimate manner--i.e., top five or five by five--is pure chance and good fortune. These classifications require little more than a warm body, a willing mind, and some paid work experience of any kind to get on the register. I have to believe you were misled by your personnel people to suggest seriously that we use "potential safety in the field" as a selection criterion. How do you measure that in an open recruitment effort? And where is it proven that a local resident will be safer in the field? The only realistic way to

obtain local hire while using a register is to allow appointment without regard to placement on the register--a suggestion that we have made numerous times.

2. There is still a continuing problem with getting local residents, particularly minorities, onto registers. On this point your Personnel Division recently agreed to open registers for continuing recruitment, provided turnaround on application examination is no more than three weeks. We agree that this time-frame is workable.

Fourth: You suggested that your Department would be willing to assume the selection responsibility for short-term hires.

I am sure that I need not tell you that I am no more willing to allow your Department to serve as a placement bureau for my personnel than you would be to allow Fish and Game to select your personnel.

Fifth: You suggested training to my managers in "recruitment and selection."

Believe me, my managers have had much long experience and are quite capable in recruitment and selection. The problem is getting people on registers, and would be resolved by open recruitment.

There are other questions raised during our recent testimony before the Senate Judiciary Committee, and on other occasions, that I believe appropriate to mention:

1. Both amendments proposed by Senator Rodey and Representative Bylsma would leave intact the requirement that persons hired meet the minimum qualifications of the classification. Fish and Game has never proposed otherwise.
2. It has been pointed out rather frequently that Fish and Game seems to be the only Department with a problem. Could be! You must keep in mind, however, that Fish and Game has 800 or more seasonal positions which are filled sometime during the April to October period each year. These are located throughout the State. It is not at all surprising that Fish and Game has problems with the present system and gets attention on the subject.
3. Then there is the "no-win situation" that we have been placed in. In a letter dated February 6, 1981, to the Governor, Senator Ray in referring to Fish and Game said that

"In the past these positions (seasonals) were classified as temporary positions and filled primarily by local residents. With the implementation of the non-permanent law, the

Department reclassified these jobs as permanent seasonals and filled them through hiring from a list of eligibles.

Unfortunately, this meant that many experienced local residents were not hired for the past season, either because they had not applied in time to be considered for placement on the register or because, when their applications were evaluated, they failed to place within the top five interested eligible candidates."

During our recent testimony, Senator Ray responded that one of the reasons the non-permanent hire law was enacted was because Fish and Game hired college students and sent them to rural areas rather than hire local residents. You tell me, which one we are guilty of? I do know that now we are far more likely to have to hire the college student simply because he ranks high on the register. Our preference has been and remains to hire the local resident wherever possible.

This memorandum is already far longer than I intended but, as you might surmise, it is a subject of considerable importance to the Department. It becomes all the more significant as we face possible budget reductions. Bill, in all fairness I believe we have brought our problem to your Department on a number of occasions. We have not received the help we need, and our problem remains. Thus, we have little alternative but to seek help elsewhere. The interest in the Legislature has been brought about partly by us, partly by Legislators' constituents complaining about the system.

I have enclosed for your information a copy of our testimony presented to the Senate Judiciary Committee and the House Labor and Commerce Committee on their request in response to amendments to the law, and to the House Finance Committee in response to their request. I support the pertinent changes proposed in Senate Bill 193 and House Bill 697, and I believe they will be beneficial to other agencies as well as to the public.

cc: Keith Specking
Senator Bill Ray



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

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MEMORANDUM

February 18, 1982

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer *TBC*
Administrative Assistant

SUBJECT: Fish and Game Seasonal Positions

I met with Beverly Reaume, Director of Administration for Fish and Game, and with Mary Jablonski, Special Assistant to the Commissioner, to discuss problems they identified in testimony before the Senate Judiciary Committee. Fish and Game is seeking changes in the nonpermanent law for positions which last less than 120 days. As a result of making these short-term appointments permanent seasonal, the department believes that it pays excessive amounts in benefits and also believes that having to hire from the registers causes excessive expense and delay without providing any benefit.

A. Classification of Positions as Permanent Seasonal

The department believes that these positions must be classified as permanent seasonal under the nonpermanent law adopted in 1979. They believe that the definition of a program or project (as not a regular and continuing function of a department or agency and as having a probable date of termination) forbids the classification of these positions as nonpermanent positions. They point out that the work is regular and continuing in that they do it every year and expect to continue to do so into the foreseeable future. So far as I could tell, they had not considered using AS 39.25.195(c)(1) which states that a nonpermanent position can be authorized when the legislature has appropriated money for the work in question knowing that it is to be performed by a nonpermanent employee. I would expect that the department could make sufficiently accurate forecasts of its staffing needs to permit presenting the legislature with the request for authorization of nonpermanent employees for these positions during the regular budget process.

The department could either request that the positions be established as regular nonpermanent appointments or that they be established as project nonpermanents, should the situation justify that classification. If the positions were regular nonpermanent positions,

then they would be limited to 120 days duration. If they were found to warrant classification as project or program positions, then the length of employment would be determined by the expected length of the project or program involved. The department has stated that its concerns are for positions which last less than 120 days, so the time limit should not raise a difficulty for them.

Apparently what the department believes would work for them is a system like the one developed in HB 697, which sets up a category on nonpermanent employees who would be exempt from all the requirements of the nonpermanent law except for the limit that employment last no longer than 120 days. The committee substitute proposed by the House Labor and Commerce Committee adds a prohibition against appointing the same employee to two consecutive special nonpermanent positions. The proposed amendment to the State Personnel Act places no restrictions on the commissioners of each department in the management of the system they set up except for the 120-day limit. They only have to make an initial determination that compliance with the nonpermanent law is too costly or is adverse to local hire. They are free to set minimum qualifications for the positions by departmental regulation, to evaluate applicants and to hire without regard to the relative qualifications of those applicants.

B. Cost of Benefits.

The department states that most of the positions which last less than 120 days are not career appointments. They do not usually find that individuals return year after year to the same job. Therefore, the department does not believe that it is appropriate to provide the kinds of career benefits which are part of the permanent seasonal package. The cost of providing for retirement, leave, and health insurance is excessive. The department would not have to provide them if the positions were reclassified as nonpermanent, whether or not the law were amended.

C. Problems With Working the Registers.

This is a major problem area identified by the department. As Ms. Reaume testified to the Senate Judiciary Committee, they have found working the registers extremely cumbersome, costly and fraught with delays. Recently she and Ms. Jablonski met with the Director of the Division of Personnel, and did arrange for two changes which they believe will address some of their concerns. The following is a list of their difficulties with the registers together with a discussion of each of the items raised.

- (1) The registers have too many names of people who are not really interested in the particular vacant positions Fish and Game has.

Some of the registers frequently used for these positions have 400 or more names on them. The department says that in some cases it is necessary to contact each of those listed in order to end up with one person who will actually accept the position. In order to limit the number of new applications for these registers, the Division of Personnel has closed these job classes. The department believes that if the classes are kept open, many of the applicants who are not really interested in that kind of employment will not apply. They apply now because they have only one short period in which the state will accept applications.

At its own request the department has been delegated authority to evaluate applications in these job classes. According to Mr. Kareen, they are about 3-1/2 months behind. He has agreed that when the department catches up with the evaluations, the job classes will remain open. The department hopes that then the number of applications will be reduced.

I do not know whether keeping the registers open will reduce the number of marginally interested applicants. Presumably the department has the expertise to evaluate the likelihood of success of this arrangement.

If the department's preferred hiring system were in place, then it would not matter how many applicants were on the register since the hiring authorities would not have to use one.

(2) Multiple Contacts to One Individual

The department has said that they have to contact the same individual many times during their peak hiring season. They fill a large number of positions in the same job class and must contact the people on the top of the list about each vacancy. This has resulted in one college student complaining to them that he received and had to reply to over 100 communications about job openings.

In the meeting between the department and Mr. Kareen, they agreed that for these positions, the department would receive one register for each job class and could hire all the vacancies in that job class from that single list for the whole month. This means that the department can coordinate its hiring notices to applicants for that period of time. This should reduce the burden on the department and also the obligations on the applicants to respond to an excessive number of job notices.

(3) Cost of Recruiting.

The department indicates that it spent \$14,000 in long distance telephone calls and telegrams when it recruited for the 175 nonpermanent positions in 1980. In 1981 the cost was \$28,000. These costs should be substantially reduced if the department was able to plan enough time to

communicate with applicants by letter instead. The Personnel Rules require that an individual be given five working days to respond to a telegram, 10 calendar days to respond to a written inquiry when the applicant lives in Alaska, and 14 calendar days when the applicant lives outside Alaska. PR 4 04.3. It would appear that by planning three or four additional weeks in advance, the department should be able to conduct the bulk of its recruiting effort by mail rather than by the more expensive telegraph and telephone methods presently used.

(4) Unreliability of Advance Commitments to Work.

The department's experience has been that for many of these very short jobs, people are not reliable about showing up for work if they accept the job too far in advance. This means that the department cannot make job offers in April or early May and count on having employees coming to work in June or later. In some instances at least, the problem has been that two divisions within the department have received commitments from the same individual.

With the new system of having the register be valid for an entire month, it may be possible for the department to record those who have accepted positions already and then to delete their names from consideration of subsequent job offers in that classification. This could reduce the number of "no-shows" which the department has experienced and enable them to make their staffing decisions earlier while still using the register system.

(5) Local Hire.

The department has said that it is difficult to persuade local people to apply for positions with the state, especially when the registers are only open for a short period of time. As discussed in Number (1) above, the registers will remain open once the department has reduced the backlog of job applications which are not yet evaluated. In addition, the department and the Division of Personnel could work together to recruit individuals from the areas where Fish and Game has vacancies, so that local individuals do appear on the registers.

The department still believes that it would be difficult to reach the local person when the registers are so full. Even using the five-plus-five certification system, they say that there are likely to be minority group members who fall with the top five minority persons but who are not local to the area in which the vacancy occurs.

One solution would be for the department to offer to pay transportation only from the nearest community of any size to the actual job site. In many cases now, the department pays transportation from

Anchorage or Fairbanks out to the community and then out to the salmon stream of whatever. These short-term jobs would be much less appealing to individuals not from the area if they were responsible for paying the cost of transportation to, for example, Unalaska, and then work for a short time and have to pay for their own return air fare. The problem is to insure there are local individuals on the registers.

D. Possible changes to the Nonpermanent Law

If the kinds of suggestions made above are not sufficient to resolve the difficulties of the department, it would be possible to make some changes in the nonpermanent hiring system without losing all controls. The following is one suggestion of how that might be done.

(1) The department may waive hiring from the register for nonpermanent positions only if the following are established:

- a. The department has presented proposed recruiting and selection procedures to the Division of Personnel and to the Division of EEO and each division has approved them.
- b. The positions which the department proposes to fill without hiring from the register have been approved by the Division of Personnel. The Director of Personnel shall consider the practicability of filling the positions from the register, the need of the department for speed in the selection process, and the effect on the state's merit system and commitment to equal employment opportunity.
- c. The hiring process shall be conducted from the community job site. (By this I don't mean the salmon stream or whatever, but the nearest community of reasonable size -- I don't know how to define it.)
- d. Each individual must meet the minimum qualifications for the job class.
- e. The department may not pay transportation costs for any individual hired under this system to the community job site. It may pay transportation from the community job site to the actual job location.
- f. The department shall report to the Director of the Division of Personnel and the Director of EEO on all positions filled under this system. The report shall include:
 - (i) actual recruiting and selection procedures used,
 - (ii) duration of work of each employee,

- (iii) EEO profile of workforce selected, and
- (iv) statement of qualifications for each individual selected.

This system would leave the department subject to all of the nonpermanent regulations except hiring from the register. It should be noted that at the Constitutional Convention, the debate about setting up the merit system included a statement by Mr. Sundborg, one of the most vocal supporters of the constitutional provision in which he said on page 2888:

Every merit system, including the United States Civil Service, is set up so as to have certain exceptions from it. . . . There are usually exceptions for those who work by the day, for those who have only temporary employment.

In the discussion, Mr. Ralph Rivers pointed out that the language proposed left to the legislature the directive to spell out the details, and that the legislature could decide to leave temporary employees outside the controls of the merit system if it wished to do so. Therefore, it would appear to be within the intent of the constitutional convention that temporary employees could be exempted from the merit system.

This leaves a policy question of whether it is advisable to do so. The nonpermanent law addressed the problems in the temporary hiring system and any system which changes that should make an effort to insure that those problems do not return. Before the nonpermanent law was passed, temporary employees were supposed to be hired from the registers when practicable. Many were not.

In this proposal, the department would still be required to plan for the positions it wished to exempt from the register requirement. There would be oversight from the Division of Personnel, and the limitations on payment of travel expenses might be sufficient to restrict the operation of hiring your buddy or your aunt's cousin. Individuals hired would be required to meet the minimum qualifications of the position, although this might be difficult to effectively review and enforce. However, since the Division of Personnel and the Division of EEO have oversight and approval powers, if there were any substantial abuse of the system, then presumably there would not be a second approval for the department in subsequent seasons.

This proposal does not address the effect of the collective bargaining agreement which presently applies to these employees.



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT

Senator Bill Ray, Chairman

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MEMORANDUM

February 9, 1982

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer *Terry*
Administrative Assistant

SUBJECT: Department of Administration's Recommended Changes to
CSSB 193(SA)

The Department of Administration has proposed a number of changes to CSSB 193(SA). Many fall within the area of clarification or insuring consistency and appear to me to be noncontroversial. Others would make a substantive change to the bill sponsored by the Commission. I have quoted each of the changes below, followed by the department's reasoning, and then discussed its effect on the bill.

Page 2 Recommendation: Delete exempt and
Line 29

Department reason: The rules pertain only to classified and partially exempt employees. By definition, exempt employees are excluded from personnel rules.

Discussion: The State Personnel Act and the Personnel Rules do currently pertain only to partially exempt and classified employees. However, changes proposed in SB 193 would extend certain provisions to include exempt service employees, notably by giving them appeal rights from acts of unlawful discrimination. The department proposes that these changes be deleted from the bill.

Page 3 Recommendation: Substitute for clarification and renumber
Lines 9-13

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

Department reason: None given

Discussion: The change proposed would combine two paragraphs of AS 39.25.110 for clarification purposes. The existing paragraph (2) lists separately the judges and justices of those courts which are established by the State Constitution as well as those which are established by

statute. I don't suppose that this is a necessary distinction to make in this context.

Page 3 Recommendation: Substitute (8) certificated teachers
Lines 23-25 employed by the Department of Education as classroom
 teachers;

Department reason: Correspondence teachers do not teach
in classroom setting. They function as any classified
employee.

Discussion: Correspondence teachers are presently members of the exempt service. The Commission, in its initial work on the State Personnel Act, inadvertently deleted them from the exempt service. The State Affairs Committee Substitute placed them back in, largely, I believe, at the request of the correspondence teachers themselves. They are currently negotiating as a separate bargaining unit with the State under the Public Employment Relations Act. While the correspondence teachers work in an office in the State Office Building and do not have classroom responsibilities, they do serve as teachers in another sense. The Commission has not directly considered the merits of removing them from the exempt service.

Page 3 Recommendation: Delete ...the legislature, or a
Line 29 legislative committee

Department reason: Legislative employees by definition
AS 39.25.110(4) are exempt.

Discussion: The department is correct and this language can be removed without changing the substance of the law.

Page 4 Recommendation: Delete [paragraph (12)]
Line 12

Department reason: Legislative employees by definition
are exempt.

Discussion: The department is correct. Since the Ombudsman and his staff are legislative employees, they are placed in the exempt service by AS 39.25.110(4). If they need to be addressed separately, paragraph (4) could be amended to include specific reference to the Ombudsman's office.

Page 4 Recommendation: Delete: division of mental health
Lines 16-17 and developmental disabilities, Department of Health
 and Social Services

Department reason: All licensed physicians employed
by the State should be exempt not just those working
for mental health.

Discussion: The Commission has not discussed this proposed change. It
would extend the exempt service to include all licensed physicians
employed by the state. It is my understanding that the state placed
mental health physicians in the exempt service in order to offer salaries
in excess of the regular pay plan. It was not possible to find satis-
factory candidates to work as physicians in the mental health field
within the limit of the pay plan.

Page 4 Recommendation: Add section
Line 30 (22?) emergency firefighters employed by the Depart-
 ment of Natural Resources whose employment is limited
 to a fire emergency.

Department reason: Current and past use of fire-
fighters warrants placing them into exempt status.

Discussion: The Blue Ribbon Commission did not consider this issue but
it appears to make sense. In case of a fire emergency, the department
cannot take the time to prepare paperwork for nonpermanent positions and
the emergency may last longer than the 30 days to which an emergency
appointment is limited.

Page 5 Recommendation: Delete: except as provided in AS 39.-
Lines 9-10 25.170.

Department reason: Partially exempt employees should not
have the same rights as classified employees. Sufficient
protection is provided under current anti-discrimination
laws.

Discussion: The issue raised by this recommendation is whether state
employees in the partially exempt service should have an in-house appeal
to the Personnel Board or whether that entity should deal exclusively
with classified state employees. This issue is addressed in the discussion
following the department's recommended changes to AS 39.25.170, page 14,
line 14 through page 15, line 27.

Page 6 Recommendation: Delete [paragraph (7)]
Line 1

Department reason: This position is currently held by the
Director, Division of Forestry who is partially exempt.

Discussion: This change was not discussed by the Commission, but it
appears to be a noncontroversial clean-up of the Act.

Page 6 Recommendation: Delete [paragraph (15)]
Line 27

Department reason: This position has been reclassified
to a Director status and is partially exempt.

Discussion: At the time that the Commission was drafting SB 193, the
reclassification of the Chief of Subsistence had not been completed.
Therefore, the Commission did not consider this change. It appears to
be noncontroversial.

Page 8 Recommendation: Delete and substitute existing language
Lines 3-22 of AS 39.25.140(c)-(e).

Department reason: In addition to the fact that current
law excludes personnel rules from being subject to the
Administrative Procedures Act (APA) if the new language
becomes law, it will remove the protection and flexi-
bility so that almost every change instituted by the
Division of Personnel, whether a new test, recruiting
effort, the awarding of preference points for veterans
et al, would fall under lengthy public scrutiny
through APA. This will cause increasing and lengthy
delays in placing applicants on registers and reduce
flexibility to make the system better.

Discussion: The language of CSSB 193 provides that amendments to the
Personnel Rules which concern matters of public policy would be adopted
in accordance with the Administrative Procedure Act. The department
indicates that the change would require new tests, recruiting efforts
and the awarding of preference points for veterans to be subject to
adoption through the APA. This appears to be a misunderstanding of the
APA. Only in those instances in which the proposed change required
amendment of a Personnel Rule concerning matters of public policy would
hearings under the APA be required. But in those instances, the public
would have an opportunity to comment to the Personnel Board before it
acted on the question. This should not affect the time it would take to
place applicants on registers, so far as I can see.

Page 9 Recommendation: Delete the word "position" ...necessary
Line 6 position specifications....

Department reason: Specifications for classes are
general. Each position in a class could have a different
description.

Discussion: This appears to be a reasonable recommendation.

Page 10 Recommendation: Delete [paragraph (12)]
Lines 18-19

Department reason: By longstanding practice this is
accomplished by the State Administrative Manual, Section
7642-7684. Additionally, it only covers approximately
14 positions.

Discussion: This appears to be a reasonable recommendation. The 14
positions covered are those which are in the classified service but not
within an existing bargaining unit. Members of bargaining units who
transfer at the request of the state are reimbursed in accordance with
union contract provisions.

Page 11 Recommendation: Delete [paragraph (20)]: Replace with
Lines 7-29 Blue Ribbon recommendation as contained in original SB
and 193.

Page 12 Department reason: This will reduce confusion and provide
Lines 1-3 a better vehicle for veteran hire.

Discussion: The Senate Judiciary Committee discussed this paragraph at
its last meeting and addressed the substance of the department's recommenda-
tion in the amendments it agreed upon. One change made by the State
Affairs Committee Substitute which was not addressed occurs in the
definition of "veteran". The original version of SB 193 and also the
State Personnel Act define a veteran as a person who has served for 90
days. The Senate State Affairs Committee Substitute increased that to
181 days.

Page 12 Recommendation: Delete existing [paragraph (25)] substitute
Lines 24-27

The establishment of transition periods of up to 12
months for an employee to be reappointed to a classified
position which his position is withdrawn from the
partially exempt or exempt service and placed in the
classified service.

Department reason: The bill language provides guarantees that far exceed any current rules, statutes, or collective bargaining agreements and it is unlimited by time.

Discussion: Paragraph (25) was added by the Senate State Affairs Committee. The Blue Ribbon Commission considered the issue but did not recommend any changes to the present law, which provides no direct protections to employees whose jobs are withdrawn from the partially exempt or exempt service and placed in the classified service. The problem is that positions in the partially exempt and exempt services do not have to be filled by using merit system standards. Individuals selected do not have to meet minimum qualifications for the positions nor does the hiring authority have to select from the five highest ranking available eligibles on registers. The language proposed by the Department of Administration appears to be a compromise between the proposal of the State Affairs Committee and the existing situation.

Page 13 Recommendation: Change "the" to "departments" so
Line 15 that ... applicants on [THE] department eligible lists.

Department reason: This section deals with departmental personnel officers who do not test and place applicants onto a statewide list.

Discussion: The proposed change appears consistent with the Blue Ribbon Commission's recommendation concerning this section.

Page 13 Recommendation: Delete - (... or an exempt employee
Lines 26-27 in a position named in AS 39.25.110(3))

Department reason: Separation of powers.

Discussion: The people who would be removed from the scope of this section, which limits partisan political activity by state employees, are employees of the Judicial Council. Since they are part of the judicial branch, the separation of powers doctrine could be held to preclude the executive branch from interfering in personnel policies for them.

Page 14 Recommendation: Add - In the absence of a resignation,
Line 13 the appointing authority shall accept written evidence
 of candidacy as a resignation.

Department reason: An employee may not immediately inform his supervisor regarding nomination or candidacy for a state or national elective office. In the absence of a formal resignation, the employer should be able to effect a resignation.

Discussion: This recommendation would make running for state or national elective political office a self-executing resignation from employment in the classified or partially exempt service. It does not appear to change the intent of the language in the bill.

Page 14
Line 14

Recommendation: Add "... of a classified state...."

Department reason: This section deals with classified employees only not employees of the legislative and judicial branches.

Page 14
Line 15

Recommendation: Add "...applicant for classified state service...."

Department reason: This section deals with classified employees only not employees of the legislative and judicial branches.

Page 15
Lines 6, 12
and 27

Recommendation: An employee in the classified service...

Department reason: This section deals with classified employees only not employees of the legislative and judicial branches.

Discussion: The Blue Ribbon Commission proposed amendments to the State Personnel Act which would extend to partially exempt and exempt employees the right to appeal to the Personnel Board in cases of unlawful discrimination which affected their employment status. The changes which the department recommends would limit those appeal rights to classified state employees, as is the law now. The department gives as its reason that the section should deal only with classified employees and not those of the judicial or legislative branches. However, by limiting appeal rights to classified state employees, the department's recommendations would also preclude employees of the executive branch who are members of the exempt or partially exempt service from appealing. If the separation of powers doctrine makes it unwise to provide judicial, University of Alaska, and legislative branch employees an opportunity to bring cases before the Personnel Board, there still remains the issue of whether partially exempt and exempt executive branch employees should have that right. As the department noted earlier, all state employees are covered by the state's human rights' provisions which provide protection from employment discrimination.

Page 16
Line 19

Recommendation: Delete "by the employee" ... superior court.

Department reason: The decision of the board should be appealable by both the employer and the employee.

Discussion: The Senate State Affairs Committee added the language which the department proposes to change. The existing law does not provide for appeals by either party to the Superior Court. If the action complained of was due to discrimination or was in violation of the State Personnel Act or the Personnel Rules, then the Board has the power to order remedies on behalf of the employee. The Blue Ribbon Commission's bill retained the Board's powers as does the State Affairs Committee Substitute.

The existing law and the Blue Ribbon Commission's bill provide that in all other cases, the Board shall report its finding and recommendations to both parties. The State Affairs Committee added language to provide that in those instances, the employee can appeal the decision of the Personnel Board to the Superior Court. It is not clear to me what an employee would gain by such an appeal, since the Personnel Board has no power to provide for remedies in those cases.

Page 17
Line 29

Recommendation: Reword - express political opinions, provided that while engaged on official business, an employee may not display or distribute partisan political material in any form or manner.

Department reason: None given.

Discussion: The existing language permits a state employee to express political opinions. The department recommends language to make clear that an employee may not exercise that right while conducting state business. The section applies to all state employees, whether in the classified, partially exempt or exempt service. As worded, the recommendation would forbid any state employee even from wearing a campaign button while on the job. The Blue Ribbon Commission did not discuss whether the Act should address any limitation of political expression or how far such a limitation should go.

Page 18
Lines 8-27

Recommendation: Delete sections 20 and 21

Department reason: Exempt and partially exempt employees do not compete for their positions. Their knowledge, skills, abilities and salary range could differ considerably from their corresponding class and range in this classified service.

Senator Bill Ray, Chairman
February 9, 1982
Page Nine

Discussion: The Senate State Affairs Committee added these two sections which provide that the employees of the Commercial Fisheries Limited Entry Commission and of the Postsecondary Education Commission be placed in the classified service. The Blue Ribbon Commission discussed this issue but did not recommend making any changes. The Senate Judiciary Committee has recommended deleting these two sections.

Page 18
Line 29

Recommendation: Effective date should be changed to
July 1, 1982.

Discussion: This makes sense.

TBC:lmk



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

January 27, 1982

TO: Members of the Senate Judiciary Committee

FROM: Teresa B. Cramer *BC*
Administrative Assistant

SUBJECT: CSSB 193(SA) Amending the State Personnel Act

The Blue Ribbon Commission sponsored SB 193 to make a comprehensive revision of the State Personnel Act, to change personnel practices, to expand protections granted employees in the exempt and partially exempt services, and to make the Act consistent with the Public Employment Relations Act. Last session, Senate State Affairs considered and amended the bill.

The State Personnel Act establishes the state personnel system and implements the constitutional requirement that the merit principle govern employment of persons by the state. Article XII, Section 6. Some of its provisions are superseded by provisions of collective bargaining agreements between the state and employee organizations. It provides the entire personnel system for the 19 or 20 classified service employees who are not members of a bargaining unit and for all partially exempt employees to the extent it applies to them.

The major changes proposed in CSSB 193(SA) are discussed briefly below. I have noted also some of the amendments made by the State Affairs Committee.

Section 6: AS 39.25.080. PUBLIC RECORDS.

Page 2
Line 6

The amendment lists those parts of the personnel records which are to be considered public records and is consistent with the current Personnel Rules. The law presently says that all records except those which the Rules require to be held confidential are open to public inspection.

Section 12: AS 39.25.140. AMENDMENT OF PERSONNEL RULES.

Page 7
Line 25

Subsection (c) of this section changes current law to require that those Personnel Rules which concern

matters of public policy be adopted in accordance with the Administration Procedure Act. (Page 8, line 3)
Subsection (f) empowers the Personnel Board to amend the Rules presented to it. (Page 8, line 17)

Section 13: AS 39.25.150. SCOPE OF THE RULES.

Page 11
Line 1

Paragraph (17) adds new language to provide that the Personnel Rules shall include procedures for resolving grievances of the general public concerning the operation of the state personnel system. Grievances might arise from the state application and testing process or the selection process. There is presently no system in place for addressing these grievances, although they are handled on an informal basis by the Division of Personnel.

Page 11
Line 7

Paragraph (20) addresses veterans' preference. The original bill did not change the substance of the existing preference system. The State Affairs Committee adopted amendments which do change the existing system.

Page 12
Line 18

Paragraph (23) adds new language to provide that rules be adopted permitting the state to establish programs facilitating the employment of disadvantaged persons. These might include CETA programs and the Senior Community Service Employment Program (SCSEP).

Page 12
Line 24

The State Affairs Committee Substitute adds paragraph (25) which would guarantee that an employee's salary would not be reduced if his position were moved from the partially exempt or exempt service and placed into the classified service.

Section 14: AS 39.25.153. PERSONNEL OFFICERS.

Page 13
Line 1

Subsection (a) provides that if a department has a personnel officer, he or she shall be an employee of the department rather than of the Division of Personnel. This keeps in force the current practice. As employees of the department, personnel officers are better able to maintain an effective working relationship with the staff of the department they serve.

Subsection (b) limits powers now given certain

personnel officers to amend the Personnel Rules when dealing with employees in job classes unique to that department.

Section 15 AS 39.25.160. GENERALLY.

Page 13
Line 25

Subsection (c) extends the protection from being required to make contributions to a political party to all state employees. (Page 14, line 5). Only members of the classified service now have that protection.

Subsection (e) adds a requirement that members of the partially exempt service resign from state employment when seeking political office. (Page 14, line 10)

Subsection (f) extends protection from unlawful discrimination to all state employees. It applies now only to members of the classified service. (Page 14, line 14)

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

Page 15
Line 4

Subsections (c) and (i) provide that employees who have been unlawfully discriminated against may appeal to the Personnel Board, whether or not they are members of the classified service. This implements the expanded protection granted in Section 15, which amends AS 39.25.160(f). Other paragraphs of Section 16 codify current case law.

Appeals by employees in the classified service who are members of bargaining units will be governed by the labor agreement in force rather than by the State Personnel Act, so this section applies to partially exempt employees and to those classified employees who are not members of a union.

Section 20: AS 14.40.913(a).

Page 18
Line 8

The Committee Substitute amends the Postsecondary Education Commission statutes to provide that all of its employees except the executive officer will be members of the classified service. They are presently members of the exempt service.

Section 21: AS 16.43.080(a).

Page 18
Line 22

The Committee Substitute amends the Alaska Commercial Fisheries Limited Entry Commission statutes to place all employees except the executive officer into the classified service. They are presently members of the exempt service.

Section 23: EFFECTIVE DATE.

Page 18
Line 29

The effective date proposed in the bill is now out-of-date and should be amended to July 1, 1982.

TBC:lmk



JUNEAU, ALASKA

Alaska State Legislature

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

Senator Bill Ray
Chairman

MEMORANDUM

May 19, 1981

TO: Members of the Blue Ribbon Commission

FROM: Teresa B. Cramer *Terry*
Administrative Assistant

SUBJECT: Analysis of CSSB 193 (SA)

TITLE

SB: Pg. 1 The Committee Substitute amends the title because it
Line 6 adds sections 20 and 21 which amend personnel laws not
found in the State Personnel Act.

CSSB: Pg 1
Line 6

Section 8: AS 39.25.110. EXEMPT SERVICE

SB: Pg 3 The Committee Substitute adds a paragraph placing corres-
Lines 22/23 pondence teachers and teachers in skill centers operated
by the Department of Education back in the exempt service.
CSSB: Pg 3 The remaining paragraphs are renumbered.
Lines 23/25

SB: Pg 4 The Committee Substitute removes the Alaska Commercial
Line 1 Fisheries Entry Commission from the list of boards whose
staff are all members of the exempt service. It adds
paragraph (14) which places the executive officer of the
Limited Entry Commission in the exempt service. The
CSSB: Pg 4 Committee Substitute also adds Section 21 which amends
Lines 3 & 10 the Limited Entry Commission statutes to specify that
and Pg 18 employees of the commission except the executive officer
Line 22 are in the classified service.

SB: Pg 4 The Committee Substitute adds paragraph (21) which places
Line 24 the officers and employees of the state who reside in
 foreign countries in the exempt service.

CSSB: Pg 4
Line 28

Section 9: AS 39.25.120. PARTIALLY EXEMPT SERVICE

SB: Pg 7 The Committee Substitute deletes paragraph (19) of the
Line 3 Senate Bill, which places the staff of the Division of
 Labor Relations responsible for representing the state
CSSB: Pg 7 in collective bargaining negotiations in the partially
Line 7 exempt service. These employees would therefore remain
 in the classified service.

Section 12: AS 39.25.140. AMENDMENT OF PERSONNEL RULES

SB: Pg 8 The Committee Substitute amends the Senate Bill by
Line 2 to deleting subsection (f) which defined "matters of
Pg 9 public policy". It also reorganizes the remaining
Line 5 subsections, so that subsection (c) of the Committee
 Substitute requires that if the proposed amendments
CSSB: Pg 8 concern matters of public policy, they are subject to
Lines 3-22 the APA. The Senate Bill placed this provision in
 subsection (d). The Committee Substitute does grant
 the Personnel Board the power to amend the rules and
 provides that the amended rules shall be published
 in the Administrative Code for informational purposes.

Section 13: AS 39.25.150. SCOPE OF THE RULES

SB: Pg 10 The Committee Substitute deletes the word "efficiently"
Line 4 from paragraph (3) which requires that employee selection
 methods test the capacity and fitness of the person
CSSB: Pg 9 examined.
Line 21

SB: Pg 11 The Committee Substitute amends the veterans preference
Line 7 to paragraph to require that the veteran may only use the
Pg 12 points once, at a time to be selected by the veteran.
Line 3 This is a change from the existing system (which the Senate
Bill retained) which permits the points to be added to
all of the job classes a veteran applies for until he
is hired by the state. At that time the points are
removed from his scores. The Committee Substitute retains
the requirement that the preference may not be used
within the area of promotion.

CSSB: Pg 11
Line 19 to
Pg 12
Line 11

The Committee Substitute also amends the definitions
of "veteran" and "disabled veterans".

SB: Pg 13 The Committee Substitute adds paragraph (25) to guarantee
Line 2 partially exempt or exempt employees a similar job class
assignment if their positions are moved to the classified
service. The Committee Substitute rennumbers the remaining
paragraph.

CSSB: Pg 12
Line 24

Section 15. AS 39.25.160. GENERALLY

SB: Pg 14 The Committee Substitute adds to subsection (f) prohibi-
Line 21 tions against discrimination based on the following reasons:
marital status, change in marital status, pregnancy,
parenthood, or other reason not related to merit.

CSSB: Pg 14
Line 18

Section 16. AS 39.25.160. HEARINGS AND APPEALS

SB: Pg 15 The Committee Substitute makes the same changes to the
Line 16 protected classes in AS 39.25.170(c) as it did to
AS 39.25.160(f) in section 15 above.

CSSB: Pg 15
Line 13

SB: Pg 16 The Committee Substitute amends subsection (h) to make
Line 7 clear that in a hearing before the Personnel Board an
employee has the right to confront and cross-examine
CSSB: Pg 16 witnesses. The Committee Substitute retains the
Line 6 provision that technical rules of evidence do not
apply to the hearing, but adds language requiring that
all testimony shall be taken under oath.

SB: Pg 16 In subsection (i) the Committee Substitute repeats the
Line 10 additions to protected classes which are found in Section
15, AS 39.25.160(f), and Section 16, AS 39.25.170(c).
CSSB: Pg 16
Line 10

Section 20. AS 14.40.913(a)

SB: Pg 18 The Committee Substitute adds this section to the
Line 4 Senate Bill. It amends the Postsecondary Education
Commission statutes by providing that all of the
CSSB: Pg 18 commission's employees except the executive officer
Line 8 are members of the classified service. Those employees
are presently placed in the exempt service.

Section 21. AS 16.43.080(a)

SB: Pg 18 The Committee Substitute also adds this section to the
Line 4 Senate Bill. It amends the Alaska Commercial Fisheries
Limited Entry Commission statutes to place only the
CSSB: Pg 18 executive officer of the commission in the exempt service.
Line 22 All of the other employees of the commission are moved
from the exempt service to the classified service.

TBC:lmk



ombudsman

Frank Flavin

State of Alaska

Reply to:

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Juneau, Alaska 99811
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Fairbanks, Alaska 99707
(907) 452-4001

MEMO

DATE: May 14, 1981

TO: Senate State Affairs Committee

FROM: Frank Flavin, Ombudsman

RE: Proposed CS for Senate Bill 193

Proposed Amendment:

In section 39.25.140 at page 8, line 3 of the proposed CS insert subsection (d) of Sec. 39.25.140 of the original SB 193 found at page 8 lines 6 through 8. This subsection to become subsection (c) in the proposed CS to read:

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

The present subsection (c) at page 8 line 3 of proposed CS should become subsection (d) and read:

(d) If the proposed amendments relate only to internal management of the state agencies [when the proposed amendments are submitted to the personnel board,] the commissioner of administration shall post notice in public buildings throughout the state that the personnel board has the proposed amendments under consideration. The notice required by this subsection shall be posted at least 30 days before any decision is made to amend the personnel rules and shall include an address for the receipt of written comments.

Subsections (d), (e), (f) and (g) should be respectively relettered as subsections (e), (f), (g) and (h).

BASIS

As drafted, Sec. 34.25.140 of the proposed CS presumes that amendment of personnel rules is a matter of concern only to state employees and management. In fact, many procedures, such as recruitment, examination, selection methods and eligible lists directly impact members of the general public. It is safe to say there are as many people who would like to be state employees as those who are. We receive many complaints concerning state hiring practices. The Administrative Procedures Act is the established vehicle for insuring participation by members of the general public.

*Adopted
5/19/81
moved
bill out
of index
secs*



JUNEAU, ALASKA

Alaska State Legislature

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

Senator Bill Ray
Chairman

MEMORANDUM

May 11, 1981

TO: Members of the Blue Ribbon Commission

FROM: Teresa B. Cramer *Jerry*
Administrative Assistant

SUBJECT: Work Draft for CSSB 193 (SA) -- Amending the State Personnel Act

I have received a work draft for the Senate State Affairs Committee Substitute to SB 193. The changes from the bill are noted below, with references given to both the Senate Bill as introduced by the Blue Ribbon Commission (SB) and to the work draft (CSSB). There is a hearing scheduled on the bill on Tuesday, May 12th, at 1:30 p.m. in the Behrends Building.

AS 39.25.110. EXEMPT SERVICE.

SB: Pg 3 The committee substitute returns correspondence teachers
Line 23 and teachers in skill centers in the Department of Education
 to the exempt service. They were inadvertently deleted
CSSB: Pg 3 from the exempt service when the commission removed
Line 23 language in the State Personnel Act which placed teachers
 in schools operated by the state in the exempt service.
 The personnel office in the Department of Education had
 advised me that there were no longer any such employees.
 They overlooked correspondence teachers and skill center
 teachers in making that statement.

Because the committee substitute adds this new paragraph,
the remaining paragraphs are renumbered.

SB: Pg 4 The committee substitute adds a new paragraph placing
Line 24 "officers and employees of the state who reside in
 foreign countries" in the exempt service.

CSSB: Pg 4
Line 28

AS 39.25.120. PARTIALLY EXEMPT SERVICE.

SB: Pg 7 The committee substitute deletes language proposed in
Line 3 the bill which would have placed the employees in the
 Division of Labor Relations who are responsible for
CSSB: Pg 7 representing the state in negotiations with unions in
Line 7 the partially exempt service.

AS 39.25.140. AMENDMENT OF PERSONNEL RULES.

SB: Pgs. 8-9 The committee substitute deletes the provisions of
Line 6 SB 193 which would have made Personnel Rules which
 concern matters of public policy as defined in the bill
CSSB: Pg 9 subject to the Administrative Procedures Act. It also
Line 6 retains the deletion of language in the statute which
 describes the rules as matters of internal management
 and exempts them entirely from the APA. It would therefore
 appear that the rules are made subject to the APA and
 that only those rules which fall within the APA definition
 of internal management of state agencies would be exempt
 from the hearing process of the APA rule-making.

There is language which might suggest a contrary interpretation to the committee substitute. It provides that the amended rules shall be published in the Administrative Code for informational purposes. This retains language from the statute but suggests a conflict with the APA, since regulations which are adopted under the APA are required to be filed with the Lt. Governor who publishes them in the Code. (AS 44.62.040 and 44.62.130)

The committee substitute retains language proposed in SB 193 which gives the Personnel Board the power to amend proposed rules and which provides that the Board may appoint a hearing officer to conduct hearings on rule changes.

AS 39.25.150. SCOPE OF THE RULES.

SB: Pg. 10 The committee substitute deletes the word "efficiently"
Line 4 from the language of paragraph (3). Testimony at the
 hearing on the bill suggested that it would be hard to
CSSB: Pg 9 create a system to measure whether an employee could be
Line 18 expected to efficiently discharge the duties of a job.

SB: Pg 11
Line 19

CSSB: Pg 11
Line 4

The committee substitute redrafts language on veterans preference. It provides that the additional points awarded to a veteran may be used only once, at a time selected by the veteran. The present system permits the points to be added to all of the applications for job classes a veteran has applied for before he is employed by the state. The limitation against a veteran using his or her preference points to secure a promotion is retained. The committee substitute also adds that the paragraph may not be interpreted to amend terms of a collective bargaining agreement.

The committee substitute amends the definition of veteran and disabled veteran.

SB: Pg 13
Line 2

CSSB: Pg 12
Line 21

The committee substitute adds a new paragraph to provide for rules to guarantee a partially exempt or exempt employee whose job is placed in the classified service an opportunity for work in the same or similar job class.

AS 39.25.160. GENERALLY.

SB: Pg 14
Line 21

CSSB: Pg 14
Line 14

The committee substitute adds prohibitions against job action based on marital status, change in marital status, pregnancy, parenthood or other reasons not related to merit to the protected classes listed in the Senate Bill.

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

SB: Pg 15
Line 16

The committee substitute adds the same protected classes listed in AS 39.25.160 into AS 39.25.170(c).

CSSB: Pg 15
Line 14

SB: Pg 16
Line 7

In paragraph (h) the committee substitute adds reference to an employee's right to confront and cross-examine

Memo to Members of the BRC
May 11, 1981
Page Four

CSSB: Pg 16
Line 7

witnesses and specifies that all testimony shall be taken under oath.

In paragraph (i) the committee substitute repeats the same additions to protected classes. In addition, it specifies that the Personnel Board shall report its findings and recommendations in writing within 30 days of a hearing. It also adds language to provide that the employee may appeal the decision of the Personnel Board to the superior court.

TBC:lmk
Enclosure

Lu
SB 193
4/9/81
mp
465-2200

April 8, 1981

Ms. Nancy Groszek
Administrative Assistant
Senate State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Ms. Groszek:

Re: SB 193

This is to reiterate the concerns expressed by Bruce Cummings, Director of Personnel, before the Senate State Affairs Committee on March 31, regarding SB 193.

The Department of Administration is particularly concerned with the amendments to AS 39.25.140 proposed in Section 12 of the bill, which would require that certain amendments to the Personnel Rules are subject to the Administrative Procedure Act (AS 44.62). It is our opinion that the enactment of this proposal would simply limit the flexibility we now have to modify the Rules - while at the same time increasing the cost of their administration - without providing any substantive benefits to the State, its citizens, or its employees.

As you may be aware, the Legislature determined at the time of Statehood that the Personnel Rules "relate to the internal management of State agencies and their adoption is not subject to the Administrative Procedure Act." [AS 39.25.190(c)] We believe that this was a proper acknowledgement that the Division of Personnel exists only to provide services to other State agencies - as opposed to being a direct public service agency - and that the procedural rules for the management of the State's work force are properly an internal matter.

To exempt the Personnel Rules from the requirements of AS 44.62 does not suggest that the substance of the Rules is of no interest to the public. Indeed, existing statutes require that notice of proposed amendments be posted in public buildings throughout the State, that a thirty day waiting period elapse, and that the Personnel Board may hold hearings upon request [AS 39.25.140(c)]. These provisions insure that there is at least an opportunity for public input.

April 8, 1961

However, as a result of the enactment of collective bargaining for State employees in 1972, even the existing provisions for public comment are largely meaningless. To now require a costly procedure which would ostensibly provide for greater public comment is only to deceive the public; comments received as the result of amendments via the Administrative Procedure Act would have little or no substantive effect on the rules governing State employment.

The matters defined as "public policy" in the proposed subsection (f) for AS 39.25.140 are now matters on which the State negotiates with public employee organizations under AS 23.40. The agreements we reach supercede the Personnel Rules, and their terms vary among bargaining units. For example:

1. We recruit for classifications in some bargaining units, but in others we do not;
2. Hours of work vary between bargaining units;
3. We examine for positions in some bargaining units, but in others we do not;
4. Some bargaining units provide for merit increases, but others do not;
5. "Prohibitions and penalties" vary among bargaining units; and,
6. Hearing and appeal procedures differ between bargaining units.

In recent years, amendments to the Personnel Rules have become an after-the-fact reflection of employment conditions prevailing for most classified employees. Where the Rules differ from the terms of a collective bargaining agreement, the agreement prevails.

At this time, there are only thirteen out of State employees whose terms and conditions of employment are wholly subject to the Personnel Rules and AS 39.25 (three are in the Division of Personnel, and ten are in the Division of Labor Relations). These are classified employees who are not presently covered by a collective bargaining agreement. While we must continue to maintain Personnel Rules for this handful of employees, we do not believe that public interest is sufficient to subject those Rules to the Administrative Procedures Act.

April 8, 1981

Further, the proposed amendment to AS 39.25.140 may work to impair the collective bargaining process. AS 23.40.250(7) currently provides:

" 'terms and conditions of employment' means the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees; but does not mean the general policies describing the function and purposes of a public employer."

It would appear that the proposed changes in AS 39.25.140 would conflict with AS 23.40.250(7) and thereby make those matters of "public policy" not subject to collective bargaining.

It was suggested in Committee hearing that this apparent conflict may be resolved by amending SB 193 to expressly provide that the Rules which would be subject to the Administrative Procedure Act are not matters of "public policy" for purposes of AS 23.40. Should this occur, we remain with the paradox of soliciting public comment on issues which have already been determined across the bargaining table.

Attached is a copy of our bill analysis of SB 193. We respectfully request that the changes recommended in Section 5 of the analysis be made. Should the Senate State Affairs Committee decide not to adopt these recommendations, we ask that they do adopt the attached fiscal note.

On another subject within SB 193, we recommend that Section 8 of the bill be expanded by adding the following:

- (19) Officers and employees of the State employed in positions in foreign countries.

Presently, these positions are in the partially exempt service. The Director of Personnel is required by AS 39.27.020(c) to establish equitable pay differentials for these positions, to be derived from the basic salary schedule provided in AS 39.27.011. To do so in an equitable manner is virtually impossible. There are several factors affecting the actual cost-of-living in foreign countries which cannot be adequately addressed in formulating a standard salary schedule. This reality is acknowledged by federal and private employers in that they do not tie overseas salaries directly to standard pay schedules. Placing these positions (there are currently only two) in the exempt service would enable the State to set compensation on a formula analagous to that used by the federal government.

Ms. Nancy Groszek
Page 4

April 8, 1981

Thank you for the opportunity to comment on SB 193. Should you desire additional information, please do not hesitate to ask.

Respectfully,

W. R. Hudson
Commissioner

WRH/mjc

cc: Keith Specking
Judy Crondahl

Bruce A. Cummings

Attachments: Bill Analysis - SB 193
Fiscal Note - SB 193

AMERICAN ASSOCIATION
ALASKA



OF UNIVERSITY WOMEN
DIVISION

April 1981

To: Members of the Senate State Affairs
From: Susan R. Clark, Legislative Chair, Alaska Division of the
American Association of University Women
1109 C Street, Juneau, Alaska 99801 (586-6952)

Re: Veterans' Preference for State Employment (SB 193, SB 104)

I would like to begin first with an acknowledgement to Sen. Bradley, because I know that his hard work in this area has been done in good faith and out of a sincere concern for the welfare of those men and women who made personal sacrifices for the sake of our country's safety.

I also want to point out that I personally grew up in the military. My father, godfather, and father-in-law were all career officers in the armed services, and my husband and brother were both active in the military during the Vietnam war. I had planned at one time to make the Navy a career. I also want to point out that the new Alaska division president of A.A.U.W. is herself a veteran.

A.A.U.W. feels that we must bring to the attention of the legislature that while the goals of preference are legitimate, and while the current state statute may not have been enacted for the purpose of discriminating against women, the exclusionary impact upon women is so severe as to require the state to further its goals through a more limited form of preference.

Looking at the current law as too broad, please consider who is covered: a person with a minimum of 90 (181 is a change currently being proposed) days active service serving during World War I, World War II, and Vietnam or Korea who has been honorably discharged. According to the Veterans' Preference Act of 1944, such preference was designed to reward veterans for the sacrifice of military service, to ease the transition from military to civilian life, to encourage patriotic service, and to attract loyal and well disciplined people to civil service occupations. In terms of the last reason, it should be pointed out that preference itself has little if any relevance to actual job performance. The first two reasons for preference seem the most pertinent to Alaska - reward for sacrifice and ease of transition into civilian life. Both reasons are valid, but as lifetime preferences, they are subject to the objection that they give the veteran more than a square deal. Certainly, upon returning to civilian status, a veteran should have access to his or her job, and perhaps for 5 years or so after returning, preference could be given as reward and help for veterans, but there should be some sort of limit on the length of time one can reap rewards for what can be a brief and un Hazardous term of service.

Because the extent to which the status of veteran is one that few women have been permitted to achieve, every hiring preference for veterans, however modest or extreme, must admit inherent gender-bias, and therefore legislated preference must be considered with due caution and careful consideration. The 5 points for veterans and 10 points for disabled veterans comes directly from the 1944 Federal Veterans' Preference Act. These points are added to a veteran's score after other written tests are administered. In Alaska where mere hundreths of a single point can separate job applicants, the system is overly weighted, especially when compared with other handicapped, disadvantaged or suspect classes of people.

Conceding that the goal here is to benefit the veteran, there is no reason to absolve the legislature from awareness that the means chosen to achieve this goal reserves a major sector of public employment to an already established class, which, as a matter of historical fact, is already 80% male in catagories other than the clerical and para-professional jobs. The current point system and lifetime preference, only compounds and contributes to sex bias in all levels of state employment.

Women have been overtly excluded from the military, and not just by tradition and culture. During WW I for example "a variety of proposals were made to enlist women for work in the Army as doctors, telephone operators, and clerks, but all were rejected by the War Dept." Navy women did achieve military rank and status during this time, and were the first women to do so. While the Army Nurse Corps was the first official military unit for women, they were not granted full military rank until 1944 - forty-three years later. During the Second World War several temporary women's units were formed including WAAC (Women's Army Auxiliary Corps), WAVES (Women Accepted for Voluntary Emergency Service), and WASP (Women Airforce Pilots). These women, however, were in fact civilians and had no regular military status, and thus no veteran status. In fact, although the WASP personnel were filling some of the most hazardous of flying jobs, that of towing targets for air gunnery practice, and testing planes fresh out of repair depots, they were denied commissions based on the fact that "the authority of the act of September 1941, to make temporary appointments as officers in the U.S. Army 'from among qualified persons' refers to and contemplates men exclusively, and may not be regarded as authority for commissioning women as officers...." These women finally won their hard earned veterans' status in September 1976, but other women who had been active in the war have not.

Women's services were finally established on a permanent basis in 1948, however quotas were placed on the numbers that could enlist. Women were not to exceed 2% of the total enlisted strength, their eligibility requirements were more stringent than were those for men, and career opportunities were also limited. In addition women were involuntarily removed from service for pregnancy, parenthood, and even marriage. These strictures have carried on into the '60's and '70's. Not until 1967 was the 2% quota lifted, and the many restrictive policies concerning women's participation in the military were not modified or eliminated until the 1970's. Amazingly, or perhaps not so, once the barriers were down women joined in large numbers.

In just three years from 1973-1975 the percentage of enlisted women in the military had doubled.

There are two ways to ameliorate the effects of the veterans' preference on women and minorities. One is to modify the point system and to place a time limit on preferential access to jobs. The other solution is to look to expanding what is considered by the word veteran, and thereby include in this law others who have served their country every bit as well and as patriotically as have those on "military active duty". Other states include language that recognizes nurses and other women who were discharged and so served in any "corps or unit of the United States established for the purpose of enabling women to serve with, or as auxiliary to, the armed forces of the United States..." Language should also recognize those who underwent severe hardship because of the war. In WW II both the Aleut Americans and the Japanese Americans were uprooted and forced into relocation camps. We have never rewarded their sacrifices with jobs or appeasements of any sort. In expanding the concept of who is a veteran, we need also to look at the men and women who served in civil defense jobs, with the American Red Cross, the Civil air patrol, as war correspondants, and in the merchant marine (who incidentally were in the same waters as navy destroyers and also under attack, but receive no reward in terms of their patriotism, personal sacrifice and danger).

Looking again at the contributions of women to the war effort, we are but slightly aware of the sacrifices and contributions of over 2 million World War II women who took the places of the absent men working in the American war industries: in shipyards, aircraft plants, ammunition plants. The call to "inlist" in the factories was every bit as organized and strong as for men in the armed forces. Concern about dangerous working conditions and long hours took a back seat to America's call to keep up the production to supply the war with weapons, and ammunition. For the short-handed women in the farm communities, the call was to get out the crops to feed the troops. If personal sacrifice, patriotism and danger is a standard for preference, then these women deserve veterans' status every bit as much as the service veterans. One amazing statistic of which you may be unaware is that during the war period "more deaths occurred from industrial accidents than from combat." Where was and is their reward? For their commitment and patriotism, they received not preferred lifetime access to civil service jobs, but firings. No one helped them with their transition back into "civilian" jobs. For many minority women who were even then the major financial support for their families, this transition meant leaving highly skilled, well paying jobs to go back to the dead end drudgery and poverty wages of domestic work.

It is interesting to note that the Federal Veterans' Preference Act of 1944 included in its preference the wives of disabled service personnel and the unmarried widows of deceased ex-service personnel. We tend to look at patriotic service and personal sacrifice as being a military male prerogative, but I feel we need to look hard at the patriotism and sacrifice of the service personnel spouses who held the country and family together as essentially single parents, frequently having to hold down another job to

support their families because the salary range for enlisted personnel in the military is so low that those families qualify for government assistance. Vietnam vets, in addition, currently have the highest divorce rate of any class of Americans. a rate that is generally high among all military personnel. This means, for example, that those women who held families together during the father's service, and who now must have full time employment to support themselves and their children (of whom women still usually have custody), who traditionally are not educated for well paying jobs, and who have traditionally been denied many levels of employment advancement, now in addition find that the men to whom they gave support are receiving preferential treatment in the jobs the women need to support their families.

As you can see, equitable expansion of the term veteran would be a formidable legislative task, but should be attempted so that families of veterans and those who served alongside veterans can be recognized. As it now stands, the Alaska statute exacts a substantial price from a group of individuals who have long been subject to employment discrimination, and who, because of circumstances totally beyond their control, have had little if any chance of becoming members of the preferred class. Admitting that any hiring preference for veterans does at this time have a severe impact on the public employment opportunities of women, we nevertheless recognize the sacrifice and hardship of military veterans must not be ignored. Through workable modifications in the law, we can strive together to discover solutions that recognize the needs, sacrifices, and contributions of both the military veteran groups and the groups of minorities and women which are so impacted by historical discrimination.

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JUNEAU, ALASKA

Alaska State Legislature

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

Senator Bill Ray
Chairman

MEMORANDUM

March 31, 1981

TO: Members of the Senate State Affairs Committee

FROM: Teresa B. Cramer *TBC*
Administrative Assistant

SUBJECT: SB 193 - Amending the State Personnel Act

Senate Bill 193 makes a comprehensive revision of the State Personnel Act, to change personnel practices, to expand the protections granted employees in the exempt and partially exempt services, and to make the Act consistent with the Public Employment Relations Act. The major changes made in the bill are noted below:

Section 6. Amending AS 39.25.080. PUBLIC RECORDS.

This section amends the current law to provide that only those personnel records listed are available for public inspection. In fact, the materials listed are those which are presently made available under existing law for public inspection. The law now states that except for those materials made confidential by the Personnel Rules, state personnel records are public.

Section 8. Amending AS 39.25.110. EXEMPT SERVICE.

The bill deletes the material in the existing paragraph (8) which states that "certificated teachers employed by the state to teach in schools operated by the state" are in the exempt service. After being advised by the Personnel Office of the Department of Education that there were no employees of schools operated by the state, the commission deleted the paragraph. In fact, there are employees considered to fall within this group. They are employed as correspondence study teachers in Juneau and in the Alaska Skills Center in Seward. The commission has not had an opportunity to consider whether it wishes to change its initial action of deleting paragraph (8).

Section 9. Amending AS 39.25.120. PARTIALLY EXEMPT SERVICE.

Paragraph (19) of this section of the bill adds a group of employees to the partially exempt service who are presently members of the classified service but do not participate in collective bargaining. These are the employees of the Division of Labor Relations within the Department of Administration who are responsible for representing the state in collective bargaining. The majority of the commission recommends that these employees be placed in the partially exempt service in order to insure that they are directly responsive to the policies of the administration.

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

The bill proposes that those Personnel Rules which fall within areas of concern to the public be required to be adopted in accordance with the Administrative Procedures Act to insure an opportunity for public comment. All of the Personnel Rules are presently exempt from the requirements of the APA.

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

Paragraph (16) of the bill no longer sets a limit of 30 days for disciplinary suspension.

Paragraph (17) of the bill provides that the Personnel Rules shall include procedures for resolving disputes from the general public.

Paragraph (23) of the bill is added to permit the adoption of Rules relating to special employment programs for the disadvantaged.

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.

Section 15. Amending AS 39.25.160. GENERALLY.

Subsection (c) extends protection from being required to make contributions to a political party to all employees. The existing

Memo to Senate State Affairs Committee
March 31, 1981
Page Three

subsection applies only to those employed in the classified service.

Subsection (e) adds a requirement that members of the partially exempt service resign from state employment when seeking political office.

Subsection (f) extends protection from unlawful discrimination to all state employees, not merely to members of the classified service.

Section 17. Amending AS 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR SUSPENSION.

Subsections (c) and (i) repeat the expanded coverage from unlawful discrimination which was granted in AS 39.25.160(f).

TBC:lmk



JUNEAU, ALASKA

TERRY ! EXPLAIN THE FACTS
Alaska State Legislature

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

Senator Bill Ray
Chairman

MEMORANDUM

March 27, 1981

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer *Terry*
Administrative Assistant

SUBJECT: SB 193 - Amending the State Personnel Act

I recently received a phone call concerning SB 193 which the commission is sponsoring. The inquiry concerned why the commission had deleted paragraph 8 of AS 39.25.110 (which is the section setting out the membership of the exempt service). The paragraph deleted places "certificated teachers employed by the state to teach in schools operated by the state" in the exempt service. At the time that the commission was considering this section I spoke with the Personnel Office of the Department of Education. They advised me that there were no longer any state operated schools and that therefore there were no employees who would fall within this paragraph. All of the teachers in rural schools are now covered by the paragraph pertaining to employees of regional educational attendance area school boards (AS 39.25.110(18)).

There are, contrary to the initial information I was given, certificated teachers who are considered to be employed by the state to teach in schools operated by the state. These teachers fall into two groups - those employed in the Correspondence Study section of the Department of Education in Juneau and those employed in the Alaska Skills Center in Seward. These teachers are placed in the exempt service by the language of AS 39.25.110(8). The commission did not act with the intention of placing them in the classified service when it deleted this paragraph. However, some of the commission members may believe that it is better to place these employees in the classified service, and therefore would oppose changing the bill.

What should I do concerning this in the State Affairs Committee hearing next Tuesday? Unless you recommend something else, I will explain the facts given above and say that the commission has not met to authorize proposing an amendment to the bill.

TBC:lmk

MEMORANDUM

February 11, 1981

TO: Linn Asper, Legal Services
Legislative Affairs Agency

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Amendments to the State Personnel Act (W.O. 120067)
Amendments to the Nepotism Bill (W.O. 0057)

The commission at its meeting today have suggested the following changes in the above two bills.

State Personnel Act

1. See my memorandum dated February 4, 1981. Do all the recommended changes with the exception of deleting the reference to the "chief of subsistence on page 6, lines 7-8.
2. Add a paragraph to AS 39.25.120 which states:

 (19) the director, deputy director, personnel analystsII, labor relations analystsI, labor relations analystsII, senior negotiators and the research directors of the Labor Relations Agency.
3. In AS 39.25.120(9), page 5, line 20 -- refer to the fact that the number of special assistants can be increased per AS 39.25.130.
4. In AS 39.25.150(17) change the word "citizen" to "members of the public" or some such phrase. "Citizen" excludes resident aliens.
5. Add Sec. 21 to include the effective date of July 1, 1981.

Nepotism Bill

In AS 39.10.010, page 1, line 14 delete "to, the person who makes the appointment or".

TBC:lmk

MEMORANDUM

January 23, 1981

TO: Linn Asper
Legal Services Division

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: State Personnel Act Revisions

I want to start drafting the commission report to the Legislature and I thought I would do so anticipating that the amendments which we have talked about are adopted by the commission. Therefore, to insure that I know what I'm doing, I thought I'd check them with you.

If you have thought of any other amendments which I would need to set out in an analysis of what the commission is proposing, I'd appreciate knowing about them. Thanks.

Page 1 Add an amendment to AS 39.25.070(3) to delete reference
Lines 27 to classified employees, since partially exempt and exempt
& 28 employees are also granted appeal rights in some instances
by this draft.

Page 2 Add amendment to AS 39.25.090 (Coverage of Chapter) so that
lines 21 it reads something like:
& 22

"This chapter and the rules (should this be regulations?)
adopted under it apply to all positions in (1) the
classified service, and (2) the partially exempt and
exempt service as specifically provided."

Pages 4 See my earlier communication on AS 39.25.120
& 6

Page 8 Change to read: (1) - (8) of this subsection.
Line 14

Memorandum to Linn Asper
January 23, 1981
Page Two

Page 8 Change to read: tions;
Line 28

Page 17 Perhaps add an effective date clause - you don't need to
Line 15 anything about this until the commission says to, but
 I'll ask them if they want one.

TBC:lmk



JUNEAU, ALASKA

Alaska State Legislature

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

Senator Bill Ray
Chairman

MEMORANDUM

January 22, 1981

TO: Linn Asper, Legal Services Division
FROM: Teresa B. Cramer
Administrative Assistant *Jerry*
SUBJECT: AS 39.25.120

Because of changes made to AS 39.25.120 by Executive Order, I think we need to redraft that section for our bill. If you agree with the version below, I'll do a memo for the commission to accompany the materials I'll send out before the next meeting.

* Sec. 7. AS 39.25.120 is repealed and reenacted to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Alaska Public Broadcasting Commission;

(B) Professional Teaching Practices Commission;

(C) Parole Board;

(D) Board of Nursing;

(E) Real Estate Commission;

(F) Alaska Royalty Oil and Gas Development Advisory

Board;

(G) Alaska Historical Commission;

(H) Alaska State Council on the Arts;

(I) Alaska Police Standards Council;

(J) Council on Science and Technology ~~in the Department~~
~~of Environmental Conservation;~~ *(The Gov. proposes to transfer it
to the D. of Admin.)*

(11) Alaska Pioneers' Home managers;

(12) hearing examiners in the Department of Revenue;

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

(14) investment officers in the Department of Revenue;

~~(15) the chief of subsistence in the Department of Fish and
Game;~~ *This is in existing statute & the Personnel Board has
placed it in the px service. Since they propose to make the chief a division
director - we don't need to clutter up the statute.*

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

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

(18) the executive director and staff of the Alaska Public Offices
Commission.

TBC:lmk

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

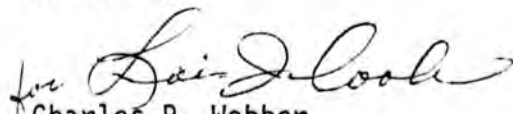
December 4, 1980

Ms. Teresa B. Cramer
Administrative Assistant
Blue Ribbon Commission
On the State Personnel Act
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811

Dear Ms. Cramer:

In response to your letter of November 24 regarding the deputy positions in the Divisions of Insurance and Tourism, I feel they should remain in the partially exempt service. A deputy of a division should serve at the pleasure of the director or commissioner since they are continually required to make decisions in the absence of the director and, in effect, are an extension of that position.

Sincerely,


Charles R. Webber
Acting Commissioner

CRW/mh4/1

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

SUPPORT BUILDING
JUNEAU, ALASKA 99801

December 3, 1980

Ms. Teresa B. Cramer
Administrative Assistant
Blue Ribbon Commission on the
State Personnel Act
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811

Dear Ms. Cramer:

In response to your recent letter regarding the partially exempt status of the Chief of Subsistence position, the Department has also been reviewing this position, but from a different perspective. The Subsistence Section which was established in 1978 as a new function within the Department of Fish and Game was a relatively small unit and therefore, we established the top position as a salary range 24 Section Chief. Due to the sensitive nature of the position and its impact on Departmental policy we requested and the Personnel Board approved, that the position be placed in the partially exempt service.

Recently the Department has been reviewing the role of the Subsistence Section in the Department and we have decided to change it from a Section to a Division with the top position being a range 26 Division Director. We feel this designation is more appropriate with the role this unit fills in the organization. The target date for this reorganization is January 1, 1981. At the same time we make this change in the Subsistence Section we will be doing the same in the Habitat Protection Section.

The Department's Personnel Officer, Mr. Fred Cook, will be available for questions on this matter at your December 4, 1980, meeting.

Sincerely,



for Ronald O. Skoog
Commissioner
(907) 465-4100

cc: Tom Lonner
Fred Cook



JUNEAU, ALASKA

Alaska State Legislature

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

Senator Bill Ray
Chairman

MEMORANDUM

December 3, 1980

TO: Members of the Blue Ribbon Commission

FROM: Teresa B. Cramer
Administrative Assistant *Teresa B. Cramer*

SUBJECT: Second Draft of Amendments to the State Personnel Act

Page 1 The second draft removes the phrase "or employees".
Line 18

Page 2 The commission suggested adding the phrase "For purposes of
Line 7 this Act". Legislative Affairs did not include it.

Page 2 The phrase "state employee" is used instead of "state officer
Lines 14-22 or employee".

Page 2 A new phrase is added to the beginning of this section:
Line 28 "Unless otherwise provided by law".

Page 5 Assistant commissioners are added to (1).
Line 7

Page 5 The phrase "administrative heads" is changed to "principal
Line 27 executive officer".

Page 6 Only the airport managers for Anchorage and Fairbanks are
Lines 15-16 placed in the partially exempt service.

Page 8 The subsection now requires that the amended rules be published
Line 6 in the Alaska Administrative Code.

- Page 8
Line 13 This amendment adds the approval of the personnel board, as is the case now.
- Page 9
Lines 4-6 This is a new phrasing taken from the Model Personnel Administration Law. The old phrasing stated:
- (3) the use of sound employee selection methods, including open competitive examinations to test the fitness of applicants for positions in the state service;
- Page 12
Lines 5-8 Subsection (a) is rephrased.
- Page 12
Line 9 The first phrase of the previous draft is omitted: "Notwithstanding the personnel rules adopted under AS 39.25.150 and...."
- Page 12
Line 17 state pay plan
- Page 12
Line 21 The second draft deletes paragraph (4)
- Page 12
Line 22 The second draft changes "classes of employees" to classes of positions, which is the phrase used in subsection (b), line 12.
- Page 12
Line 28 The second draft changes "commissioner of the department" to commissioner of administration.
- Page 13
Lines 7-8 The second draft adds language to read "in connection with making or securing an appointment."

The second draft adds language to read:

Page 13	
Line 11	from a <u>state</u> employee
Line 19	status of a <u>state</u> employee
Line 20	position in <u>state</u> service
Line 22	the basis of <u>unlawful</u> discrimination
Line 23	national origin <u>age</u> or <u>handicap</u>
Lines 24-28	Subsection (g) is new
Line 29	may not <u>knowingly</u> make

The second draft adds new language:

Page 14	
Line 5	may not <u>unlawfully</u> obstruct
Line 16	A <u>state</u> employee
Line 17	due to <u>unlawful</u> discrimination
Line 18	national origin, <u>age</u> , or <u>handicap</u>

Page 14	
Lines 20-22	The second draft adds a new subsection (d).
Lines 23-25	The second draft rephrases subsection (e).

The second draft adds new language:

Page 15	
Line 11	due to <u>unlawful</u> discrimination
Line 12	political beliefs, <u>age</u> , <u>handicap</u> , or in

Line 28	Section 17 is new. It provides definitions for:
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Page 16	
Lines 1-9	fraud
Lines 10-18	knowingly
Lines 19-20	precinct
Lines 21-24	state employee

**Alaska
Renewable
Resources
Corporation**

December 2, 1980

Box 1647
Juneau, Alaska
99802
(907) 465-4616

Alaska State Legislature
Blue Ribbon Commission on
the State Personnel Act
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811

Re: Concerning whether employees of the Alaska
Renewable Resources Corporation should be
placed in the classified service

Dear Commission Members:

Suite One
313 "E" Street
Anchorage, Alaska
99501
(907) 272-2500

Thank you for the opportunity to address the Commission on the question of whether employees of the Alaska Renewable Resources Corporation should be placed in the classified service. We are submitting this letter at the invitation of your staff instead of presenting testimony, since unfortunately our board members and president are unable to attend the meeting scheduled for December 4, 1980.



We understand that your inquiry as it pertains to ARRC is limited to the question of whether the employees of the corporation, as opposed to the board members, should be placed in the classified service; we will, however, address the status of the board members as well, in case our understanding is not correct.

As you know, members of the corporation's board of trustees are placed in the exempt service by virtue of AS 37.12.060. There is no feasible alternative to exempt status for board members in view of statutory provisions concerning the appointment, term of office and removal of board members. AS 37.12.030, .035 and .040. That last provision allows the removal of board members only for cause and with the consent of the legislature. The exempt status of the board members is entirely consistent with the legislative intent upon which the exempt service is founded; AS 39.25.110 provides exempt status for, among other positions, elected officials, judges and all employees of the judicial branch, commissioners, and members of "boards, commissions, or authorities."

The corporation's enabling legislation also provides that all of its employees are in the exempt service. AS 37.12.060. This is also consistent with the rationale underlying AS 39.25.110, which designates the groups of state employees which are in the exempt service.

Alaska
Renewable
Resources
Corporation

Alaska State Legislature
Blue Ribbon Commission on
the State Personnel Act
December 2, 1980
Page Two

Box 1647
Juneau, Alaska
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313 "E" Street
Anchorage, Alaska
99501
(907) 272-2500



The basic thrust of the State Personnel Act is to distinguish between those state employees within the executive branch with similar terms and conditions of employment, and those state employees within both the executive branch and the other two branches of government whose terms and conditions of employment differ in one or more of a variety of ways. The most significant distinction between classified and exempt employees is the merit system principle which applies to classified, but not to exempt, employees. AS 39.25.010 states that the primary purpose of the Act is the establishment of "a system of personnel administration based upon the merit principle," in order to encourage "an effective career service." It is not likely that a "career service" will be, or should be, developed at ARRC, since every two years one of the three board members may be replaced. Due to this frequent change in the composition of the board, as well as to the small size of the board's staff, a career service is neither practical nor wise.

One other point based on the legal status of the corporation should be considered. The corporation, according to its enabling legislation, is "an instrumentality of the state," but it has "a legal existence independent of and separate from the state." AS 37.12.010. The Alaska Supreme Court has observed that one of the possible reasons the legislature provided for the legal separateness of this and similar corporations is to "insulate the state from potential liabilities." Alaska State Housing Authority v. Dixon, 496 P.2d 649, 651 (Alaska 1972). Placing the employees of the corporation under the State Personnel Act would be a first, and significant, step in eroding that legal insularity. There is no other public corporation in this or any other state with the responsibilities that have been placed upon ARRC by the legislature; in view of the legal uncertainties associated with the corporation's work, the arguments in favor of maintaining its separate legal identity are particularly compelling.

There are also strong practical arguments for preserving the exempt status of the corporation's employees. The sensitivity of material which comes under ARRC's control and the substantial sums of money requiring personal handling and

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superintendence creates a need to establish the most rigorous standards for employees, and the need to act immediately and without cavil when even the appearance of violation of those standards is in evidence. The corporation's very existence depends upon a high level of confidence on the part of potential applicants that confidential business information, trade secrets, inventions, processes, competitive material and the like are not disclosed or even referred to. The corporate executive must be able to act immediately and effectively even on the basis of suspicion, and without fear of the substance of the incident being debated in personnel actions.

We hope this letter is of assistance to you in your deliberations. If we can provide any more information, please do not hesitate to contact us.

Sincerely yours,

William E. Spear
Trustee

WES/bl



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

November 28, 1980

The Honorable Bill Ray
Chairman
Blue Ribbon Commission
on the State Personnel Act
Pouch AC
Juneau, Alaska 99811

Dear Senator Ray:

Thank you for your recent letter regarding the matter of partially exempt/classified employees who work for boards and commissions in the Governor's office. As Governor Hammond is out of town, I am taking the liberty of responding for him.

It appears that the focus of your Commission's concern is on employees who work for boards and commissions which are located in the Governor's Office. I share that concern and last year we conducted an analysis of the boards and commissions then located in this office. The objective of this analysis was to identify those commissions which should more appropriately be located in a line agency. It became apparent to me soon after I moved into the Governor's Office that there were several commissions which should be located elsewhere. One of the Governor's major management objectives has been to trim the functions of the Governor's staff to those which are truly staff-related in nature.

At the beginning of the last legislative session, Governor Hammond submitted executive orders to transfer from his office to line agencies the following commissions: Alaska Public Offices Commission, Public Defender Agency, Alaska Historical Commission, Alaska State Council on the Arts, Alaska Police Standards Council, and the Alaska Council on Science and Technology. In addition, by executive action the Governor transferred the State Pipeline Coordinator's Office and the Criminal Justice Planning Agency to line departments. With limited exception, the staff of those agencies was transferred from the partially exempt service

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

November 26, 1980

SUBJECT: Redraft of the State Personnel Act
(Work Order Number 12-0067)

TO: Teresa Crammer, A.A.
Blue Ribbon Commission on the State
Personnel Act

FROM: Thomas A. Sofo
Legislative Counsel

I have tried to incorporate the revisions which have been suggested by the Blue Ribbon Commission and those contained in your memo of November 10, 1980. The Revisor of Statutes has also suggested a few other minor wording changes for the purposes of clarity and consistency. Linn Asper is due back in the office in the next several weeks, but if you have any questions concerning the language which has been incorporated into this most recent draft, please do not hesitate to contact me. I will try to help you to the best of my ability until Linn returns.

TAS:ljb

Enclosure

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

10. GOVERNOR

99811

Back-up
BB 193
file
November 24, 1980

Honorable Bill Ray, Chairman
Blue Ribbon Commission on the
State Personnel Act
Pouch AG
Juneau, Alaska 99811

Dear Senator Ray:

This is a follow-up to my September 19 letter concerning recommendations I wish to make for improving our application processing system. Since writing to you in September, I have had extensive conversations with Fred Muller and Bruce Cummings about the problems we face in the application process and the solutions (both long and short-term) to those problems in areas where we control the process.

My recommendations at this time are as follows:

1. Automate to the fullest extent possible. As you may know, the existing processing system is a manual labor intensive operation. Each application accepted by the Division of Personnel is generally handled by at least six people prior to its ultimate disposition in the files (later, of course, it must be purged from the files). This manual processing system is substantively the same process used in the 1960's when we were a relatively small employer.

In analyzing the process, we find that a great deal of the application handling is for no purpose beyond recordkeeping and tracking while in process. It is extremely important (and legally required for the most part) to keep the records maintained by Personnel. However, we believe that there is considerable room to improve the tracking process by utilizing data processing systems.

To this end, the Division of Personnel has issued a Request for Proposals to automate the application processing system to the fullest extent possible within the next nine to ten months. What we envision -- and what we have requested -- is essentially a highly interactive on-line



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

November 28, 1980

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on the State Personnel Act
Pouch AC
Juneau, Alaska 99811

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STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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to the classified service. Our policy in this regard was to place these employees in the classified service unless the respective commission members raised strong objections. It is interesting to note that the Legislature seems to have a great penchant for placing in the Governor's Office each board and commission it wishes to create. Last session we strongly resisted these efforts and will do so in the future.

We are currently reviewing the structure and staffing of the Governor's Office to determine if further changes should be made. Among the issues we will address is the question of whether any of the staff should be placed in the classified service.

If I can provide additional information to you, please do not hesitate to contact me. I know that your Commission has tackled some difficult problems over the last few years. From my observation of the Commission's work, you have done an outstanding job and performed a valuable public service.

Warmest regards.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jerry Reinwand", with a stylized, flowing script.

Jerry Reinwand
Executive Assistant
to the Governor

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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Enclosure

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATIVE SERVICES

OFFICE OF THE COMMISSIONER

*Back-up
JB 193
file*

10. GOVERNOR

99811

November 24, 1980

Honorable Bill Ray, Chairman
Blue Ribbon Commission on the
State Personnel Act
Pouch AG
Juneau, Alaska 99811

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This is a follow-up to my September 19 letter concerning recommendations I wish to make for improving our application processing system. Since writing to you in September, I have had extensive conversations with Fred Muller and Bruce Cummings about the problems we face in the application process and the solutions (both long and short-term) to those problems in areas where we control the process.

My recommendations at this time are as follows:

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November 24, 1980

recordkeeping system. Such a system would enable us to monitor the disposition of applications throughout the process, to produce reports identifying specific process problems (e.g., disparate impact on minority applicants) and to eliminate much of the manual recordkeeping. This system will not screen applications per se. However, it should provide for immediate entry, updating and retrieval of key information via CRT. In addition to simply storing data, the desired system should automate several features of the system; it should produce standardized letters, schedule testing, generate notices of examination results, and issue eligible lists upon request. We are hopeful that it will cut average processing time in half.

Our RFP calls for full implementation of an automated system by August 1, 1981. Frankly, our time frames may be unrealistic. However, similar systems already exist in a few other jurisdictions and we anticipate that a quick modification of systems already developed will give us a usable and expedient -- if not perfect -- system here.

To some extent we view this design as an intermediate system which may be modified in three to five years. Ultimately, an application system should be only one element in a large personnel data base system. In addition to the functions we envision in the system to be implemented, a comprehensive system might be able to at least partially machine score applications, score tests, compute employer credits, add veterans' points, record address changes from the payroll file, etc. To design such a system from scratch might take five years. We appreciate the need for speedy action and believe that we can address the larger issue of a data base system in coming fiscal years.

We anticipate awarding a design contract by mid-December. If you wish, I would be happy to advise you of the outcome from the RFP.

2. Increase delegation of recruitment and examination authority. The Division of Personnel is actively encouraging departments to assume authority for recruitment and examination of applications (and certification of eligibles in some cases) for all job classes which are unique to a given agency. By delegating this authority among the departments, more employees are made available to examine applications and agencies are given greater control over recruitment scheduling.

November 24, 1980

At this time, the delegation of recruitment and examining authority has been accepted only on a limited basis. Unfortunately, most departmental personnel offices are not adequately staffed to assume significant increase in workload. Nevertheless, we anticipate increased delegations in coming months.

The Division of Personnel has also assigned many more job classes to its Anchorage and Fairbanks offices for application processing. Although this has extended the turnaround time in those offices (now about four weeks), it has reduced the number of applications which would otherwise be processed in Juneau. It also provides applicants from those areas an opportunity to speak directly to the staff who process their applications.

I must note that while decentralization may be expedient, it can also be costly. Other agencies will undoubtedly seek additional staff to handle the workload delegated by Personnel. Additionally, each of them must develop their own recordkeeping systems to support the application process. We may ultimately find it more efficient to allocate all or a portion of those resources to the Division of Personnel.

3. Continued recruitment closures. Whenever the number of qualified applicants for a job class greatly exceeds the number of anticipated vacancies for the class, continuous recruitment should be closed. Although this practice may be undesirable to the candidate who cannot submit an application during a closed period, recruit closures simply make good business sense. To continue to solicit applications when there is no reasonable need is a disservice to the public; it slows the process by increasing the application flow and gives the candidate an illusion of prospective employment when there is no realistic probability of an employment offer.

However, we will open recruitment for almost every job class for at least thirty days in every twelve month period. This will ensure that candidates will have an opportunity to apply for classes at least once a year and that eligible lists will be updated with new candidates annually.

November 24, 1980

4. Consolidation of job classes. Every job class in the classified service (excepting those in the Labor, Trades and Crafts bargaining unit) requires some sort of examination device to screen applicants. The more job classes we have, the more examination devices we must use; consequently, the more complicated and time-consuming the application process becomes.

The Division of Personnel has a longstanding objective to eliminate unnecessary classifications whenever possible. As of November 1, 1980 we had 1,217 classes in the Executive Branch, for a ratio of one class for every 10.11 positions. Although this is the lowest ratio of classes to positions in State history (even a year ago the ratio was 1:8.22), we believe there is still considerable room for consolidation.

Parenthetically, consolidation of job classes should also greatly enhance the timeliness of classification actions.

5. Increased utilization of valid written examinations. The use of valid written examinations can greatly improve application processing. When a written examination is shown to be a statistically valid predictor of performance abilities in a given job, an applicant's previous training and experience can be considered moot; the results of the written examination may be used to determine the levels for which an individual is qualified within a class series. Taken to extremes, valid written tests can eliminate the need to screen even for minimum qualifications; any individual who applies is simply scheduled for the appropriate test.

Unfortunately, statistically valid written tests requires a large amount of time and money for their development. Further, with so many job classes, most of our classifications have so few employees working in them that we cannot get a sufficient sample size for acceptable validation. And, even when fully staffed, our Test Development and Validation unit consists of only three employees; at the most, they cannot reasonably do more than five validation studies per year. However, we will continue to develop valid written examinations as quickly as circumstances permit.

November 24, 1980

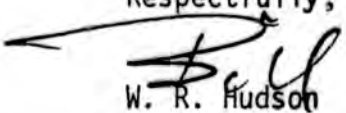
6. Develop multi-titled applications. In their last report, the Blue Ribbon Commission recommended that the Division of Personnel develop a system in which only one application is necessary from each applicant for each class series for which the applicant wishes to be considered. We are now attempting to do just that. In conjunction with the implementation of a new clerical testing battery which has just been developed, we plan to experiment with a multi-titled application for clerical classes (these account for 30-40% of our application flow).

It is our objective to have average application processing time reduced to ten working days or less by the end of FY 82 (current average processing time is twelve weeks). Undoubtedly, the foregoing recommendations are not the only actions which would improve the application process; the simplistic approach of throwing more staff at the work would "improve" the process, at least to the extent of reducing processing time. However, we prefer to emphasize these enhancements which will produce greater returns at lesser cost to the State.

To this end, I welcome any suggestions for improvement which may be made by the Commission.

Thank you again for the opportunity to comment.

Respectfully,



W. R. Hudson
Commissioner

WRH/mjc

cc: Frederick B. Muller
Deputy Commissioner for
Personnel Management

Bruce A. Cummings, Director
Division of Personnel

12/1

Bill Speer

None in town

Rev. Res Corp

Mickey, sec -

Do we have outline of differences

Running like private Co

Proprietary info

Act on suspicion of private
sensitive materials

Comp to Ct system

All deal w/ private sector

Val is good record as exec pt

for disciplinary purposes may suspend without pay a permanent classified employee for a period not to exceed thirty (30) days but no permanent employee in the classified service shall be dismissed, demoted or suspended for political, religious or racial or other nonmerit reasons.

(2) In case of a proposed dismissal, demotion or suspension, the appointing authority shall furnish the employee by registered mail, return receipt requested, a statement in writing specifically setting forth the reasons therefor. A copy of such statement shall be furnished to the director. This statement shall contain notice of the proposed dismissal, demotion or suspension and shall specify the effective date thereof. No dismissal, demotion or suspension shall become effective until after a reasonable opportunity has been given to the employee to respond in writing to or appear personally or both, before the appointing authority or his or her designee on the issue of dismissal, demotion or suspension. Except as otherwise provided in this section, a proposed suspension, demotion, or dismissal shall become effective no less than three calendar days nor more than ten (10) calendar days following receipt by the employee of the notice of such proposed suspension, demotion, or dismissal. If in the opinion of the appointing authority conditions warrant, the appointing authority may relieve the employee of or change the duties of the employee during such period. If the employee is relieved from duty during such period, the employee may be continued in pay status, or placed on leave of absence without pay by the appointing authority. The appointing authority shall offer the employee who is proposed to be suspended, demoted or dismissed an opportunity to reply in writing, or appear in person, or both, before the appointing authority or a designated representative of the appointing authority, on the issue of the proposed suspension, demotion, or dismissal prior to the time of such suspension, demotion, or dismissal as specified by the notice to become effective. This offer shall be in writing and delivered in the same manner as the notice of the proposed suspension, demotion, or dismissal. It shall specify the date, time, and place, by, or at which, the employee may reply in writing or appear, or both. A copy of such offer shall be sent to the director of personnel services. Upon request by the employee, the appointing authority, with the approval of the director of personnel services, may extend the time for reply or appearance, or both, if the circumstances warrant. The proposed suspension, demotion or dismissal shall not become effective until after the extended period has expired or the effective date given in the notice, whichever is later. The final notice of decision by the appointing authority or the designee of the appointing authority to suspend, demote or dismiss shall inform the employee of the employee's right to appeal the decision to the civil service board. At any time prior to the effective date of the proposed suspension, demotion, or dismissal or, if an appeal is taken to the state civil service board, at any time prior to the final decision of the civil service board, the appointing authority, with the approval of the employee and the director of personnel services, may withdraw or modify the action proposed to be taken or taken against the employee.

(3) Any employee finally dismissed, demoted or suspended may request in writing within thirty (30) days from after the effective date of the dismissal, demotion or suspension a hearing before the state civil service commission from the state civil service board to determine the reasonableness of such action and the commission board shall grant the employee a hearing within ~~forty-five~~ thirty (30) days after receipt of such request. At the hearing the burden of proof shall be upon the employee to establish that the appointing authority did not act reasonably in taking such action.

(4) After the hearing and consideration of the evidence for and against a demotion, the commission shall approve or disapprove such action and in the event of a disapproval the commission shall order in writing the reinstatement of the employee and

Phone conversations, Wednesday, December 3

Steven Cowper

He is the General Interim Counsel for the Alaska Energy Center. He advised that they will submit a written statement to the commission next week about how they expect to treat their employees

Walter Parker, of the Energy Center

The center is in the process of developing options on staffing. Their options are:

1. Remain in the exempt service
2. Establish their own PR's under the Energy Center charter as a corporation
3. Operate without rules entirely - this he did not recommend.

The energy center board is emphasizing the charter intent in the legislation that it be independent of the state but part of it - whatever that may mean.. They desire as much flexibility as the enabling legislation allows.

Ed O'Hare

He is taking over from Walt Parker. He was in Juneau last week and talked with Tom Farnana and Elaine O'Day about personnel matters. It appears that the Energy Center will go their own way - and not be part of the state personnel system for the present. It is possible for them to do this in their character as a private corporation. They can in future return to the exempt service of the state, but once they do so, they cannot get out. They will try, as they gain experience, to determine the needs and desires of their Alaskan employees and follow through later.

They have learned that they can take the major percentage of the employee's contributions on their benefits package and apply it later to the state benefits program if they elect to go into the exempt service. They will generally follow the state's salary schedule in order to ease a future transition into the state service.

They don't have that many employees yet - about 20 by June and then add another 10 by the end of summer. They hope to plan the FY 1982 budget based on 30 employees. Much of the work will be done by subcontractors initially. All of these plans will be presented to the Energy Center board at their meeting on the 18th and 19th of December, so that's when things will be clearer.

Russ Clark from F&G called regarding the Chief of Subsistence. The dept is reorganizing and anticipates making Subsistence as well as Habitat sections into divisions, at which point the heads of those groups become division directors who are placed in the px service as a general matter and the problem goes away.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

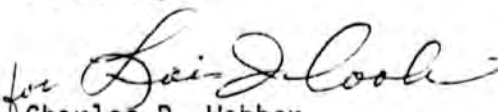
December 4, 1980

Ms. Teresa B. Cramer
Administrative Assistant
Blue Ribbon Commission
On the State Personnel Act
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811

Dear Ms. Cramer:

In response to your letter of November 24 regarding the deputy positions in the Divisions of Insurance and Tourism, I feel they should remain in the partially exempt service. A deputy of a division should serve at the pleasure of the director or commissioner since they are continually required to make decisions in the absence of the director and, in effect, are an extension of that position.

Sincerely,

for 
Charles R. Webber
Acting Commissioner

CRW/mh4/1

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

SUPPORT BUILDING
JUNEAU, ALASKA 99801

December 3, 1980

Ms. Teresa B. Cramer
Administrative Assistant
Blue Ribbon Commission on the
State Personnel Act
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811

Dear Ms. Cramer:

In response to your recent letter regarding the partially exempt status of the Chief of Subsistence position, the Department has also been reviewing this position, but from a different perspective. The Subsistence Section which was established in 1978 as a new function within the Department of Fish and Game was a relatively small unit and therefore, we established the top position as a salary range 24 Section Chief. Due to the sensitive nature of the position and its impact on Departmental policy we requested and the Personnel Board approved, that the position be placed in the partially exempt service.

Recently the Department has been reviewing the role of the Subsistence Section in the Department and we have decided to change it from a Section to a Division with the top position being a range 26 Division Director. We feel this designation is more appropriate with the role this unit fills in the organization. The target date for this reorganization is January 1, 1981. At the same time we make this change in the Subsistence Section we will be doing the same in the Habitat Protection Section.

The Department's Personnel Officer, Mr. Fred Cook, will be available for questions on this matter at your December 4, 1980, meeting.

Sincerely,



for Ronald O. Skoog
Commissioner
(907) 465-4100

cc: Tom Lonner
Fred Cook



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

November 28, 1980

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Chairman
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on the State Personnel Act
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**ALASKA INDUSTRIAL
DEVELOPMENT AUTHORITY**

601 WEST FIFTH AVENUE, SUITE 430
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 274-1651

October 28, 1980

Teresa B. Cramer
Blue Ribbon Commission on State Personnel Act
Pouch AG
Juneau, Alaska 99811

Dear Ms. Cramer:

This is in reply to your letter of October 22, 1980 inquiring as to whether or not it was necessary for employees of the Alaska Industrial Development Authority to remain in the exempt service.

The Alaska Industrial Development Authority is established as a public corporation of the state and a body corporate and politic constituting a political subdivision within the Department of Commerce and Economic Development, but with separate and independent legal existence (Sec. 44.61.020). As you may know, the Authority is charged with the responsibility of importing funds through sale of tax exempt bonds. In order to insure that the liabilities of this corporation do not pass through to the state, it is essential that a separate organization be created. Any action, which by construction, can infer that the State of Alaska rather than an independent agency thereof, is an issuer of bonds, can create a situation whereby the state is not insulated from the liability or liabilities of the Authority.

I believe it is essential that the employees of Alaska Industrial Development Authority remain in the exempt category. This will insure the separation of the Authority from the State of Alaska and thus continue to keep the state insulated from the debt characteristics of this Authority.

Sincerely,


David A. Rose
Executive Director

November 28, 1980

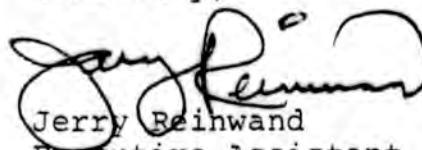
to the classified service. Our policy in this regard was to place these employees in the classified service unless the respective commission members raised strong objections. It is interesting to note that the Legislature seems to have a great penchant for placing in the Governor's Office each board and commission it wishes to create. Last session we strongly resisted these efforts and will do so in the future.

We are currently reviewing the structure and staffing of the Governor's Office to determine if further changes should be made. Among the issues we will address is the question of whether any of the staff should be placed in the classified service.

If I can provide additional information to you, please do not hesitate to contact me. I know that your Commission has tackled some difficult problems over the last few years. From my observation of the Commission's work, you have done an outstanding job and performed a valuable public service.

Warmest regards.

Sincerely,



Jerry Reinwand
Executive Assistant
to the Governor

Mike Morgan
11/3/88

~~the~~ disabled / Voc Rehab

use std classif from fed law - lists # of conditions/
disab: blind, deaf 4 - 2 plegia
severe cardiac

part b: combination of factors → severe in total

Its std they use

Other part: from VR perspective: disab^{rec.} ≠ qualify
enough

eg st admin job, educ, whistory. severe auto acc,
lost both legs prob ≠ sev. handic -
cd go back to same job
perhaps w/ course for emot. trauma

eg. fisherman in same sit = sev hand
bc diff bkgnd

placing 30-35/yr. NOT ONE FAILURE - in state emp't per
3500 ppl/yr - process failure SPA

inelig - wab re

have ± 2000 in process ref/ap/eval/train/placement

close ± 500/yr succes. rehab - op in emp't for min
of 60 days. Have follow along serv

state progr last yr that new law made impact

st in many ways most reluc ER

HSS coming
educ
some things don't talk