

LAWS OF ALASKA 2009

Source CSSB 45(FIN)

Chapter No.

AN ACT

Relating to state employment preferences for veterans, former prisoners of war, and members of the Alaska National Guard; authorizing the Department of Military and Veterans' Affairs to establish and maintain Alaska veterans' cemeteries; establishing the Alaska veterans' cemetery fund in the general fund; and authorizing the legislature to appropriate income from fees collected for commemorative veterans' plates to the Alaska veterans' cemetery fund.

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

THE ACT FOLLOWS ON PAGE 1

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* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE INTENT. It is the intent of the legislature that, during fiscal year 2010, the Department of Military and Veterans' Affairs, in cooperation with federal authorities, begin the planning and design of an Alaska veterans' cemetery, authorized by AS 44.35.035, enacted by sec. 10 of this Act, to be located in or near Fairbanks, and that the

- 1 Department of Military and Veterans' Affairs submit a report on the status of the cemetery
- 2 project to the president of the senate and the speaker of the house of representatives before
- 3 December 15, 2009.

- * **Sec. 2.** AS 28.10.421(d)(16) is amended to read:
 - plus a fee of \$35 and the fee required for that vehicle under (b), (c), (h), or (i) of this section; the \$100 fee required by this paragraph shall be collected only on the first issuance of and the replacement of the commemorative veterans' plates; the \$35 fee required by this paragraph shall be collected biennially in the same manner as the fee required under (b), (c), (h), or (i) of this section; the commissioner of administration shall separately account for the fees received under this paragraph that the department deposits in the general fund; notwithstanding (g) of this section, the annual estimated balance in the account that is in excess of the cost of issuing special request plates may be appropriated by the legislature to the Alaska veterans' cemetery fund created under AS 37.05.600 and for the support of programs benefiting Alaska veterans;
 - * Sec. 3. AS 37.05.146(c) is amended by adding a new paragraph to read:
 - (85) gifts, donations, and grants received by the Department of Military and Veterans' Affairs for the purpose of establishing and maintaining Alaska veterans' cemeteries under AS 26.10.030 and AS 44.35.035(b).
 - * Sec. 4. AS 37.05 is amended by adding a new section to article 6 to read:
 - **Sec. 37.05.600. Alaska veterans' cemetery fund.** (a) There is created as a special account in the general fund the Alaska veterans' cemetery fund into which shall be deposited appropriations to the Alaska veterans' cemetery fund.
 - (b) Beginning with the appropriations for the fiscal year beginning July 1, 2008, on an annual basis and under AS 37.07 (Executive Budget Act), the legislature may appropriate amounts from the Alaska veterans' cemetery fund to the Department of Military and Veterans' Affairs for the construction, operation, and maintenance of the Alaska veterans' cemeteries established under AS 44.35.035.
 - (c) Appropriations to the Alaska veterans' cemetery fund are not one-year appropriations and do not lapse under AS 37.25.010.
 - (d) The unexpended and unobligated balance of an appropriation from the

1	Alaska veterans' cemetery fund lapses into the Alaska veterans' cemetery fund at the
2	end of the fiscal year for which it was appropriated.
3	(e) Nothing in this section exempts money deposited into the Alaska veterans'
4	cemetery fund from the requirements of AS 37.07 (Executive Budget Act) or dedicates
5	that money for a specific purpose.
6	* Sec. 5. AS 39.25.150 is amended to read:
7	Sec. 39.25.150. Scope of the rules. The personnel rules must provide for
8	(1) the preparation, maintenance, and revision, by the director of
9	personnel, subject to approval of the commissioner of administration and the
10	personnel board, of a position classification plan for all positions in the classified and
11	partially exempt services; the position classification plan must include
12	(A) a grouping together of all positions into classes on the basis
13	of duties and responsibilities;
14	(B) an appropriate title, a description of the duties and
15	responsibilities, training and experience qualifications, and other necessary
16	specifications for each class of positions;
17	(2) the preparation, maintenance, revision, and administration by the
18	director of personnel of a pay plan for all positions in the classified and partially
19	exempt services; the pay plan (A) shall be based upon the position classification plan;
20	(B) must provide for fair and reasonable compensation for services rendered, and
21	reflect the principle of like pay for like work; (C) may be amended, approved, or
22	disapproved by the legislature in regular or special session; after the pay plan is in
23	effect, a salary or wage payment may not be made to a state employee covered by the
24	plan unless the payment is in accordance with this chapter and the rules adopted under
25	this chapter or unless the payment is in accordance with a valid agreement entered into
26	in accordance with AS 23.40;
27	(3) the use of employee selection methods, including open competitive
28	assessment devices, when appropriate, that will fairly evaluate the capacity and fitness
29	of the person assessed to discharge the duties of the position in which employment is
30	sought;

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

1	position;
2	(5) the procedure for filling positions; the rule adopted under this
3	paragraph may include procedures providing a preference for local residents when
4	appropriate;
5	(6) promotions from within the state service when there are qualified
6	candidates in the state service; vacancies shall be filled by promotion whenever
7	practicable and in the best interest of the state service, and promotion shall be by
8	competitive assessment whenever possible; in considering promotions, the applicants'
9	qualifications, performance records, seniority, and conduct shall be evaluated;
10	(7) a period of probation not to exceed one year before an appointment
11	to a position becomes permanent, unless the period of probation is extended as set out
12	in a collective bargaining agreement under AS 23.40; however, a permanent employee
13	receiving a promotional appointment retains permanent status in the service and job
14	class from which appointed for the duration of the probationary period and may be
15	demoted to a former class without right of appeal, notwithstanding AS 39.25.170, but,
16	if the employee is dismissed from the service, the appeal rights under AS 39.25.170
17	apply;
18	(8) nonpermanent and emergency appointments to positions in the
19	state service in accordance with AS 39.25.195 - 39.25.200;
20	(9) provisional appointment without competitive assessment when the
21	recruitment and assessment procedures have not identified qualified candidates in
22	sufficient number;
23	(10) transfers from one department to another and from another merit
24	system jurisdiction to the state service;
25	(11) transfers from one area of the state to another;
26	(12) the reinstatement of a person who resigns in good standing;

- (12) the reinstatement of a person who resigns in good standing;
- (13) layoffs for reason of lack of money or work, abolition of positions, or material changes in duties or organization; both performance and seniority records shall be considered in the development of layoff orders;
- (14) the development, maintenance, and use of employee performance records;

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1	(15) the establishment of disciplinary measures, which may include
2	disciplinary suspension without pay;
3	(16) the procedures for review of disputed personnel actions, for
4	resolving employee and interagency grievances, and for resolving grievances of the
5	general public concerning the operation of the state personnel system;
6	(17) hours of work for all employees in the state service;
7	(18) methods and procedures covering overtime work and pay;
8	(19) the granting of employment preference rights, not within the area
9	of promotion, to a veteran, [OR] former prisoner of war, or member of the national
10	guard under AS 39.25.159;
11	(20) the employment of persons in permanent positions on a part-time
12	basis of 15 hours or more a week, including the employment of two persons to fill one
13	permanent full-time position; these employees shall be designated as permanent part-
14	time employees;
15	(21) the granting of employment preference to individuals with severe
16	disabilities; this includes the right to provisional appointment without competitive
17	assessment for periods of up to four months and the granting of eligibility to an
18	individual with a severe disability provisionally appointed under the rules who
19	demonstrates ability to perform the job for permanent appointment without
20	competitive assessment; provisional employment under this paragraph may not exceed
21	four months during a 12-month period; "individual with a severe disability," as used in
22	this paragraph, means an individual certified by the director of the division of
23	vocational rehabilitation to be severely disabled;
24	(22) the establishment of programs facilitating the employment of
25	disadvantaged persons;
26	(23) the delegation, when feasible, of personnel responsibilities and
27	duties to the principal departments of the executive branch;
28	(24) the establishment of a transition period of up to 12 months for an
29	employee to be reappointed to a classified position if the employee's position is
30	withdrawn from the partially exempt or exempt service and placed in the classified
31	service;

- (25) other rules and administrative regulations, not inconsistent with this chapter, that are necessary for its enforcement.
- * **Sec. 6.** AS 39.25.159(a) is amended to read:

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- (a) A 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 [A] preference as follows:
- (1) in [UNDER THIS SUBSECTION. IN] an assessment using numerical ratings, points equal to five percent of the points available from the assessment device or devices shall be added to the passing score 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 [. 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. [A PERSON MAY RECEIVE PREFERENCE UNDER ONLY ONE OF THE CATEGORIES DESCRIBED IN THIS SUBSECTION OR IN (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 THIS SUBSECTION 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 **EOUAL** OUALIFICATIONS ON THE FACTORS **ADOPTED** UNDER AS 39.25.150(13), A VETERAN OR FORMER PRISONER OF WAR SHALL BE GIVEN PREFERENCE OVER A PERSON WHO IS NOT A VETERAN OR FORMER PRISONER OF WAR, AND THE VETERAN OR FORMER PRISONER OF WAR SHALL BE KEPT ON THE JOB. THIS SUBSECTION MAY NOT BE INTERPRETED TO AMEND THE TERMS OF A COLLECTIVE BARGAINING

AGREEMENT.]

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- * **Sec. 7.** AS 39.25.159(c) is amended to read:
 - (c) A member of the national guard who possesses the necessary qualifications for a position or job classification applied for under this chapter is entitled to <u>an</u> <u>employment</u> [A] preference <u>as follows:</u>
 - (1) in [UNDER THIS SUBSECTION. IN] an assessment using numerical ratings, points equal to five percent of the points available from the assessment device or devices shall be added to the passing score of a member of the national guard;
 - (2) in [. IN] an assessment not using numerical ratings, consideration shall be afforded to a member of the national guard. [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 THIS SUBSECTION 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 ON THE FACTORS ADOPTED UNDER AS 39.25.150(13), A MEMBER OF THE NATIONAL GUARD SHALL BE GIVEN PREFERENCE OVER A PERSON WHO IS NOT A VETERAN, A FORMER PRISONER OF WAR, OR A MEMBER OF THE NATIONAL GUARD. THIS SUBSECTION MAY NOT BE INTERPRETED TO AMEND THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT. IN THIS SUBSECTION, "MEMBER OF THE NATIONAL GUARD" MEANS A PERSON WHO IS PRESENTLY SERVING AS A MEMBER OF THE ALASKA NATIONAL GUARD AND WHO HAS AT LEAST EIGHT YEARS OF SERVICE IN THE ALASKA NATIONAL GUARD.]
 - * Sec. 8. AS 39.25.159(d) is amended by adding a new paragraph to read:
 - (5) "member of the national guard" means a person who is presently serving as a member of the Alaska National Guard and who has at least eight years of

service in the Alaska National Guard.

* Sec. 9. AS 39.25.159 is amended by adding new subsections to read:

- (e) 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 on the factors adopted under AS 39.25.150(13), a veteran, former prisoner of war, or member of the national guard shall be given preference over 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.
- (f) Subsections (a), (c), and (e) of this section may not be interpreted to amend the terms of a collective bargaining agreement.
- * **Sec. 10.** AS 44.35 is amended by adding a new section to read:
 - **Sec. 44.35.035. Alaska veterans' cemeteries.** (a) The department may, subject to the requirements of 38 U.S.C. 2408, establish and maintain Alaska veterans' cemeteries in the state to serve state veterans and spouses and eligible dependents of state veterans.
 - (b) The department may accept gifts, donations, and grants, including land, under AS 26.10.030 for the purpose of establishing and maintaining Alaska veterans' cemeteries. Land received by the department for an Alaska veterans' cemetery shall be owned by the state.
 - (c) The department shall, in consultation with the Alaska Veterans' Advisory Council,
 - (1) receive the plot or interment allowance on behalf of the state under 38 U.S.C. 2303;
 - (2) comply with all requirements for a state veterans' cemetery grant established by the United States Department of Veterans Affairs under 38 U.S.C.

1	2408; and
2	(3) apply to the United States Department of Veterans Affairs for state
3	veterans' cemetery grants under 38 U.S.C. 2408.
4	(d) The department may
5	(1) adopt regulations necessary to administer Alaska veterans
6	cemeteries;
7	(2) enter into agreements with political subdivisions of the state and
8	other persons for the maintenance and operation of Alaska veterans' cemeteries; and
9	(3) solicit gifts, donations, and grants in addition to a state veterans
10	cemetery grant in (c) of this section that may be designated for the establishment and
11	maintenance of an Alaska veterans' cemetery and received by the department under
12	AS 26.10.030.
13	(e) In this section, "department" means the Department of Military and
14	Veterans' Affairs.