

CS FOR HOUSE BILL NO. 125(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/26/21

Referred: Rules

Sponsor(s): REPRESENTATIVES NELSON, Shaw, Tuck, McCabe, McCarty, Thompson, McKay, Schrage, Stutes, Rauscher, Story

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to employment preferences for active service members, veterans, and**
2 **spouses and dependent children of active service members and veterans; relating to**
3 **employment preferences for surviving spouses of deceased service members and**
4 **veterans; and relating to employment preferences for disabled veterans and former**
5 **prisoners of war."**

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

7 * **Section 1.** AS 18.80.200(c) is amended to read:

8 (c) Nothing in this chapter is intended to prohibit a private employer from
9 granting an employment preference **described in AS 23.88.010** [TO A MEMBER OF
10 THE NATIONAL GUARD OR A VETERAN WHEN HIRING AN EMPLOYEE. IN
11 THIS SUBSECTION,

12 (1) "MEMBER OF THE NATIONAL GUARD" MEANS A PERSON
13 PRESENTLY SERVING AS A MEMBER IN GOOD STANDING IN THE

1 NATIONAL GUARD;

2 (2) "VETERAN" MEANS A PERSON WHO WAS DISCHARGED
3 UNDER HONORABLE CONDITIONS FROM SERVICE IN

4 (A) THE ARMED FORCES OF THE UNITED STATES;

5 (B) A RESERVE UNIT OF THE ARMED FORCES OF THE
6 UNITED STATES;

7 (C) THE ALASKA TERRITORIAL GUARD;

8 (D) THE ALASKA ARMY NATIONAL GUARD;

9 (E) THE ALASKA AIR NATIONAL GUARD; OR

10 (F) THE ALASKA NAVAL MILITIA].

11 * **Sec. 2.** AS 23.88.010 is repealed and reenacted to read:

12 **Sec. 23.88.010. Active military, veteran, and family hiring preference**
13 **allowed.** (a) When hiring an employee, a private employer may grant an employment
14 preference to

15 (1) a person in active service, on furlough from active service, or
16 discharged under honorable conditions from service in

17 (A) the armed forces of the United States;

18 (B) a reserve unit of the armed forces of the United States;

19 (C) the Alaska Territorial Guard;

20 (D) the Alaska Army National Guard;

21 (E) the Alaska Air National Guard; or

22 (F) the Alaska Naval Militia;

23 (2) the spouse or dependent child of a person described in (1) of this
24 subsection; and

25 (3) the surviving spouse or a dependent child of a person who, at the
26 time of death, was a person in active service or on furlough from active service as
27 described in (1) of this subsection.

28 (b) In this section, "dependent child" means a natural child, stepchild, or
29 adopted child who is

30 (1) permanently disabled; or

31 (2) under

(A) 19 years of age; or

(B) 23 years of age and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education and Early Development.

* **Sec. 3.** AS 39.25.150 is amended to read:

Sec. 39.25.150. Scope of the rules. The personnel rules must provide for

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

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

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

(2) the preparation, maintenance, revision, and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan (A) shall be based on [UPON] the position classification plan; (B) must provide for fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work; (C) may be amended, approved, or disapproved by the legislature in regular or special session; after the pay plan is in effect, a salary or wage payment may not be made to a state employee covered by the plan unless the payment is in accordance with this chapter and the rules adopted under this chapter or unless the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;

(3) the use of employee selection methods, including open competitive assessment devices, when appropriate, that will fairly evaluate the capacity and fitness of the person assessed to discharge the duties of the position in which employment is sought;

(4) the formulation of a list for appointment and promotion to a position;

1 (5) the procedure for filling positions; the rule adopted under this
2 paragraph may include procedures providing a preference for local residents when
3 appropriate;

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

9 (7) a period of probation not to exceed one year before an appointment
10 to a position becomes permanent, unless the period of probation is extended as set out
11 in a collective bargaining agreement under AS 23.40; however, a permanent employee
12 receiving a promotional appointment retains permanent status in the service and job
13 class from which appointed for the duration of the probationary period and may be
14 demoted to a former class without right of appeal, notwithstanding AS 39.25.170, but,
15 if the employee is dismissed from the service, the appeal rights under AS 39.25.170
16 apply;

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

19 (9) provisional appointment without competitive assessment when the
20 recruitment and assessment procedures have not identified qualified candidates in
21 sufficient number;

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

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

25 (12) the reinstatement of a person who resigns in good standing;

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

29 (14) the development, maintenance, and use of employee performance
30 records;

31 (15) the establishment of disciplinary measures, which may include

1 disciplinary suspension without pay;

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

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

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

7 (19) the granting of employment preference rights, not within the area
8 of promotion, [TO A VETERAN, FORMER PRISONER OF WAR, OR MEMBER
9 OF THE NATIONAL GUARD] under AS 39.25.159;

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

14 (21) the granting of employment preference to individuals with severe
15 disabilities; this includes the right to provisional appointment without competitive
16 assessment for periods of up to four months and the granting of eligibility to an
17 individual with a severe disability provisionally appointed under the rules who
18 demonstrates ability to perform the job for permanent appointment without
19 competitive assessment; provisional employment under this paragraph may not exceed
20 four months during a 12-month period; "individual with a severe disability," as used in
21 this paragraph, means an individual certified by the director of the division of
22 vocational rehabilitation to be severely disabled;

23 (22) the establishment of programs facilitating the employment of
24 disadvantaged persons;

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

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

31 (25) a procedure allowing an applicant who is a veteran, former

prisoner of war, or member of the national guard under AS 39.25.159 to substitute military work experience or training for a nonmilitary work experience or training requirement of a position if the military experience or training meets or exceeds the position requirement;

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

* **Sec. 4.** AS 39.25.159(a) is amended to read:

(a) A **person** [VETERAN OR FORMER PRISONER OF WAR] who possesses the necessary qualifications for a position or job classification applied for under this chapter is entitled to an employment preference as follows:

(1) in an assessment using numerical ratings,

(A) points equal to five percent of the points available from the assessment device or devices shall be added to the passing score if the person is in active service, on furlough from active service, or discharged under honorable conditions from service in the armed forces of the United States, a reserve unit of the armed forces of the United States, the Alaska Territorial Guard, the Alaska Army National Guard, the Alaska Air National Guard, or the Alaska Naval Militia; or

(B) points equal to 10 percent of the points available from the assessment device or devices shall be added to the passing score if the person is

(i) a disabled veteran;

(ii) a former prisoner of war;

(2) in an assessment not using numerical ratings,

(A) consideration shall be afforded to

(i) a person under (1)(A) of this subsection;

(ii) the spouse of a person under (1)(A) of this subsection;

(iii) a dependent child or, unless the surviving spouse has remarried, the surviving the spouse of a person under (1)(B) of this subsection who died within the 10-year period immediately

preceding the date of the assessment;

(B) [OF A VETERAN, AND POINTS EQUAL TO 10 PERCENT OF THE POINTS AVAILABLE FROM THE ASSESSMENT DEVICE OR DEVICES SHALL BE ADDED TO THE PASSING SCORE OF A DISABLED VETERAN OR FORMER PRISONER OF WAR;

(2) IN AN ASSESSMENT NOT USING NUMERICAL RATINGS, CONSIDERATION SHALL BE AFFORDED TO A VETERAN; ADDITIONALLY,] an opportunity to interview for the position shall be afforded to a disabled veteran or a former prisoner of war.

* **Sec. 5.** AS 39.25.159(d) is amended to read:

(d) A person may receive an employment preference under only one of the categories described in (a) [OR (c)] of this section. A person may use the preference without limitation when being considered for a position for which persons who are not currently state employees are being considered. If the recruitment for a position is limited to state employees, preference under (a) or (c) of this section may not be counted. If a position in the classified service is eliminated, employees shall be released in accordance with rules adopted under AS 39.25.150(13). In the case of a comparison of employees with equal qualifications **based** on the factors adopted under AS 39.25.150(13), **an employee who is eligible for an employment preference under (a) of this section** [A VETERAN, FORMER PRISONER OF WAR, OR MEMBER OF THE NATIONAL GUARD] shall be given preference over **an employee who is not eligible for a preference under (a) of this section and** [A PERSON WHO IS NOT A VETERAN, FORMER PRISONER OF WAR, OR MEMBER OF THE NATIONAL GUARD, AND THE VETERAN, FORMER PRISONER OF WAR, OR MEMBER OF THE NATIONAL GUARD] shall be kept on the job.

* **Sec. 6.** AS 39.25.159(e) is amended to read:

(e) Subsections **(a)** [(a), (c),] and (d) of this section may not be interpreted to amend the terms of a collective bargaining agreement.

* **Sec. 7.** AS 39.25.159(f) is amended by adding a new paragraph to read:

(6) "dependent child" means a natural child, stepchild, or adopted child

1 who is

2 (A) permanently disabled; or

3 (B) under

4 (i) 19 years of age; or

5 (ii) 23 years of age and registered at and attending on a
6 full-time basis an accredited educational or technical institution
7 recognized by the Department of Education and Early Development.

8 * **Sec. 8.** AS 39.25.159(c) is repealed.