



ALASKA LEGISLATURE COMMITTEE FILES 1900-1900 00/2

3669 HSTA HB 147 545

Excerpt from Minutes

Human Rights Commission Meeting  
March 1, 1985

Jacqueline Lindauer moved that the Commission furnish a resolution to the Fourteenth Legislature which embodies the feelings of the Commission regarding House Bill 147, "an act creating a Division of Equal Employment Opportunity in the Department of Administration," to wit:

With two significant exceptions, the Alaska State Commission for Human Rights supports House Bill 147. The Commission supports the bills "spirit" and intent to breath statutory life into the Equal Employment Division. However, the Commission has two serious reservations with the bill as it is presently drafted. Those reservations are as follows:

Section 42.21.465. Administrative regulations.

Section 42.21.475. Employment discrimination complaints.

The Commission is concerned that the section regarding employment discrimination complaints may create confusion between the role of the state EEO and the Human Rights Commission. Additionally the language of House Bill 147 may create conflicts of interest or the appearance of a conflict of interest between the office of EEO and the Human Rights Commission because it seems to make it mandatory for the state employee to register his or her complaints with the state EEO office. Additionally, the EEO's capability to adopt administrative regulations is unclear with regard to the statutory powers granted to the Division by the bill.

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

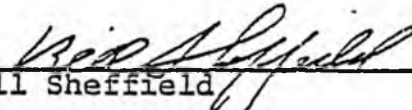
ADMINISTRATIVE ORDER NO. 75

It is the policy of the Executive Branch of Alaska State Government that all employees and applicants for employment shall be afforded equal opportunity in all aspects of personnel management. To insure equal opportunity there shall be no unlawful discriminatory treatment concerning any individual or group because of race, religion, color, or national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood.

By virtue of the authority vested in me as Governor, I hereby direct that this order be implemented in accordance with the attached Procedures for Implementing Administrative Order No. 75.

This Order takes effect on April 8, 1983.

DATED at Juneau, Alaska, this 7<sup>th</sup> day of April, 1983.

  
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Bill Sheffield  
Governor

STATE OF ALASKA

PROCEDURES FOR IMPLEMENTING ADMINISTRATIVE ORDER NO. 75

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I. SCOPE OF AUTHORITY

This Administrative Order covers all employees in the classified, partially exempt and exempt service of the Executive Branch of Alaska State government and all applicants for such service. The Order does not provide coverage to employees in the legislative or judicial branches of State government. The words "minorities and/or women" as used in these procedures are applicable to those persons in all classes protected from discrimination by federal and State laws.

II. LIMITATIONS

This Administrative Order does not approve unlawful discriminatory practices such as:

1. Discrimination in favor of any employees or applicants for employment on the basis of race, religion, color, national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood to the detriment of employment opportunities of any other qualified employee or applicant.
2. Lowering of job requirements or performance standards for the purpose of favoring any employee or applicant on the basis of his or her race, religion, color, national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood.

### III. DISSEMINATION OF POLICY

Administrative Order Number 75 will be made known to all employees in the State service. Copies will be available to all new employees and posted prominently on State agency bulletin boards. The Administrative Order will be published in the State Personnel Rules, collective bargaining contracts and in all State agency employee handbooks. Semiannually the Administrative Order will be published in agency communications media where available.

The State Director of Personnel and the State Director of Equal Employment Opportunity (EEO) will provide a copy of the Order to recruitment sources such as: educational institutions, local governments, community action groups, ministerial associations, minority and women's organizations and Chamber of Commerce officials. State department commissioners will also assure compliance with this section in their respective departments.

#### INTERNAL DISSEMINATION

##### ACTION

##### RESPONSIBILITY

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| 1. Insure that both minorities and women are represented in group photographs and illustrations used by State Departments. | DEPARTMENT COMMISSIONER<br>Department EEO Representative<br>Department Information Officer |
| 2. Publicize progress in Affirmative Action through agency publications.   | DEPARTMENT COMMISSIONER<br>Department EEO Representative<br>Department Information Officer |

ACTION

RESPONSIBILITY

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|--|---|
| 3. Inform all employees in writing of the agency's commitment to Equal Employment Opportunity through Affirmative Action.  | DEPARTMENT COMMISSIONER<br>Department EEO Representative  |
| 4. Communicate to agency managers and supervisors the commitment of the agency to Equal Employment Opportunity through Affirmative Action.   | DEPARTMENT COMMISSIONER   |
| 5. Evaluate agency Affirmative Action efforts with top and middle management.  | DEPARTMENT COMMISSIONER   |
| 6. Develop training programs for Administrative Order Number 75 and federal and State laws and guidelines.   | DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY  |
| 7. Post and inspect Administrative Order Number 75 as well as federal and State EEO posters to insure that all employees and applicants for employment are aware of the State's commitment to Equal Employment Opportunity through Affirmative Action. | DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY<br>Department EEO Representative<br>Department Personnel Officer |
| 8. Provide a discussion of Affirmative Action in all new employee orientation programs.  | DEPARTMENT COMMISSIONER<br>Department Personnel Officer   |
| 9. Provide each new employee with a copy of Administrative Order Number 75.  | DEPARTMENT PERSONNEL OFFICER  |

EXTERNAL DISSEMINATION

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|---|---|
| 1. Advise all recruitment sources, in writing, of Administrative Order Number 75. | DIRECTOR OF PERSONNEL<br>Department Personnel Officer |
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ACTION

RESPONSIBILITY

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| 2. Inform, in writing, minority and women's organizations of Administrative Order Number 75. | DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY              |
| 3. Insure that minorities and women employees are pictured in recruitment literature.        | DIRECTOR OF PERSONNEL<br>Department Personnel Officer |
| 4. Advise secondary schools and colleges, in writing, of Administrative Order Number 75.     | DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY              |
| 5. Communicate to the public the desire to employ minorities and women.                      | DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY              |

IV. ASSIGNMENT OF RESPONSIBILITY

The ultimate responsibility for Equal Employment Opportunity rests with the Governor as Chief Executive Officer of the State. Responsibility and authority for coordinating and monitoring Administrative Order Number 75 has been delegated to the Commissioner of Administration.

Advice concerning the legal aspects of the Administrative Order is the responsibility of the Attorney General's Office.

V. ADMINISTRATION OF ADMINISTRATIVE ORDER NUMBER 75

Division of Equal Employment Opportunity:

The Division of Equal Employment Opportunity has been established in the

Department of Administration to administer the State's equal employment opportunity program. The Division's specific assignments include, but are not limited to, the following:

- Prepare guidelines, review, audit, and make recommendations concerning department Affirmative Action Plans and programs to insure consistency between department plans and Administrative Order Number 75.
- Maintain current copies of all department Affirmative Action Plans.
- Identify problem areas by agency, department, or other organizational unit and make recommendations for correction.
- Advise the Governor and the Commissioner of Administration of developments within the areas of Equal Opportunity and Affirmative Action.
- Assist State officials in carrying out their responsibilities under Administrative Order Number 75.
- Accept, investigate and resolve complaints of discrimination by employees or applicants for employment as prescribed in the Internal Discrimination Complaint Procedure (Appendix A).
- Serve as the State's primary liaison with other government agencies, minority and women's organizations, and community groups concerned with the State's equal opportunity program.
- Develop audit and reporting systems to acquire statistical information concerning the composition of the State's work force to evaluate compliance with Administrative Order Number 75.
- Prepare the State's annual EEO-4 report and other reports concerning the composition of the State's work force by race, sex and age.
- Maintain access to all data, records, and reports that are required for execution of the Division's responsibilities.
- Monitor records of personnel actions such as applicant flow, referrals, hiring rate, placements, transfers, promotions, terminations, and other pertinent statistical data to insure that the Administrative Order is being implemented.

- Prepare an annual report to the Governor concerning the progress made and problem areas encountered in State government.
- Review and make recommendations concerning all collective bargaining contracts/agreements to insure consistency between contracts/agreements and Administrative Order Number 75.

Executive Branch Affirmative Action Advisory Committee:

The Executive Branch Affirmative Action Advisory Committee will be composed of the Chairs of the departments' Affirmative Action Advisory Committees and the Director of the Division of EEO, who will serve as Secretary to the Committee. Members of this Committee will meet at least semi-annually and are responsible for:

- Reporting Affirmative Action progress of the respective departments.
- Discussing mutual Affirmative Action/EEO problems and make recommendations to the Division of EEO.
- Promoting Affirmative Action/EEO in the Executive Branch.

State Departments:

Every State department will have a written Affirmative Action Plan for Equal Employment Opportunity. Guidelines for the preparation of departmental Affirmative Action Plans will be provided by the Division of Equal Employment Opportunity. All State departments which have written Affirmative Action Plans as a result of compliance with federal legislation, regulations, or this Administrative Order, will submit their plans for review to the Division of EEO before such plans are submitted to federal or State compliance agencies.

The Division of EEO will serve to expedite all activities concerning department compliance with Affirmative Action. Federal agencies and the Alaska State Commission for Human Rights which have responsibility for monitoring department E.E.O. compliance as a result of federal or State legislation and regulation will bring all questions of compliance prior to any official or unofficial actions thereon to the State Director of EEO, who will brief the Commissioner of Administration and the Governor of such noncompliance. Where compliance reviews are undertaken by federal agencies or the Alaska State Commission for Human Rights, the State Director of EEO will be notified, and his or her designee will be present during all such reviews.

Department Commissioners:

The Department commissioners will implement the Administrative Order within their respective agencies. This responsibility will include, but not be limited to, the following:

- Insure that the intent and spirit of the Administrative Order is carried out by all managers, supervisors and employees, and that their compliance with the Administrative Order is considered as a factor in their performance evaluation.
- Insure that the agency has a written Affirmative Action Plan setting forth goals and timetables to eliminate the effects of any past or present discriminatory practices, conditions, and privileges of employment.
- Select an official of the agency at the level of director or above who is designated as the Equal Employment Opportunity Representative and supervises development and implementation of the agency's affirmative action plan and program.
- Initiate efforts to recruit, appoint and retain qualified minorities and women at all levels of employment.

- Establish an Affirmative Action Advisory Committee composed of agency employees.
- Appoint the Chairperson of the Affirmative Action Advisory Committee.

Affirmative Action Advisory Committee:

The Affirmative Action Advisory Committee meets at least semiannually to evaluate the department's overall affirmative action program and performance in attainment of goals and implementation of action programs. The Committee will make known to the Commissioner its evaluations and recommendations. Other duties include:

- Assist the EEO Representative;
- Prepare and submit Affirmative Action semiannual reports to the chief executive officer and to the Division of Equal Employment Opportunity;
- Make staffing and funding recommendations for inclusion in the department budget for affirmative action programs; and,
- Counsel employees on how to file internal complaints or bring potentially discriminatory problems to the attention of management;
- Disseminate information to employees on the department's affirmative action program; and,
- Maintain an updated knowledge of current developments in EEO and affirmative action through attendance at workshops, seminars, and conferences.

The Chair of the Affirmative Action Advisory Committee, in addition to having the same individual responsibilities as other Committee members, is responsible for:

- Convening semiannual and special meetings of the Committee;
- Establishing meeting agendas;
- Scheduling guest speakers and special presentations;
- Assuring that Committee actions or recommendations are clearly stated for the minutes;
- Conducting meetings in an orderly and effective manner; and
- Serve as a member of the Executive Branch Affirmative Action Advisory Committee.

Department Equal Employment Opportunity Representatives:

The Equal Employment Opportunity Representatives are delegated responsibility by the agency commissioners for administering the agency's affirmative action program. Their assignments include, but are not limited to, the following:

- Supervise the development and execution of the agency's written affirmative action plan and program.
- Consult with management, supervisors and employees to assist in the resolution of problems related to unlawful discrimination.
- Establish an internal audit and reporting system designed to
  - \* measure the effectiveness of the program
  - \* point out deficiencies and needs for remedial action
- Serve as liaison between the agency and Division of EEO, minority organizations and community action groups.
- Advise the Affirmative Action Committee members, the Commissioner, and the other agency management staff on the latest developments in the field of equal employment opportunity and affirmative action.

- Ensure that minorities, women, disabled veterans and veterans of the Vietnam Era, and handicapped employees have the opportunity to participate in all agency-sponsored educational, training, recreational and social activities.
- Supervise preparation of the agency Equal Employment Opportunity program annual budget.

VI. ACTION-ORIENTED PROGRAMS

RECRUITMENT

<u>ACTION</u>	<u>RESPONSIBILITY</u>
1. Post and periodically inspect all posters relating to Equal Employment Opportunity.	DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY Department Personnel Officer EEO Representative
2. Utilize minority, women, handicapped and veteran communications media to publicize State employment Opportunities.	DIRECTOR OF PERSONNEL Department Personnel Officer Information Officer
3. Include the phrase "An Equal Opportunity Employer" in all advertisements placed for the State of Alaska.	DIRECTOR OF PERSONNEL Department Personnel Officer
4. Encourage State employees to refer minority and women applicants to State government.	DEPARTMENT COMMISSIONER Director of Personnel
5. Recruit in schools and colleges including those with predominantly minority and female enrollments.	DIRECTOR OF PERSONNEL Department Personnel Officer
6. Insure that recruitment advertisements, which contain photographs, include photos of minorities and women.	DIRECTOR OF PERSONNEL Department Personnel Officer Information Officer
7. Disseminate qualification standards on position vacancies to minority and women's organizations.	DIRECTOR OF PERSONNEL Department Personnel Officer
8. List all recruitment opportunities with the State Division of Personnel and the Division of Equal Employment Opportunity.	DEPARTMENT COMMISSIONER Department Personnel Officer
9. Review all employment application forms to insure against unlawful discriminatory questions or requests for information.	DIRECTOR OF PERSONNEL Director of Equal Employment Opportunity

ACTION

RESPONSIBILITY

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| 10. Administer tests which measure abilities, aptitudes, specialized background knowledge, and/or skills <u>required</u> for the job. All tests <u>must</u> be job related and appropriately validated. | DIRECTOR OF PERSONNEL<br>Department Personnel Officer                                   |
| 11. Advertise positions without regard to the sex of applicants except where sex is a bona fide occupational qualification.   | STATE RECRUITMENT COORDINATOR,<br>DIVISION OF PERSONNEL<br>Department Personnel Officer |
| 12. Employ the affirmative action certification process for minorities and/or women for those job classes where they are determined to be under-utilized.   | DEPARTMENT PERSONNEL OFFICER<br>Hiring Managers and Supervisors                         |

PROMOTION

- |   |                              |
|---|------------------------------|
| 1. Post promotional opportunities within each State department so that all employees will have upgrade opportunities.   | DEPARTMENT PERSONNEL OFFICER |
| 2. Establish career development program providing for:<br><br>a. Equal Opportunity for all employees for promotion.<br><br>b. Fair and uniform selection standards. | DEPARTMENT PERSONNEL OFFICER |

## COMPENSATION

### ACTION

### RESPONSIBILITY

1. Assure equal pay for equal work regardless of race, religion, color, national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood. DIRECTOR OF PERSONNEL  
Director Labor Relations
2. Conduct periodic reviews of all positions to insure that position requirements are job related. DEPARTMENT PERSONNEL OFFICER
3. Analyze and review positions upon department request to establish the accuracy of position allocations. DIRECTOR OF PERSONNEL
4. Insure that qualification standards for all positions are based upon the minimum required to perform necessary duties and responsibilities. DIRECTOR OF PERSONNEL
5. Request position audits from the Division of Personnel when inequities in position classification are noted. DEPARTMENT PERSONNEL OFFICER  
Department Commissioner

## SUPERVISION

1. Provide for department orientation programs stressing Equal Opportunity. DEPARTMENT EEO REPRESENTATIVE  
Department Personnel Officer
2. Provide counseling, exit interviews and other career information opportunities to lessen employee turnover. DEPARTMENT COMMISSIONER  
Department EEO Representative

ACTION

RESPONSIBILITY

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| 3. Assist employees and supervisors in discrimination complaint resolution. | DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY<br>Department Commissioner |
| 4. Provide a complaint procedure to administer employee complaints.         | DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY                            |

TRAINING

- |  |  |
|--|--|
| 1. Provide a system of educational leave to train employees in work related specialties at all levels of employment.   | DIRECTOR OF PERSONNEL  |
| 2. Establish a method of informing employees at all levels of training opportunities.  | DEPARTMENT COMMISSIONER<br>Director of Personnel<br>Director of Labor Relations<br>Director of EEO |
| 3. Provide on-the-job training to prepare employees to meet the full requirements of their position and provide for career growth at all levels of employment. | DEPARTMENT COMMISSIONER  |
| 4. Develop training programs concerning Equal Employment Opportunity for management and employees.   | DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY   |
| 5. Provide an opportunity for employees to participate in training opportunities, particularly training opportunities leading to advancement.                  | DEPARTMENT COMMISSIONER<br>All levels of management  |

BENEFITS

ACTION

RESPONSIBILITY

1. Assure that all benefits including but not limited to: retirement and health and life insurance are administered on an equal basis regardless of race, religion, color, or national origin, or because of age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood.

DIRECTOR OF RETIREMENT & BENEFITS

CONDITIONS

1. Assure that all conditions and privileges of employment including, but not limited to, personal leave, annual leave, sick leave, hours of work, discipline and performance evaluations are administered on an equal basis regardless of race, religion, color, or national origin, or because of age, physical handicap, marital status, changes in marital status, pregnancy or parenthood.

DIRECTOR OF PERSONNEL  
Director of Labor Relations

APPENDIX A

INTERNAL DISCRIMINATION COMPLAINT PROCEDURE\*

The State Division of Equal Employment Opportunity (EEO) will accept complaints of discrimination from both State employees and applicants for State employment which are based on race, religion, color, or national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood. Any complaint which is the subject of, or may affect, pending litigation will be referred to the Attorney General for advice or disposition.

Complaints must be related to a specific allegation of discrimination. State employees will be informed of other means of resolving discrimination complaints such as enforcement agencies, appeals, the State grievance procedure, and informal conciliation with management. If a complainant decides to file with the State Division of EEO, the following procedure will be used in investigating his or her complaint. The target for resolution of complaints is 90 calendar days after receipt. Multiple complaints or complaints which are particularly complex may take longer.

- 1) Each complaint must be filed formally on the "Complaint of Discrimination Form" available through agency personnel offices and the State Division of EEO office. Complainants have 90 calendar days from the date of the alleged discriminatory act to file their complaint with the Division of EEO.

\* All complaints will remain confidential except to the extent necessary to conduct a review of the facts.

- 2) An investigator will be assigned to the complaint by the Division of EEO Complaint Administrator.
- 3) The Investigator will conduct an in-depth interview with the complainant.
- 4) A copy of the complaint will be sent to the agency involved with a request for specific information relevant to resolving the complaint.
- 5) The material supplied by the agency and by the complainant will be reviewed.
- 6) Further investigation will be conducted when necessary. This may include interviewing witnesses, confirming information and seeking additional information and/or documentation.
- 7) Where there are conflicts of opinion, meetings will be held with both sides and facts which are in dispute reviewed.
- 8) When the investigation is completed, a Preliminary Summary of Facts will be submitted to the Complaint Administrator. This summary includes background, facts, conclusions, and the preliminary recommendations of the investigator. The file will be submitted to the Complaint Administrator to accompany the Preliminary Summary of Facts.
- 9) The Complaint Administrator and the Investigator will review the case, and the Complaint Administrator will make his or her final decision on the merits of the complaint.
- 10) Where no discrimination is found, the complainant is informed, in detail, as to the Complaint Administrator's findings. In cases where the issues are particularly complex, the complainant will be given the opportunity to discuss the findings, and to provide additional information.
- 11) Where there is an indication of discrimination, the Complaint Administrator will discuss the findings and recommendations with the agency head (or designee). A letter outlining the Complaint Administrator's findings and legal assessment will be sent to the agency. If the agency head accepts the Complaint Administrator's conclusions and implements the recommendations, the complainant is informed of the recommendations and the facts which led to those recommendations. In cases where the agency head rejects the Complaint Administrator's conclusions and recommendations, a detailed memorandum outlining the facts and stating the grounds of rejection will be sent to the Complaint Review Committee. Their decision will be the final step of this internal complaint procedure. The complainant will be informed in writing of referral to the Complaint Review Committee.

The Complaint Review Committee will be appointed by the Commissioner of Administration for a term of one year. The Committee will be representative of occupational levels such as administrative, professional, technical and clerical, and will total at least five, and not more than seven, employees.

## APPENDIX B

### EXTERNAL DISCRIMINATION COMPLAINT PROCEDURE

The Equal Employment Opportunity Division, Department of Administration is the central contact between State Executive agencies and State or federal antidiscrimination law enforcement and compliance agencies, e.g., Alaska State Commission for Human Rights, Equal Employment Opportunity Commission (EEOC), and the Office of Federal Contract Compliance Programs (OFCCP).

These compliance agencies have been instructed to serve all charges of discrimination against any agency of the Executive Branch on the Division of Equal Employment Opportunity either in person or by certified mail with a copy to the respondent agency at the Commissioner level. Likewise, all investigations, on-site reviews, settlement efforts, requests for essential information, notice of resolution conference, determinations, settlement agreements, complaint amendments, public hearings, etc., will be coordinated through the Division of Equal Employment Opportunity.

Federal and State antidiscrimination law enforcement agencies or compliance agencies are not, under any circumstances, to contact Executive agencies directly. Further, all contacts with compliance agencies by agencies of the Executive Branch must be made through the Division of Equal Employment Opportunity.

The Complaint Administrator, Division of Equal Employment Opportunity, coordinates all activity between respondent agencies and the Alaska State Commission for Human Rights with the exception of those charges that do not involve employment situations. In such cases, the Alaska State Commission for Human Rights will follow procedures as outlined above to maintain consistency, however, the respondent agency will act on these complaints without assistance from the Division of Equal Employment Opportunity.

The Complaint Administrator will determine the merits of the case, advise the respondent department on actions to be taken, participate in resolution conferences, conciliation conference and public hearings with enforcement agencies.

When a charge of discrimination has been filed or a civil action brought against a State agency, all records relevant to the charge or action should be preserved until final disposition thereof.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

FILE

RECEIVED

SEP 17 1974

DIV. OF PERSONNEL  
DIRECTOR'S OFFICE

Administrative Order 24

Pursuant to authority granted by Article III of the Alaska Constitution and by A.S. 44.17.060, the Equal Employment Opportunity functions now assigned to the Division of Personnel, Department of Administration, are transferred to the Office of the Governor along with any State and Federal appropriations.

The Equal Employment Opportunity Office shall, through coordination with the Division of Personnel, strive to assure that maximum employment opportunity is made available in State employment without regard to race, religion, national origin, sex, or age.

I find the assignment of these functions to the Office of the Governor necessary for the efficient administration of State Government.

This Order takes effect October 1, 1974.

Dated at Juneau this 18th day of September, 1974.

A handwritten signature in cursive script that reads "William A. Egan".

William A. Egan  
Governor

ADMINISTRATIVE ORDER NO. 35

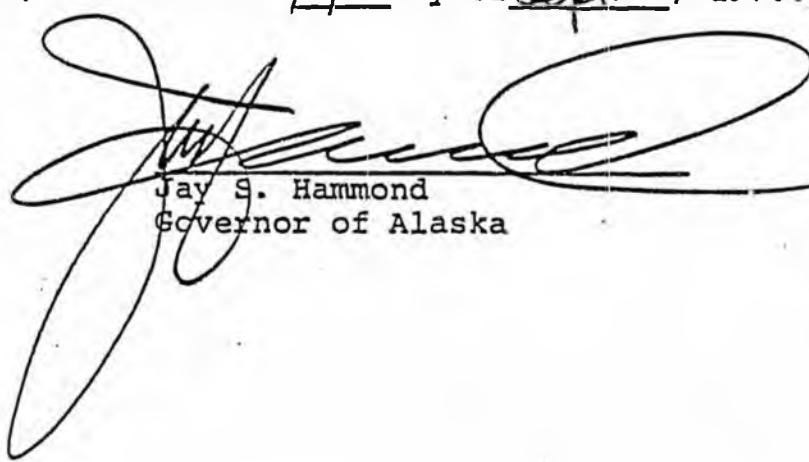
Pursuant to authority granted by Article III of the Alaska Constitution and by A.S. 44.17.060, the Equal Employment Opportunity functions and committee now assigned to the Office of the Governor (Administrative Order No. 24 [October 1, 1974]), are transferred to the Department of Administration along with any State and Federal appropriations.

The Equal Employment Opportunity Office, shall, through coordination with the Division of Personnel, strive to assure that maximum employment opportunity is made available in State employment without regard to race, religion, national origin, sex or age.

I find the assignment of these functions to the Department of Administration necessary for the efficient administration of State Government.

This Order takes effect Sept. 30, 1976

Dated at Juneau, Alaska this 14 day of Sept., 1976.



Jay S. Hammond  
Governor of Alaska

STATE OF ALASKA

OFFICE OF THE GOVERNOR

ADMINISTRATIVE ORDER NO. 59

In further pursuit of the State of Alaska's commitment to human rights as expressed in the State Constitution and Alaska Statute 18.80.200, as amended, I, Jay S. Hammond, Governor of the State of Alaska, under the authority granted by Article III of the Alaska Constitution and by Alaska Statute 4.17.060, order the following as the equal employment opportunity policy of the Executive Branch of the State of Alaska:

1. Statement of Policy; General Requirements

1.1 The policy of the Executive Branch of the State of Alaska is equal opportunity and nondiscrimination in all of its employment decisions, programs, and activities. The State shall take affirmative steps to implement this policy in the internal affairs of State government, as well as its relations with the public.

1.2 All departments or appointing authorities shall have affirmative action programs and written plans to conform with this order. All affirmative action programs and plans shall be reviewed by the Department of Administration, Division of Equal Employment Opportunity, established in part 2 of this order.

1.3 Affirmative action requires that steps be taken in all departments to eliminate discriminatory barriers to employment on the grounds of race, religion, color, national origin, age, sex, handicap, marital status, changes in marital status, pregnancy or parenthood, when the reasonable demands of the position do not require a distinction. It also requires positive, aggressive measures to ensure that all terms and conditions of employment including, but not limited to, the areas of recruitment, hiring, assignments, evaluation, promotion or transfer, layoff, termination, training, compensation, and treatment are not arbitrarily discriminatory on the grounds listed.

## 2. Responsibilities

2.1 The Commissioner of the Department of Administration is responsible for the Equal Employment Opportunity Program. Specific responsibility and authority for administering and implementing the State's Equal Employment Opportunity Program is assigned to the Division of Equal Employment Opportunity, established within the Department of Administration.

2.2 The Director of the State Division of Equal Employment Opportunity shall administer the Equal Employment Opportunity Program for employment within the Executive Branch, and shall carry out the State's policy on non-discrimination, equal employment opportunity, and affirmative action in employment within the Executive Branch. The Director shall:

- (1) Develop and implement guidelines, standards, and procedures governing the preparation, timely submission, and review of affirmative action plans by all departments within the Executive Branch.
- (2) Give final approval or disapproval of all affirmative action plans submitted by each department.
- (3) Conduct an ongoing review of affirmative action plans and their implementation to assure that programs are in compliance with this administrative order.
- (4) Establish a uniform complaint procedure which is to be included in all affirmative action plans and available to all persons subject to this administrative order, including applicants as well as employees. This procedure must be used to investigate, determine, and resolve issues covered by this administrative order or related to affirmative action plans. This procedure is a means by which persons may bring issues covered by this order to the attention of responsible officials for the purpose of investigation, determination, and resolution. However, a failure to comply with this procedure does not deny a person any right he would not otherwise have under the United States and Alaska constitutions and statutes.

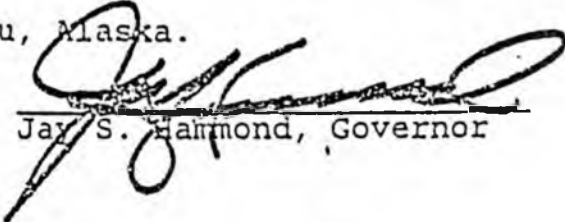
- (5) Maintain contact with State agencies, employees, or applicants and any State or federal enforcement agency in connection with all issues covered by this administrative order.
- (6) Cooperate with the director of the Division of Personnel to ensure that the State personnel system is operated in ways which provide assistance to appointing authorities in meeting affirmative action goals and that all personnel system policies, practices, and regulations comply with this administrative order.
- (7) Monitor employment practices and policies and take necessary measures to ensure that all conditions of employment, including but not limited to, the areas of recruitment, hiring, assignment, evaluations, promotion, demotion, transfer, layoff, termination, training, compensation and treatment are not arbitrarily discriminatory on the grounds listed in section 1.3 of this order.
- (8) Review all employee collective bargaining agreements on a continuing basis to ensure compliance with this administrative order and advise the director of the Division of Labor Relations on EEO matters as they pertain to contract negotiations and management.
- (9) Provide training to management, supervisors, and employees to strengthen knowledge and understanding of state and federal anti-discrimination laws and subjects covered under this administrative order.
- (10) Prepare the overall State affirmative action plan which is to consist of this administrative order, the annual plan, and the annual report. The State affirmative action plan must be submitted to the Commissioner of Administration, the Governor, and the Legislature no later than January 31 of each year.

2.3 The commissioner of each department or the authority in agencies of the Executive Branch that are not in departments shall:

- (1) Have an affirmative action plan setting forth goals and timetables, identifying problem areas, outlining remedies, and specifying reasonable measures to eliminate the effects of any past or present discriminatory practices and terms, conditions, and privileges of employment.
- (2) Select an official of the department at the level of director or above who is to be designated the department equal employment opportunity representative. The department equal employment opportunity representative shall supervise development and implementation of the department's affirmative action plan and program.

This administrative order takes effect immediately.

DATED June 20, 1980, at Juneau, Alaska.

  
Jay S. Hammond, Governor



STATE OF ALASKA  
DEPARTMENT OF PUBLIC SAFETY  
JUNEAU

**ADMINISTRATIVE ORDER NO. 76**

In furtherance of the State of Alaska's commitment to human rights as expressed in the State constitution and Alaska statute 18.80.200, I, Bill Sheffield, Governor of the State of Alaska, under the authority granted by art. III, sec. 1 of the Alaska Constitution and by Alaska Statute 44.17.060, order the following:

1. **Purpose.** The purpose of this order is (1) to assure that there is no unconstitutional or otherwise unlawful discrimination in the award of contracts and subcontracts for public works projects undertaken by the Alaska Department of Transportation and Public Facilities; (2) to overcome effects of past discrimination against minorities, women and other classes of persons protected by AS 18.80.200; and (3) to promote the economic health and well-being of the state through taking positive measures to ensure equal business opportunities for minorities, women, and other classes of persons protected by AS 18.80.200.

2. **Minorities and Women in Business Enterprises.**

(a) This order supplements Administrative Order No. 59 dated June 20, 1980 by Governor Jay Hammond, and Administrative Order No. 75 dated April 7, 1983 by me, by adding provisions for affirmative action in state contracting.

(b) I find that:

(1) the overwhelming share of public funds spent for public construction projects are spent by the Department of Transportation and Public Facilities on contracts awarded to competitive bidders;

(2) a majority of the construction contracts awarded by the Department of Transportation and Public Facilities is carried out with significant use of subcontractors;

(3) because of (1) and (2), the preponderant share of state funds spent on public construction goes to contractors and subcontractors under contracts with the Department of Transportation and Public Facilities.

(c) The commissioner of the Department of Transportation and Public Facilities shall take positive, aggressive measures to help assure that business enterprises owned and controlled by minorities, women, and other classes of persons protected by AS 18.80.200 are not discriminated against in the award of contracts and subcontracts. The commissioner shall take all possible affirmative action which the commissioner determines will help (1) to overcome effects of past discrimination against minorities, women, and other classes of persons protected by AS 18.80.200, in the contracting business; and (2) to promote full and equal opportunity for business enterprises owned and controlled by minorities, women, and other classes of persons protected by AS 18.80.200, to receive public construction funds.

(d) The definition of "minority" in Administrative Order No. 18 dated November 22, 1972 by Governor Egan is hereby superseded. For purposes of this order and Administrative Order No. 18, "minority" includes a person from the following groups: Black American, Hispanic American, Asian American, Pacific Islander, American Indian, or Alaska Native.

(e) For purposes of this order, "minority business enterprise" (MBE) means a business concern that is at least 51 percent owned and controlled by minority persons; "female business enterprise" (FBE) means a business concern that is at least 51 percent owned and controlled by women.

(f) A business enterprise not owned and controlled by minority persons or women must be at least 51 percent owned and controlled by persons belonging to a class protected by AS 18.80.200 to qualify for the affirmative action required by this order.

This Order takes effect May 24, 1983.

DATED at Juneau, Alaska May 23, 1983.



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Bill Sheffield  
Governor  
State of Alaska

# MEMORANDUM

# State of Alaska

TO: Heads of Departments and  
Independent Agencies

DATE: October 25, 1984

FILE NO:

TELEPHONE NO: 465-3500

FROM: Bill Sheffield  
Governor

SUBJECT: Administrative Order No. 81;  
Policy Statement on  
Discriminatory Harassment

This memorandum transmits Administrative Order No. 81 the policy and guidelines for the Executive Branch on discriminatory harassment based on race or color, religion, national origin, sex, age, handicap, marital status, changes in marital status, pregnancy or parenthood. This policy amends and supplements Administrative Order No. 75 and is applicable to each agency and department within the Executive Branch of State government and includes operational definitions of harassment and sexual harassment.

I am taking this action in an effort to curtail discriminatory harassment in general and specifically sexual harassment. Such harassment undermines the integrity of State government and cannot be condoned. Merit system principles require that all employees be allowed to work in an environment free from harassment.

I am directing, therefore, that each of you take a leadership role through the immediate initiation of the following actions:

1. Issue a strong management statement concurring with and reiterating the State's policy as the policy of your agency or department with regard to such discriminatory harassment;
2. Emphasize this policy as a part of new employee orientation;
3. Provide each employee with a copy of the attached policy statement on harassment;
4. Make employees aware of the avenues for seeking redress, and the actions that will be taken against employees violating the policy, as provided in the policy statement itself; and,
5. Inform your managers and supervisors of their responsibilities under this order and insure that they are all provided with both a copy of this Order and the appropriate training to deal with these issues, especially in regards to sexual harassment. Such training will be offered on request by the Division of Equal Employment Opportunity through the Productivity Improvement Center in the Department of Administration.

BS/MGM/mms  
15/10D1/0730-08

Attachments

cc: Jim Kelly, Special Staff Assistant  
Office of the Governor

Merwin H. Peters, Director  
Division of Equal Employment Opportunity

Frank Raye, Director  
Division of Personnel

William Gibbons, Director  
Division of Labor Relations

# MEMORANDUM

# State of Alaska

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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

ADMINISTRATIVE ORDER NO. 81

In furtherance of the State of Alaska's commitment to human rights and equal employment opportunity, I, Bill Sheffield, Governor of the State of Alaska, under the authority granted by Article III of the Alaska Constitution and by Alaska Statute 44.17.060, hereby order the following as the policy and guidelines for the Executive Branch of Alaska State Government on discriminatory harassment and more specifically on sexual harassment. This Order amends and supplements Administrative Order No. 75, the general policy on equal employment opportunity.

1. STATEMENT OF POLICY

- 1.1 The Executive Branch of the State of Alaska, as an employer, will not tolerate, condone or permit any kind of harassment of employees or applicants for employment on the basis of their sex, color, race, religion, national origin, age, handicap, marital status, changes in marital status, pregnancy or parenthood. Such harassment is in direct violation of Federal and State law and is inconsistent with the State's policy on equal employment opportunity.
- 1.2 Persons who knowingly engage in or instigate such harassment will be subject to disciplinary actions which may lead to suspension and discharge. Additionally, managers and supervisors who knowingly permit harassment activity to occur without further action will be subject to disciplinary action. Where such prohibited activity is perpetrated by a non-employee, the State will take available and appropriate disciplinary action which may include, by way of example, loss of contract.

2. GENERAL PROVISIONS

- 2.1 **Scope:** The policy and guidelines herein apply to all agencies, employees and applicants for employment within the Executive Branch of Alaska State Government.
- 2.2 **Frivolous or Malicious Accusations:** Persons making frivolous or malicious accusations of harassment may be subjected to disciplinary actions.
- 2.3 **Management Activities:** This Order is not intended to restrict bonafide activities such as reprimands, disciplinary actions and employee performance evaluations which are clearly within the scope of a supervisor's duties and responsibilities, and which

serve a legitimate management purpose.

### 3. DEFINITIONS

3.1 Harassment: Unwanted communication and/or conduct by a supervisor, co-worker or non-employee in the workplace which adversely affects the employment relationship or working environment for the employee or applicant for employment and is based on the sex, race, religion, national origin, age, handicap, marital status, changes in marital status, pregnancy or parenthood of that individual. Harassment may include slurs, abusive language, threats, derogatory comments, unwelcome jokes, teasing and other such verbal or physical conduct.

3.2 Sexual harassment: Addressed and defined by the U.S. Equal Employment Opportunity Commission in the Federal Guidelines on Discrimination Because of Sex published on November 10, 1980, and codified as 29 CFR Section 1604.11, sexual harassment is defined as follows:

"(a) Harassment on the basis of sex is violation of Sec. 703 of Title VII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment."

### 4. GUIDELINES FOR THE IMPLEMENTATION OF POLICY

#### 4.1 Responsibility for Implementation:

- (a) Overall responsibility for the administration of this order is delegated to the Director of the Division of Equal Employment Opportunity.
- (b) All agency heads, managers and supervisors within the Executive Branch of State Government are responsible for taking immediate and appropriate corrective action where they have any knowledge of such prohibited practices. Such corrective actions should be taken only after consultation with the State Division of Equal Employment Opportunity.

#### 4.2. Complaints:

- (a) Employees believing they have been subjected to harassment

should contact their department or agency's Equal Employment Opportunity Representative or the State Division of Equal Employment Opportunity.

- (b) A complaint may be formally filed on the "Complaint of Discrimination Form" available through agency personnel offices and the State Division of Equal Employment Opportunity.
- (c) The Division of Equal Employment Opportunity shall develop the appropriate administrative process to resolve harassment complaints.
- (d) Any form of retaliation, reprisal or adverse action taken against an employee for complaining about, reporting, or cooperating in the investigation of such harassment is prohibited and will be dealt with severely. Such disciplinary action may include suspension and dismissal.

4.3 Dissemination of Policy:

- (a) The policy is to be posted in the form provided in Appendix A of this order on all bulletin boards and at every facility and office within each department.
- (b) It will be the responsibility of each agency head to ensure that copies of this policy are disseminated to all supervisory staff and that copies of this policy are included in all agency policy manuals and employee handbooks.

This Order takes effect October 25, 1984.

Dated at Anchorage, Alaska

October 25

Bill Sheffield

Bill Sheffield  
Governor  
State of Alaska

APPENDIX A:

STATE OF ALASKA  
EXECUTIVE BRANCH

APPENDIX A  
POLICY ON DISCRIMINATORY HARASSMENT

The following policy on discriminatory harassment was issued by Governor Bill Sheffield in Administrative Order No. 81 effective October 25, 1984.

The Executive Branch of the State of Alaska, as an employer, will not condone, permit or tolerate any kind of harassment of employees or applicants for employment on the basis of sex, color, race, religion, national origin, age, handicap, marital status, changes in marital status, pregnancy, or parenthood. Such harassment is in direct violation of Federal and State law and is inconsistent with the State's policy on equal employment opportunity.

Persons who knowingly permit, engage in or instigate such harassment will be subject to disciplinary actions which may lead to suspension and discharge. Where such prohibited activity is perpetrated by a nonemployee, that person may be subject to prosecution, loss of contract, or other appropriate sanctions.

DEFINITION OF DISCRIMINATORY HARASSMENT

Harassment is unwanted conduct or communication by a supervisor, co-worker, or nonemployee in the work place which is based on the sex, color, race, religion, national origin, age, handicap, marital status, changes in marital status, pregnancy, or parenthood of an individual and which adversely affects the employment relationship or working environment. This includes slurs, epithets, threats, derogatory comments, unwelcome jokes, teasing and other verbal or physical conduct.

Sexual harassment has been defined by the U.S. Equal Employment Opportunity Commission as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

FILING COMPLAINTS

Employees or applicants for employment who believe that they have been subjected to harassment should contact either the State Division of Equal Employment Opportunity, Pouch CE, Juneau, AK 99811 (telephone: 465-3570) or the agency Equal Employment Opportunity Representative listed below.

DEPARTMENT/AGENCY: \_\_\_\_\_

EEO REPRESENTATIVE: \_\_\_\_\_  
Name Title

\_\_\_\_\_ Mailing Address Telephone Number

No individual will be adversely affected for bringing any violation of this policy to the attention of management. Retaliation in any form is prohibited.

# MEMORANDUM

# State of Alaska

TO: Heads of Departments and  
Independent Agencies

DATE: October 25, 1984

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BS/MGM/mms  
15/10D1/0730-08  
Attachments

cc: Jim Kelly, Special Staff Assistant  
Office of the Governor

Merwin H. Peters, Director  
Division of Equal Employment Opportunity

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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

ADMINISTRATIVE ORDER NO. 81

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- 1.2 Persons who knowingly engage in or instigate such harassment will be subject to disciplinary actions which may lead to suspension and discharge. Additionally, managers and supervisors who knowingly permit harassment activity to occur without further action will be subject to disciplinary action. Where such prohibited activity is perpetrated by a non-employee, the State will take available and appropriate disciplinary action which may include, by way of example, loss of contract.

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- 2.1 Scope: The policy and guidelines herein apply to all agencies, employees and applicants for employment within the Executive Branch of Alaska State Government.
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- 2.3 Management Activities: This Order is not intended to restrict bonafide activities such as reprimands, disciplinary actions and employee performance evaluations which are clearly within the scope of a supervisor's duties and responsibilities, and which

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### 4. GUIDELINES FOR THE IMPLEMENTATION OF POLICY

#### 4.1 Responsibility for Implementation:

- (a) Overall responsibility for the administration of this order is delegated to the Director of the Division of Equal Employment Opportunity.
- (b) All agency heads, managers and supervisors within the Executive Branch of State Government are responsible for taking immediate and appropriate corrective action where they have any knowledge of such prohibited practices. Such corrective actions should be taken only after consultation with the State Division of Equal Employment Opportunity.

#### 4.2. Complaints:

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should contact their department or agency's Equal Employment Opportunity Representative or the State Division of Equal Employment Opportunity.

- (b) A complaint may be formally filed on the "Complaint of Discrimination Form" available through agency personnel offices and the State Division of Equal Employment Opportunity.
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This Order takes effect October 25, 1984.

Dated at Anchorage, Alaska

October 25

Bill Sheffield

Bill Sheffield  
Governor  
State of Alaska

APPENDIX A:

STATE OF ALASKA  
EXECUTIVE BRANCH

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EEO REPRESENTATIVE: \_\_\_\_\_  
Name Title

\_\_\_\_\_ Mailing Address Telephone Number

No individual will be adversely affected for bringing any violation of this policy to the attention of management. Retaliation in any form is prohibited.

**Warning System.**

to an avalanche warning system in cooperation with the federal government, shall be the creation of a statewide system at the state in the operational and primary and supplemental and data concerning avalanche activity; throughout the state; on avalanche danger; avalanche paths and slide agencies in identifying hazardous avalanche zoning regu-

**Human Rights.**

10 — 18.80.075)  
 — 18.80.145)  
 - 18.80.160)  
 18.80.295)

to enforce federal laws, the overall approach of the federal scheme in Alaska's. May 14, 1979, Op.

to deprive the Alaska courts of the right to hear a case alleging discrimination against an employer and labor union. *Alascom & Teamsters Local 100 v. Alaska State*, Op. No. 1509 (File No. 2554), 28 (1977).

**Article 1. Creation and Organization of Commission.**

**Section**

- 10. Creation
- 20. Composition and appointment
- 30. Chairman of commission
- 40. Commission meetings

**Section**

- 50. Regulations
- 60. Powers and duties of the commission
- 70. Compensation
- 75. Legal counsel

Collateral references. — 15 Am. Jur. 2d, Civil Rights, §§ 1, 2, 4, 261, 262. 14 C.J.S., Civil Rights Supplement, §§ 8-11, 203-226. Constitutionality of "civil rights" legislation by state. 49 ALR 505.

Construction and application of state equal rights amendments forbidding determination of rights based on sex. 90 ALR3d 158.

**Sec. 18.80.010. Creation.** There is created in the office of the governor a State Commission for Human Rights. (§ 1 ch 15 SLA 1963)

**NOTES TO DECISIONS**

The legislature intended the commission to be more than a simple complaint-taking bureau; the statutory scheme constitutes a mandate to the agency to seek out and eradicate discrimination in employment, in credit and

financing practices, in places of public accommodations and in the sale, lease or rental of real property. *Hotel Employees Local 879 v. Thomas*, Sup. Ct. Op. No. 1280 (File No. 2703), 551 P.2d 942 (1976).

**Sec. 18.80.020. Composition and appointment.** The commission consists of seven commissioners, appointed by the governor for staggered terms of five years, and confirmed by the legislature. (§ 1 ch 15 SLA 1963; am § 1 ch 42 SLA 1972)

**Sec. 18.80.030. Chairman of commission.** The commission shall elect one of its members as chairman. (§ 1 ch 15 SLA 1963)

**Sec. 18.80.040. Commission meetings.** The commission shall hold a regular annual meeting and shall hold special meetings as necessitated by AS 18.80.120. (§ 1 ch 15 SLA 1963)

**Sec. 18.80.050. Regulations.** The commission shall adopt procedural and substantive regulations necessary to implement this chapter. (§ 1 ch 15 SLA 1963)

**Sec. 18.80.060. Powers and duties of the commission.** (a) In addition to the other powers and duties prescribed by this chapter the commission shall

- (1) appoint an executive director approved by the governor;
- (2) hire other administrative staff as may be necessary to the commission's function;
- (3) exercise general supervision and direct the activities of the executive director and other administrative staff;
- (4) accept complaints under AS 18.80.100;
- (5) study the problems of discrimination in all or specific fields of human relationships, and foster through community effort or goodwill, cooperation and conciliation among the groups and elements of the population of the state, and publish results of investigations and research as in its judgment will tend to eliminate discrimination because of race, religion, color, national ancestry, physical handicap, age, sex, marital status, changes in marital status, pregnancy or parenthood;
- (6) make an overall assessment, at least once every three years, of the progress made toward equal employment opportunity by every department of state government. Results of the assessment shall be included in the annual report made under AS 18.80.150.

(b) In addition to other powers and duties prescribed by this chapter the commission may

- (1) delegate to the executive director all powers and duties given it by this chapter except the duties and powers given it by AS 18.80.120 and 18.80.130;
- (2) call upon the departments and agencies of the state, with the approval of the governor, for cooperation and assistance in carrying out this chapter;
- (3) hold hearings under AS 18.80.120;

(4) or a commissioner or an employee authorized by the commission may administer oaths, certify to all official acts, and issue subpoenas, subpoenas duces tecum and other process to compel the attendance of witnesses and the production of testimony, records, papers, accounts and documents in any inquiry, investigation, hearing or proceeding before the commission in the state; the commission, a commissioner or an employee authorized by the commission may petition a court of this state to enforce its subpoenas, subpoenas duces tecum and other process. (§ 1 ch 15 SLA 1963; am § 1 ch 117 SLA 1965; am § 1 ch 119 SLA 1969; am §§ 1—3 ch 104 SLA 1975; am § 2 ch 75 SLA 1978)

**Effect of amendments.** — The 1978 amendment added paragraph (6) of subsection (a).

**Opinions of attorney general.** — The commission's responsibilities may be viewed as twofold: (1) to study and report on the problems of discrimination, and (2) to take affirmative steps to eliminate any discrimination discovered. May 14, 1979, Op. Att'y Gen.

AS 18.80.220(b) should be interpreted to require the commission to keep confidential information from a survey for records maintained to administer civil rights law and regulations until it is presented at a public hearing unless the information is released in a format which does not identify individual responding employees or unions. May 14, 1979, Op. Att'y Gen.

The legislature intention to be more than a complaint-taking bureau scheme constitutes an agency to seek out and eliminate in employment financing practices, in

**Sec. 18.80.070.** are authorized per of other boards and

**Cross references.** — tion and per diem expen-

**Sec. 18.80.075.** I legal counsel for th legal matters arisin preparation and pro shall represent the c

(b) The commissio proceedings before the mission in which p representing another 1972)

**Article 2. Co**

- Section**
- 100. Complaint
  - 105. Temporary restraining
  - 110. Investigation and cor
  - 115. Confidential informa
  - 120. Hearing

**Collateral references.** - 2d, Civil Rights, §§ 261, 20 14 C.J.S., Civil Rights §§ 203-226.

Private rights and remed right based on civil right. ALR 920.

# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## DEPARTMENT OF ADMINISTRATION

POUCH C - 0201  
JUNEAU, ALASKA 99811  
PHONE:

### DIVISION OF PERSONNEL

(907) 465-4430

February 17, 1984

Honorable Vic Fischer  
Chairman  
Senate State Affairs Committee  
Pouch V  
Juneau, AK 99811

Dear Mr. Chairman:

The Division of Equal Employment Opportunity has forwarded to us three questions regarding SB 395. That Division indicated the desire of your Committee to have these answers from the Division of Personnel.

The questions, as I understand them, and the answers follow:

1. Is there a conflict between a merit system and equal employment opportunity?

No. The merit principle of employment (see AS 39.25.010) provides for such things as recruiting, selecting and advancing employees based on relative ability, knowledge and skill; retention of employees based on adequacy of performance; and equal treatment of applicants and employees. There is no place in a merit system for those things which are prohibited by antidiscrimination laws. Equal employment opportunity/affirmative action efforts by any employer are intended to insure that discriminatory practices are not used, intentionally or accidentally, by the employer and to overcome or correct the results of former discriminatory practices. A merit system and equal employment opportunity complement each other rather than conflict.

2. Does the Division of Personnel support SB 395?

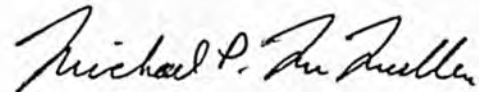
Yes. The bill will formalize in statute the existing Division as well as procedures generally required by various compliance agencies or dictated by good management practices. Formalizing the Division and its practices will give it higher visibility and authority, and clarify any confusion or resistance to its authority and responsibility.

3. Is there any conflict between the Personnel Act and SB 395?

No. See the answer to question 1, above, with regard to the compatible purposes. There are no specific provisions in the Personnel Act or this bill that would cause a conflict.

I would be happy to answer any further questions you or your Committee may have regarding SB 395 as it affects the Division of Personnel.

Sincerely,



Michael P. McMullen  
Deputy Director

MPM/cfm  
1/4D2/0217-01

TO: The State of Affairs Committee of the 13th Alaska Legislature  
FROM: Rosalee T. Walker  
7677 North Douglas Road Juneau, Alaska 99801  
586 - 2873

RE: Senate Bill #395

The following statement is being offered in opposition to SB 395. This is in addition to the comments made at the Committee hearing on February 14, 1984. Although I am currently active in several organizations that are concerned with Civil Rights issues, my comments are submitted as an individual who is a retired State employee. The comments are being submitted as constructive criticism and I am available to work toward the strengthening of the EEO office.

Senate Bill 395 suggests many areas of concern, as I stated during the hearing. Additional points are as follows:

The State already has a comprehensive antidiscrimination statute (A.S. 18.80) administered by the Commissioners and staff of the Alaska State Commission for Human Rights. The Commission is charged with the responsibility for enforcement of A.S. 18.80 and review/assessment of the progress of EEO in State government. A.S. 18.80 and Title VII of the Civil Rights Act of 1964 ( as amended) cover the activities of most of Alaska's employers in the public and private sectors. Why is an additional statute necessary?

P.2, line 7 (12) Sec.44.21.020 - This is a very nebulous statement. At any rate, the time for study, formulate, review, etc. is long past due. The division of EEO is responsible for ENSURING that the executive branch of Alaska State government is an equal opportunity employer. To accomplish this, the Division must take assertive and affirmative actions to eliminate State employment policies, practices, procedures, regulations, conditions and benefits which do not treat

Page 2.

SB395

all employees and applicants for employment in an equitable manner.

P2, line 14 Sec. 44.21.405(a) - What guarantee is there that the Commissioner of Administration will appoint a Director who is qualified for the job? The EEO Division has run through a series of Directors since its concept. All but one of these people have been members of a minority group. I suspect that in the majority of these hires, being a member of a minority group has been the only criteria used in the selection of a Director. I would recommend that a group or a committee composed of people who are knowledgeable in Civil Rights law and affirmative action be consulted to review the applications of people who apply for the Director's position. This group could select the three most qualified persons and submit these names to the Governor for consideration.

P2, line 24 Sec. 44.21.410(a) (1) - Recruitment is a direct responsibility of the Division of Personnel. The Division of Personnel and Departmental Personnel officers are supposed to conduct targeted recruitment for qualified minorities and women when they do not appear on State registers, and when there are position vacancies. It is my understanding that under both Federal and State law, targeted recruitment is limited to minorities and women, and does not apply to ALL protected groups.

P2, line 28 Sec. 44.21.410 (3) - Every agency of the executive branch should have a written affirmative action plan. This is especially true for those agencies that receive federal funds as mandated by Presidential Executive Order No. 11246, Rev. Order No. 4 for grant-in-aid agencies (i.e. Dept. of Labor, Health and Social Services, etc. ).

P3, line 5 Sec. 44.21.410 (4) (b) - During FY 1981 or 1982 there was a capital budget appropriation to the Division of EEO for the development of a computerized system to identify barriers in the personnel system. What happened to this plan? Will it ever be

implemented?

Administrative Order No. 75, signed by the Governor, clearly delineates EEO roles and responsibilities, very little of which has ever been carried out. Re: P3, lines 22 - 29 - Why not abide by the Administrative Order long enough to see if it is operational? Where is the EEO report to the Governor and Legislature for December 1983?

P3, Sec. 44.21. 430 - The EEO Division is not supposed to be a law enforcement agency. Why should an executive branch agency or department ask EEO's permission to solve their own problems? If the EEO office has done its job effectively, the agencies and departments should have the skills and knowledge to do that which is necessary. The EEO Division should not have to initiate complaints, if it is aware of discrimination in the executive branch or departments, then it is EEO's responsibility to inform those responsible of the possible violation

P5, Sec. 44.21.450 (f) (g) (h) - This is also covered in the Administrative Order No. 75. Under SB395, the EEO office would still be within the Department of Administration. Would there not be a conflict of interest if the appealing party had to appeal to the same people who made the initial findings and recommendations? It stands to reason that the Commissioner of Administration would uphold the EEO Director who would be a part of the Department of Administration.

P6, Sec. 44.21.450 line 1, (i) - Does this violate the Confidentiality law? This type of information is privy only to the client and official compliance agencies that have power to subpoena. Only with the clients' permission can this type of information be disclosed to others.

Page 4

SB 395

P.7, Sec. 44.21. 480 line 10 (4) - This definition is not consistant with either state or federal laws. What about age, marital status, pregnancy, etc.?

P.7, line 16 \$ec. 44.21.480 (A)(I,II,III,IV) - Although these definitions are very unpopular, they are definitions that are currently used by the federal Equal Employment Opportunity Commission. (1) describes American Indian and Alaskan Natives; (2)describes Black, (3) describes Spanish surnamed or Hispanic, and, (4) describes Asians or Pacific Islanders.

P. 7 & 8, line 29, Sec. 44.21.480. (B) - This is the definition of the "physically handicapped" as promugated in 18.80. The division is also responsible for following the definition of "handicapped" under the U.S. Rehabilitation Act of 1973 which is different.

P.8. line 3, Sec. 44.21.480 (C) - This definition should be verified. I feel that this definition may be applicable only in certain cases of veteran preference in hiring. It is commonly accepted that "once a veteran, always a veteran".

#### POSITION PAPER AND FISCAL NOTE

It is just incomprehensible to me that a division in state government feels that it must have statutory powers in order to carry out its responsibilities that are specifically stated by Administrative Order. Will statutory status and/or authority guarantee that the division will be more effective in carrying out its responsibilities?

Agency EEO representatives should be trained by the Division of EEO staff members, conducted in the representatives' own agencies. Is the travel budget (for training) inflated? Historically, the agencies of the executive branch have borne the expenses for travel incurred by EEO Division staff for complaint investigation and resolution. Why should this arrangement change?

I respectfully suggest that this Committee carefully scrutinize SB 395, the accompanying fiscal note and the Division's operating budget request. I further recommend that SB 395 not pass and that no additional money or positions be appropriated for the EEO Division until it proves that it can fulfill its current responsibilities as stipulated in Administrative Order No. 75. There has been little public accountability of affirmative action in our executive branch agencies. In view of the constant reports of budget restraints, and the ineffectiveness of the EEO Division in the past; there should be some assurance of improvements before establishing a new statute and authorizing the expenditure of more funds.

# STATE OF ALASKA

THE LEGISLATURE  
BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811

April 29, 1983

SUMMARY OF: A Special Report on the Department of Administration, Division of Equal Employment Opportunity, September 1981 - March 1983.

## PURPOSE OF THE REPORT

In accordance with a Legislative Budget and Audit Committee request and Title 24 of the Alaska Statutes, this special report has been prepared to evaluate the Division of Equal Employment Opportunity's performance in promoting and achieving equal employment opportunity in the executive branch departments of the State of Alaska.

## FINDINGS AND RECOMMENDATION

1. The Department of Administration, Division of Equal Employment Opportunity (DEEO) needs more support and authority from the Governor to increase its effectiveness.

DEEO has no specific statutory responsibility or support. The Division derives what authority and responsibilities it has from administrative order. Consequently, the effectiveness of the Division depends on the nature and extent of the governor's leadership. Commitment and leadership are especially vital to a function that requires coordination and direction of various executive branch departments.

2. DEEO should improve Affirmative Action Plan (AAP) procedures and elicit more cooperation from executive branch departments.

The Commissioner of Administration should consider writing a centralized, statewide AAP for the executive branch as a whole and establishing statewide hiring goals and timetables. Departments would still play a significant role in developing the goals, particularly departments with unique underutilized jobs. However, the overall approach would shift from the current decentralized method to a more centrally directed effort.

3. The Department of Administration (DOA) should assume central administrative control over the use and release of expanded certification registers.

4. DEEO should develop and use data that analyzes the availability of women and minorities in a more consistent and useful manner.
5. DEEO should establish a comprehensive internal complaint procedure to be utilized by all executive branch departments.

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811

## THE LEGISLATURE BUDGET AND AUDIT COMMITTEE

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Official Business

# Alaska State Legislature

## Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V  
Juneau, Alaska 99811  
(907) 465-4954

### MEMORANDUM

TO: Senate State Affairs Committee

FROM: Senate State Affairs Committee Staff

DATE: March 19, 1984

RE: CSSB 395 (State Affairs) creating the division of Equal Employment Opportunity

The proposed committee substitute for SB 395 (attached) extensively amends the original bill. The cs places the emphasis of the division on efforts to employ members of protected classes in state government, whereas much of the emphasis of the original bill addressed internal complaint proceedings.

Page 1

44.21.410 outlines the powers and duties of the division as:

- a)
  - 1) establishing and reviewing an affirmative action plan.
  - 2) advising agencies on the recruitment of protected classes.
  - 3) consulting departments on matters of EEO.
  - 4) adopting regulations.
- b) recommending to the governor or the commissioner legislative or administrative action on EEO matters.

Page 2

44.21.420

- a) requires the division to annually develop and submit to the governor an affirmative action plan. This plan would become effective upon signature by the governor, and would remain in effect until the next plan was approved.
- b) requires the departments to comply with the plan, and to report to the division quarterly on their compliance with the plan.
- c) requires the division to annually report to the legislature and governor on the implementation of the plan.

44.21.430 outlines the internal complaint procedures, and states that the investigation shall be impartial and for the purpose of determining facts.

Page 3

44.21.440 allows the division to have access to certain records.

44.21.450 is the definition section.

Fiscal information

The bill has a zero fiscal note.

New back-up information

New fiscal note

New CS



Official Business

# Alaska State Legislature

## Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V  
Juneau, Alaska 99811  
(907) 465-4954

### MEMORANDUM

TO: Senate State Affairs Committee

FROM: Senate State Affairs Committee Staff *ST*

RE: SB 395

DATE: February 14, 1984

SB 395 was introduced to put into law a division created by an administrative order. Since the Division of Equal Employment Opportunity was created, its strength has been determined by the level of the Governor's commitment.

In a 1983 LB&A report, Commissioner Rudd responded that "perhaps the only solution to the wavering support for EEO is the promulgation of legislation or regulation which would clearly state the division's authorities and responsibilities."

### SECTIONAL ANALYSIS

- Section 1: Adds to the duties of the Department of Administration the duties and responsibilities of the Division of Equal Employment Opportunity.
- Section 2: Creates the division; states that the director shall advise the governor on matters of equal employment, and affirmative action programs.
- pg. 2,  
lines 11-19
- pg. 2,  
lines 19-26
- pg. 4,  
lines 1-7
- Pg.4,  
lines 8-17
- pg. 4,  
lines 18-22
- Outlines the powers and duties of the division.
- Outlines the division's role as liaison with state agencies.
- States that the division shall be asked to advise other executive branch departments and agencies on complaints of discrimination and other EEO questions.
- States that individuals filing charges against a state agency or department on discrimination matters shall also serve the division of EEO.

pg. 4 and 5 Gives guidelines on how the division shall resolve internal complaints. States who the division can accept claims from, and outlines how the claims can be resolved.

pg. 6,           Outlines the rights of complainants, and the prohibitions  
lines 5-21       of those cited in the complaint.

pg. 6,           Gives the division access to certain confidential records.  
lines 22-28

pg. 6,           Defines terms necessary for the creation of the  
lines 29... division.

Fiscal information

FY '84 \$124.5 thousand.

Back-up information

A position paper from the Department of Administration  
A fiscal note from the Department of Administration  
A LB&A Report and attached summary (April 29, 1983)  
A copy of the statutes

Create a division.

Powers and duties of the Director

Director shall solicit and take into account the comments of departmental Equal Employment Opportunity officers.

Create a plan for affirmative action for the state.

Develop a plan and advise the Division of Personnel and other agencies on targeted recruitment.

Plan developed under (a) shall be submitted to the Governor once a year for approval by the Governor.

The affirmative action plan shall be in effect for one year from the date of approval or until a new plan is approved by the Governor.

Each department shall comply with the plan.

Each commissioner shall make a quarterly report to the division reflecting their compliance with the plans.

Departmental Equal Employment Opportunity officers shall notify the division of EEO of all complaints.

The division shall conduct an impartial fact finding investigation of all complaints reported to that division.

The complainant must be notified that they may also take their complaints to the Ombudsman or the Human Rights Commission.

The Human Rights Commission, and the Ombudsman's office shall have access to files and persons involved in the complaint, if the complainant seeks those avenues of recourse.

What is the Division Director to do if a department is not complying with the plan.

Authority to promulgate regulations in compliance with this act.

Should we include a section stating that all State employees shall be notified of how they can make a complaint of discrimination, and what their rights are after they make a complaint.

Sec. 44.19.970. DEFINITIONS. As used in secs. 960 - 970 of this chapter, "members of the protected classes" means those persons protected by federal or state anti-discrimination laws.

Sec. 2. This Act takes effect July 1, 1978.

Original sponsor: State Affairs Committee

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
CS FOR SENATE BILL NO. 395 (State Affairs)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act creating a division of equal employment opportunity in the Department of Administration."

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

\* Section 1. AS 44.21 is amended by adding new sections to read:

ARTICLE 8. DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY.

Sec. 44.21.400. DIVISION CREATED. The division of equal employment opportunity is established in the Department of Administration.

Sec. 44.21.405. DIRECTOR. The division shall be administered by a director appointed by the commissioner.

Sec. 44.21.410. POWERS AND DUTIES OF THE DIVISION. (a) The division shall

(1) establish and periodically review an affirmative action plan for employment in the executive branch of state government;

(2) advise the division of personnel and other departments and agencies on methods to promote the recruitment of members of protected classes for employment in the executive branch of state government;

(3) consult with departmental equal employment opportunity officers about equal employment opportunity, affirmative action, and recruitment matters; and

(4) adopt regulations necessary to carry out the duties imposed by AS 44.21.400 - 44.21.450 in accordance with the Administrative Procedure Act (AS 44.62).

(b) The division may recommend legislative or administrative

action to the governor and the commissioner relating to equal employment opportunity and affirmative action matters.

Sec. 44.21.420. AFFIRMATIVE ACTION PLAN. (a) The division shall annually develop and submit to the governor an affirmative action plan for the executive branch of state government. The plan becomes effective upon the signature of the governor and remains in effect until a subsequent plan is approved by the governor.

(b) Each executive branch department and agency shall comply with the affirmative action plan. Each commissioner or executive head of an agency shall report quarterly to the division about activities to implement and comply with the plan.

(c) The division shall report annually to the governor and the legislature on the content and implementation of the affirmative action plan.

Sec. 44.21.430. EMPLOYMENT DISCRIMINATION COMPLAINTS. (a) The division shall conduct an impartial fact-finding investigation of each complaint of employment discrimination in the executive branch of state government reported to the division.

(b) An equal employment opportunity officer in an executive branch, department, or agency shall notify the division when the officer receives a complaint alleging employment discrimination.

(c) The division may not make public the records of an ongoing investigation. However, the division shall release records of an ongoing investigation to the Alaska State Commission on Human Rights or the Office of the Ombudsman if the complainant authorizes the release in writing and if the commission or the office is pursuing an investigation on behalf of the complainant. After a case is closed the division shall release information that is not otherwise confidential upon request to do so.

Sec. 44.21.440. ACCESS TO CONFIDENTIAL RECORDS. (a) Notwithstanding AS 39.25.080, the division may have access to all records necessary to carry out its functions under AS 44.21.400 - 44.21.450.

(b) The division may not make public any confidential information obtained under (a) of this section. However, the division may make public statistical information compiled from confidential records.

Sec. 44.21.450. DEFINITIONS. In AS 44.21.400 - 44.21.450

(1) "commissioner" means the commissioner of administration;

(2) "employment in the executive branch of state government" includes employment as a permanent, probationary, provisional, or nonpermanent employee in the classified, partially exempt, and exempt services in the executive branch of state government;

(3) "member of a protected class" means a person protected by federal or state laws that prohibit discrimination in employment.

PERSONNEL MEMORANDUM 81-1  
TO:  All Personnel Officers

DATE: March 25, 1981

FILE NO:

TELEPHONE NO: 465-4430

FROM: *Bruce Cummings*  
Bruce Cummings  
Director  
Division of Personnel  
Department of Administration

SUBJECT: Use of Personnel Rules  
5 02.4 and 5 02.5 for  
Affirmative Action Program

Affirmative action necessitates every reasonable effort to employ in state government qualified persons of each race and sex at least in proportion to their availability in the relevant job markets. To the extent that we fail to meet that goal, so-called underutilization of persons by race or sex may exist. Personnel Rules 5 02.4 and 5 02.5 permit hiring from other than the top five ranked available candidates "when unique or unusual circumstances are recorded by the appointing authority." Correcting underutilization of employees of racial or sexual groups may constitute "unique and unusual circumstances," and therefore, the authority of that rule can be used to correct underutilization which has been documented by an employing agency in its approved affirmative action plan and by the Division of Equal Employment Opportunity (EEO).

Accordingly, beginning immediately and until any underutilization is corrected, the following procedures apply:

- (1) When an executive agency determines that it employs fewer members of a racial or sexual class, or both, in a job classification within a specific job group (e.g., entry professional, mid-level professional, senior professional, etc.), than the proportionate number of qualified persons of that racial or sexual class in the relevant job market without a racially or sexually neutral explanation, that class is considered to be underutilized. Until more reliable data have been developed, employing agencies and EEO will use the data used in preparing affirmative action plans to determine the numbers of qualified persons of each race and sex available in relevant job markets and to determine whether and to what extent underutilization exists.
- (2) Each time an agency fills a vacant position in a job group where underutilization has been documented in the agency's approved affirmative action plan, the agency can and should request discretionary authorization to appoint from below the top five ranked available candidates under the provisions of Personnel Rules 5 02.4 and 5 02.5 by submitting a memorandum to the director of EEO requesting authorization to correct the

underutilization. The request must specify the job classification to be filled in the job group in which underutilization has occurred and the racial or sexual group, or both, which are underutilized. The latter specification may be simply for "any minority." The request should be accompanied by supporting data. The formal Request for Certification (02-254), with Section A fully completed, must be attached to the request to the director of EEO. In the space provided for special requests, the agency is to enter "Affirmative Action" examining option, and specify the racial or sexual class or classes underutilized in the job group, or specify "any minority." An example is attached.

- (3) If the director of EEO finds that the agency determination of underutilization has been documented, he shall note his concurrence and forward the agency request for certification under these procedures to the director of personnel.
- (4) The Division of Personnel shall then issue a certification of eligibles for the agency's consideration from which the agency may:
  - (a) select from among the top five available eligibles, or
  - (b) select from among the top five available eligibles from the underutilized minority or racial or sexual group.
- (5) An agency is not required to appoint a candidate from an underutilized racial or sexual group. The appointing authority, on the basis of all relevant factors, which may include the need for the state government's workforce to be composed of qualified persons of each race and sex in proportion to their number in the relevant job markets, is expected to hire on the basis of ability.

Under these procedures, no applicant is to be denied employment solely on the basis of race or sex, and none is to be hired solely on that basis. Rather, these procedures are designed to correct, so long as it may exist, any underutilization of racial or sexual groups which may have resulted from pre-existing selection procedures or from their misapplication. These procedures may be utilized only where underutilization is documented by an agency's affirmative action plan and not otherwise. When documented underutilization of a class has been corrected, these procedures no longer apply.

Ultimately, affirmative action and the merit system are two sides of the same coin. Both demand that employment and promotion decisions be made on the basis of ability. Where recruiting, selection, and promotion practices result in underutilization of racial or sexual groups in comparison to the number of qualified persons of each race or sex in the relevant labor market, those practices must be corrected. These procedures will help, but they are not a solution to the overall problem. That solution will take more time. While we work on that solution, we will use these procedures.

We anticipate that there will be occasions when eligible lists will not have sufficient numbers of candidates in requested classes for adequate consideration. In such cases, the Divisions of Equal Employment Opportunity and Personnel are prepared to assist in recruitment efforts.

In order to be able to determine underutilization in your agency -- and therefore to use these procedures -- it is imperative that your Affirmative Action Plan be completed, approved by the Division of EEO, and maintained in a current status. In the absence of such a plan, we have no data on which to make determinations and will return your requests without action.

If you or members of your staff have any questions regarding these procedures, please contact the director of personnel at 465-4430.

BAC/n1  
Attachment  
C3/B

# MEMORANDUM

# State of Alaska

TO: The Cabinet

DATE: March 26, 1981

FILE NO:

TELEPHONE NO: 465-3500

FROM: Jay S. Hammond  
Governor

SUBJECT: Affirmative Action  
Plan/EEO

I have approved a new procedure to be employed within the Executive Branch in order to more fully implement my policy of Equal Employment Opportunity/Affirmative Action. This procedure, which will be issued by the Division of Personnel, will allow you to execute your affirmative action plans once they are approved by the Director of Equal Employment Opportunity. We have extensively discussed the problem of executing our good intent in connection with EEO/AAP at the Cabinet level. The procedure is an important positive step to make certain my policy is implemented throughout State government. You will note that the procedure allows us to rectify any underutilization by race and/or sex based on merit and ability.

I expect this procedure to be implemented when a condition of underutilization exists for any job classification. In order for this procedure to be successful, the full cooperation of the Cabinet -- as well as your line managers -- is necessary. I am, therefore, relying on the Cabinet to implement this procedure in good faith.

cc: Lt. Governor Miller

Original sponsor: Ferguson

Offered: 4/29/81  
Referred: Finance

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR SENATE BILL NO. 248 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to equal employment opportunity in  
7 the executive branch of the state government."

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

9 \* Section 1. FINDINGS AND PURPOSE. (a) There is evidence of continued  
10 lack of opportunity for members of Alaska's protected classes to obtain  
11 appointment to and employment in responsible positions in the executive  
12 branch of the state government.

13 (b) In furtherance of the commitment of the state to human rights and  
14 employment opportunity, it is the policy of the state that there shall be  
15 equal opportunity and nondiscrimination in the employment activities, pro-  
16 grams, and decisions of the executive branch of the state government, and  
17 that aggressive affirmative action is required by executive branch agencies,  
18 individually and collectively, to provide equal employment opportunities for  
19 all Alaskans with those agencies.

20 (c) Affirmative action requires that steps be taken in all executive  
21 branch departments to eliminate discriminatory barriers to employment on the  
22 grounds of race, religion, color, national origin, age, sex, handicap,  
23 marital status, changes in marital status, pregnancy, parenthood, or any  
24 other reason not related to merit. It also requires positive, aggressive  
25 measures to ensure that all terms and conditions of employment including,  
26 but not limited to, the areas of recruitment, hiring, assignments, evalua-  
27 tion, promotion or transfer, layoff, termination, training, compensation,  
28 and treatment are not arbitrarily discriminatory on the grounds listed in  
29 this subsection.

1 \* Sec. 2. AS 44.21.02) is amended by adding a new paragraph to read:

2 (13) administer the equal employment opportunity program  
3 established in AS 39.28.

4 \* Sec. 3. AS 39 is amended by adding a new chapter to read:

5 CHAPTER 28. EQUAL EMPLOYMENT OPPORTUNITY IN STATE EMPLOYMENT.

6 Sec. 39.28.010. DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY. The  
7 division of equal employment opportunity is established in the Depart-  
8 ment of Administration. The director of the division of equal employ-  
9 ment opportunity shall administer the programs of the division.

10 Sec. 39.28.020. DUTIES OF DIRECTOR. The director shall

11 (1) administer the equal employment opportunity program for  
12 the executive branch of state government;

13 (2) implement state policies with respect to nondiscrimina-  
14 tion in employment, equal employment opportunity, and affirmative  
15 action;

16 (3) develop and implement standards and procedures for the  
17 preparation, timely submission, and review of affirmative action plans  
18 by each department;

19 (4) review and approve affirmative action plans submitted by  
20 each department;

21 (5) monitor employment practices of each department to  
22 assure that terms and conditions of employment are nondiscriminatory;

23 (6) implement standards by which performance evaluations of  
24 supervisors reflect compliance with affirmative action plans and objec-  
25 tives, including the granting or denial of merit increases;

26 (7) maintain contact with each department, and provide  
27 training to management, supervisors, and employees to improve their  
28 knowledge and understanding of laws prohibiting discrimination in  
29 public employment and affirmative action standards and practices;

1 (8) cooperate with the director of the division of personnel  
2 to assure that the state personnel system operates to assist appointing  
3 authorities in each department in meeting affirmative action goals, and  
4 to assure that the policies, practices, and regulations of the personnel  
5 system are nondiscriminatory;

6 (9) develop recruitment techniques designed to reach minor-  
7 ities, women, handicapped persons, and other protected classes;

8 (10) develop a procedure to identify improper discriminatory  
9 selection and promotion devices and recommendations for the elimination  
10 of those discriminatory practices;

11 (11) develop specific procedures to identify and eliminate  
12 artificial or customary practices not justified by operational necessity  
13 which operate to exclude protected classes;

14 (12) cooperate with the director of the division of labor  
15 relations on equal employment opportunity matters;

16 (13) maintain contacts with state and federal law enforcement  
17 agencies;

18 (14) prepare, adopt, and implement procedures to assist  
19 departments to determine and resolve issues related to affirmative  
20 action plans; and

21 (15) prepare the annual affirmative action plan and report  
22 for the executive branch of state government as required by AS 39.28.-  
23 030.

24 Sec. 39.28.030. ANNUAL PLAN AND REPORT. (a) The director shall  
25 prepare the annual affirmative action plan and annual report. The plan  
26 and report shall be presented to the commissioner of administration,  
27 the governor, and the legislature by January 31 of each year.

28 (b) The annual plan and report includes, but is not limited to

29 (1) a comprehensive plan, establishing goals and objectives

1 for equal employment opportunity through compliance with affirmative  
2 action standards and procedures;

3 (2) identification of problems and concerns, and of efforts  
4 which have been considered or implemented to address or correct those  
5 problems and concerns;

6 (3) a summary of department efforts to eliminate the effects  
7 of past or present discriminatory practices in the terms, conditions,  
8 and privileges of employment;

9 (4) an evaluation of the efforts of the division of equal  
10 employment opportunity, and of the efforts of each state department, to  
11 achieve equal opportunity in employment in each department;

12 (5) a set of achievable goals within reasonable time frames  
13 for each department to fully employ protected classes consistent with  
14 their availability at all pay grades;

15 (6) an assessment of current work force utilization as  
16 compared to the availability of protected classes in the relevant labor  
17 market; and

18 (7) goals, time tables, or some other formula which defines  
19 objective hiring aims.

20 Sec. 39.28.040. DEFINITIONS. In this chapter

21 (1) "department" means a department or agency in the execu-  
22 tive branch of state government;

23 (2) "director" means the director of the division of equal  
24 employment opportunity.

25 (3) "protected class" means people who experience, or who  
26 have experienced, difficulty in obtaining employment because of

27 (A) race;

28 (B) religion;

29 (C) color;

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- (D) national origin;
- (E) age;
- (F) sex;
- (G) physical handicap;
- (H) marital status or a change in marital status;
- (I) pregnancy;
- (J) the fact that they have children; or
- (K) other factors not related to merit.

\* Sec. 4. AS 44.17 is amended by adding a new section to read:

Sec. 44.17.090. RESPONSIBILITY FOR EQUAL EMPLOYMENT OPPORTUNITY.

(a) The principal executive officer of each state department is responsible for the activities, programs, and decisions of that department which relate to equal opportunity in employment of persons in that department.

(b) The principal executive officer of each state department shall

(1) prepare, adopt, and implement an affirmative action plan for the department, including

(A) a comprehensive plan, establishing goals and objectives for equal employment opportunity through compliance with affirmative action standards and procedures;

(B) identification of problems and concerns, and of efforts which have been considered or implemented to address or correct those problems and concerns;

(C) a summary of efforts to eliminate the effects of past or present improper discriminatory practices in the terms, conditions, and privileges of employment; and

(D) an evaluation of the department's efforts to achieve equal employment opportunity in employment in the depart-

1           ment through affirmative action standards and procedures; and

2           (2) employ an equal employment opportunity officer to super-  
3           vise the development and implementation of the department's affirmative  
4           action program.

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Introduced: 3/6/81  
Referred: State Affairs

1 IN THE SENATE

BY FERGUSON

2 SENATE BILL NO. 248

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to equal employment opportunity in  
7 the executive branch of the state government; and  
8 providing for an effective date."

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

10 \* Section 1. FINDINGS AND PURPOSE. (a) There is evidence of continued  
11 lack of opportunity for members of Alaska's racial minorities and women to  
12 obtain appointment to and employment in responsible positions in the execu-  
13 tive branch of the state government.

14 (b) In furtherance of the commitment of the state to human rights and  
15 employment opportunity, it is the policy of the state that there shall be  
16 equal opportunity in the employment activities, programs, and decisions of  
17 the executive branch of the state government, and that aggressive measures  
18 are required by executive branch agencies, individually and collectively, to  
19 improve equal employment opportunities for all Alaskans in those agencies.

20 \* Sec. 2. AS 44.21.020(9) is amended to read:

21 (9) administer a statewide personnel program, consisting of  
22 [INCLUDING]

23 (A) central personnel services, including but not  
24 limited to [SUCH AS] recruitment, examination, position classi-  
25 fication, and pay administration; and

26 (B) the equal employment opportunity program estab-  
27 lished in AS 39.28;

28 \* Sec. 3. AS 39 is amended by adding a new chapter to read:

29 CHAPTER 28. EQUAL EMPLOYMENT OPPORTUNITY IN STATE EMPLOYMENT.

1           Sec. 39.28.010. DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY. The  
2 division of equal employment opportunity is established in the Depart-  
3 ment of Administration. The director of equal employment opportunity  
4 shall administer the programs of the division.

5           Sec. 39.28.020. DUTIES OF DIRECTOR. The director shall

6           (1) administer the equal employment opportunity program for  
7 the executive branch of state government;

8           (2) implement state policies with respect to nondiscrimina-  
9 tion in employment, equal employment opportunity, and affirmative  
10 action;

11           (3) develop and implement standards and procedures for the  
12 preparation, timely submission, and review of affirmative action plans  
13 by each department;

14           (4) review and approve affirmative action plans submitted by  
15 each department;

16           (5) monitor employment practices of each department to  
17 assure that terms and conditions of employment do not violate affirma-  
18 tive action standards and procedures;

19           (6) enforce equal employment opportunity by filing a legal  
20 action against a state officer or employee who violates affirmative  
21 action standards and procedures; for purposes of a legal action under  
22 this paragraph, the director may employ independent legal counsel not  
23 associated with the Department of Law;

24           (7) maintain contact with each department, and provide  
25 training to management, supervisors, and employees to improve their  
26 knowledge and understanding of laws prohibiting discrimination in  
27 public employment and affirmative action standards and practices;

28           (8) cooperate with the director of the division of personnel  
29 to assure that the state personnel system operates to assist appointing

1 authorities in each department in meeting affirmative action goals, and  
2 that the policies, practices, and regulations of the personnel system  
3 comply with affirmative action requirements;

4 (9) advise the director of the division of labor relations  
5 on equal employment opportunity matters which pertain to contract  
6 negotiations and the management of the affairs of the division of labor  
7 relations;

8 (10) prepare, adopt, and implement procedures to investigate,  
9 determine, and resolve issues related to affirmative action plans; and

10 (11) prepare the annual affirmative action plan and report  
11 for the executive branch of state government as required by AS 39.28.-  
12 030.

13 Sec. 39.28.030. ANNUAL PLAN AND REPORT. The director shall  
14 prepare the annual plan and annual report. The plan and report shall  
15 be presented to the commissioner of administration, the governor, and  
16 the legislature by January 31 of each year. The annual plan and report  
17 shall include, but is not limited to,

18 (1) a comprehensive plan, establishing goals and objectives  
19 for equal employment opportunity through compliance with affirmative  
20 action standards and procedures;

21 (2) identification of problems and concerns, and of efforts  
22 which have been considered or implemented to address or correct those  
23 problems and concerns;

24 (3) a summary of efforts to eliminate the effects of past or  
25 present discriminatory practices in the terms, conditions, and privi-  
26 leges of employment; and

27 (4) an evaluation of the efforts of the division of equal  
28 employment opportunity, and of the efforts of each state department, to  
29 achieve equal employment opportunity in employment in a department

1 through affirmative action standards and procedures.

2 Sec. 39.28.040. DEFINITIONS. In this chapter,

3 (1) "affirmative action" means a set of specific procedures  
4 to which a department commits itself to secure equal employment oppor-  
5 tunity, including but not limited to the identification and analysis of  
6 problems inherent in the employment of women and members of racial  
7 minorities and an evaluation of the opportunities for employment of  
8 women and members of racial minorities;

9 (2) "department" means a department or agency in the execu-  
10 tive branch of state government;

11 (3) "director" means the director of the division of equal  
12 employment opportunity.

13 \* Sec. 4. AS 44.17 is amended by adding a new section to read:

14 Sec. 44.17.090. RESPONSIBILITY FOR EQUAL EMPLOYMENT OPPORTUNITY.

15 (a) The principal executive officer of each state department is  
16 responsible for the activities, programs, and decisions of that depart-  
17 ment which relate to equal opportunity in employment of persons in that  
18 department.

19 (b) The principal executive officer of each state department  
20 shall

21 (1) prepare, adopt, and implement an equal employment op-  
22 portunity plan for the department, including

23 (A) a comprehensive plan, establishing goals and ob-  
24 jectives for equal employment opportunity through compliance with  
25 affirmative action standards and procedures;

26 (B) identification of problems and concerns, and of  
27 efforts which have been considered or implemented to address or  
28 correct those problems and concerns;

29 (C) a summary of efforts to eliminate the effects of

1 past or present discriminatory practices in the terms, conditions,  
2 and privileges of employment; and

3 (D) an evaluation of the department's efforts to achieve  
4 equal employment opportunity in employment in the department  
5 through affirmative action standards and procedures; and

6 (2) select an official of the department, who is a division  
7 director or holds an equivalent position, and assign that official the  
8 duties of an equal employment opportunity representative to supervise  
9 the development and implementation of the department's affirmative  
10 action program.

11 \* Sec. 5. AS 18.80.060(6) is amended to read:

12 (6) make an overall assessment, at least once every three  
13 years, of the progress made toward equal employment opportunity by each  
14 [EVERY] department of state government, and of the affirmative action  
15 plan for employment in the executive branch of the state government;  
16 the assessment [. RESULTS OF THE ASSESSMENT] shall be included in the  
17 annual report made under AS 18.80.150.

18 \* Sec. 6. This Act takes effect July 1, 1981.  
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# Alaska State Legislature

## Senate

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

TO: Senator Fischer, Chairman  
Senate State Affairs

FROM: Senator Ferguson *EF*

DATE: March 31, 1982

SUBJECT: SB 248

I am proposing the following amendments to SB 248.

1. Page 2, Delete subsection 6 and insert new subsection 6 to read:

"(6) implement standards by which performance evaluations of supervisors reflect their compliance with affirmative action plans and objectives including the granting or denial of merit increases."

2. Page 4, Delete subsection 1 and insert new subsection 1 to read:

"(1) 'affirmative action plan' means a set of achievable goals within reasonable time frames for each department to fully employ minority people and women at all pay grades consistent with their availability and includes an assessment of current utilization and availability with specific results-oriented procedures to identify and eliminate artificial or customary practices which operate to exclude minority people and women where not justified by operational necessity."

Anch Times 3-29-81

## Miller questions hiring

The state's personnel system has effectively denied Alaskans equal access to state jobs, Lt. Gov. Terry Miller said Saturday.

Speaking to the Alaska Black Caucus, Miller called the personnel system "a system that has over-credentialed positions and allows state administrators too often to use arbitrary methods to fill state positions."

(Related story, page B-9)

"While these practices discriminate against Alaskans of every circumstance, they impact women and minorities most severely. The results are obvious. In a recently published list of top-paid state employees, few were women and even fewer were minorities."

Miller said he wasn't condemning the efforts of the Division of Personnel but rather questioning the progress the state has made in promoting and hiring women and minorities.

He proposed a regular, thorough review of state hiring practices and said Gov. Jay Hammond will propose a hiring policy designed to ensure more Alaskans have an opportunity for state employment.

The policy, Miller said, would require the Division of Personnel to provide state employers with the names of the top five women applicants for a job and the top five minority applicants. Those would be in addition to the top five applications currently given to the employers.

"This will reduce the dependence of the actual state employer on what are too often arbitrary decisions by the Division of Personnel — based too often only on resumes and the ability to take tests," he said.

"It will enlarge the pool of Alaskans that will be interviewed for state jobs."



# NATIONAL ORGANIZATION FOR WOMEN

Anchorage Chapter

P.O. Box 1722  
Anchorage, Alaska 99510

March 24, 1981

Senator Vic Fisher  
Senate Staff  
Pouch V, State Capitol  
Juneau, Alaska 99811

Dear Senator Fisher:

On behalf of the Anchorage Chapter of the National Organization for Women, I wish to comment on Senate Bill No. 193, Senate Bill No. 104, and Senate Bill No. 248.

Senate Bill No. 193 entitled: "An Act amending the State Personnel Act (AS 39.25); and providing for an effective date."

A proposed amendment, change in language page 14, line 22,

...after the word age,... strike "or",

...insert "marital status, changes in marital status,"

...continue with "handicap,"

...insert "or any other non-merit reason."

Proposed language would be (line 21) "...discrimination due to race, sex, color, religion, national origin, age, marital status, change in marital status, handicap, or any other non-merit reason." These changes would strengthen this non-discrimination statement. Employment status should not be inhibited by a persons marital situation or other reasons not effecting their work performance.

Senate Bill No. 248 is a good bill and will strengthen equal employment opportunities for br women and minorities within the executive brancn. This bill has our t.

Senate Bill No. 104 is unacceptable. Historically veteran's preference legislation has proven to have a negative impact on women in the job market. The variation in numbers of women who qualify for veteran's benefits as compared to the numbers of men is an inhibiting factor to equal employment opportunities for women.

Your consideration of these comments is appreciated.

Sincerely,

Madeline G. Holdorf  
President

cc: Labor Committee  
Anchorage Chapter, National  
Organization for Women

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 248  
 Title An Act relating to equal employment opportunity in the executive branch.  
 Requested by Senator Fischer Date March 20, 1981

II. FISCAL DETAIL

Agency Affected Department of Administration  
 Program Category Affected General Government  
 BRU, Program, or Subprogram(s) Affected Equal Employment Opportunity/Admin. Svcs: WP-AS  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	255.5	275.9	298.0	321.8	347.5
200 TRAVEL	0	22.0	24.6	27.6	30.9	34.6
300 CONTRACTUAL	0	62.5	67.5	72.9	78.7	85.0
400 COMMODITIES	0	11.1	2.3	2.5	2.7	2.9
500 EQUIPMENT	0	10.8	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>361.9</b>	<b>370.3</b>	<b>401.0</b>	<b>434.1</b>	<b>470.0</b>

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	0	361.9	370.3	401.0	434.1	470.0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	0	7	7	7	7	7
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

A. ASSUMPTIONS:

The fiscal detail is based on the assumption that SB 248 is signed into law.

B. PROGRAM SUMMARY:

SB 248 outlines program areas for the Division of Equal Employment. Key elements include:

- Administration of the Equal Employment Opportunity and Affirmative Action programs in the executive branch of Alaska state government;
- Development and implementation of standards and procedures for agency affirmative action plans and programs;

(continued on next page)

IV. DATE March 20, 1981 PREPARED BY Kaye Hogan  
 AGENCY Division of Equal Employment Opportunity  
 PHONE 465-3571

Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named) Senator Ferguson  
Keith Specking  
 33-001 (Rev. 12/80)

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

SB 248 (continued)

3. Review and monitoring of affirmative action plans, programs, and employment system practices for compliance with equal employment opportunity laws and regulations;
4. Enforcement of equal employment opportunity and affirmative action; and,
5. Provide training in anti-discrimination laws and regulations to managers, supervisors, and employees.

SB 248 will necessitate the addition of the following seven (7) positions:

1. Three Equal Employment Officer II's
2. Two Investigator III's
3. Training Specialist
4. Correspondence Secretary II

Funds for travel will be necessary for investigations and to provide training in locations where a majority of state employees are located. Contractual services include telephone, printing, office space, etc. Commodities include small desk top items such as pencils, pens, paper, etc. and major items under \$500.00 such as desks, chairs, calculators, bookcases, tables, etc.

Funding for the program will be general fund and will be allocated as follows:

<u>EXPENDITURES</u>	<u>EEO</u>	<u>ADMIN. SERVICES</u>
100	230.1	25.4
200	22.0	0
300	58.5	4.0
400	10.1	1.0
500	0	10.8
TOTAL	320.7	41.2

C. COMPUTATIONS:

This fiscal note was prepared by line item - no formula was used.