

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 3, 2012

**SUBJECT:** Termination cost studies (CSSB 100( ))  
(Work Order No. 27-LS0272\E)

**TO:** Senator Joe Paskvan  
Attn: Jeff Stepp

**FROM:** Dan Wayne  
Legislative Counsel

Enclosed is the blank CS you requested, adding to the bill a "20 percent partial termination rule," based on the testimony of Deputy Commissioner of Administration Michael Barnhill before the Senate Finance Committee on April 2, 2012. Please review the entire bill carefully to make sure that it is as you wish.

The new language reads:

An employer that terminates participation in the plan of more than 20 percent of the employer's paid employees within any one-year period shall pay for a termination cost study that is directly related to the costs of that termination.

Existing AS 39.35.625(c) and AS 39.35.958(f) would be repealed by the bill. Those two subsections require employers to pay termination costs associated with terminating all employees or all employees in a department or division from the defined benefit plan and the defined contribution plan, respectively. The language cited above would lump terminations together by the time they occur (together within a one-year period) for determination with regard to percentage of the employer's total number of paid employees. I drafted the language to include a one-year period because, in his April 2 testimony, Mr. Barnhill suggested calculating total terminations over a specified period but did not give an example of an appropriate length of time.

Existing AS 39.35.625(c) and AS 39.35.958(f) call for payment of termination study costs by employers who are considering or requesting terminating plan participation by employees. The language cited above would require payment by employers who actually terminate plan participation, although it would not prohibit them from paying for a study in advance. This approach takes into consideration that in some cases an employer considering termination of plan participation may not be able to determine in advance

Senator Joe Paskvan

April 3, 2012

Page 2

whether the number of employees is more than 20 percent of all paid employees in a one-year period.

I made the new language retroactive, concurrent with the retroactivity of related bill sections. I deleted former bill sections 2 and 3 because the repeal and reenactment of AS 39.35.625 in the enclosed draft makes them unnecessary.

DCW:ljw

12-251.ljw

Enclosure

27-LS0272\E

Wayne

4/3/12

**CS FOR SENATE BILL NO. 100( )****IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-SEVENTH LEGISLATURE - SECOND SESSION****BY****Offered:****Referred:****Sponsor(s): SENATORS PASKVAN, Menard****A BILL****FOR AN ACT ENTITLED**

1 **"An Act relating to employer contributions to the Public Employees' Retirement System**  
2 **of Alaska; relating to requirements that employers who terminate some or all**  
3 **participation in the Public Employees' Retirement System of Alaska pay termination**  
4 **costs; and making the changes retroactive."**

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

6 **\* Section 1.** AS 39.35.255 is amended by adding a new subsection to read:

7 (i) After an employer's participation in the plan terminates with regard to some  
8 or all of the employer's employees who are active members of the system, the  
9 employer remains obligated to make contributions under (a) of this section until the  
10 plan does not have a past service liability.

11 **\* Sec. 2.** AS 39.35.625 is repealed and reenacted to read:

12 **Sec. 39.35.625. Termination costs.** An employer that terminates participation  
13 in the plan of more than 20 percent of the employer's paid employees within any one-  
14 year period shall pay for a termination cost study that is directly related to the costs of

1 that termination.

2 \* **Sec. 3.** AS 39.35.958(c) is amended to read:

3 (c) When an employer's participation in the plan terminates [IS  
4 TERMINATED, OR WHEN AN EMPLOYER TERMINATES COVERAGE OF A  
5 DEPARTMENT, GROUP, OR OTHER CLASSIFICATION OF EMPLOYEES  
6 UNDER AS 39.35.957(c)], the administrator shall assess the employer a termination  
7 cost that the administrator determines is actuarially required to fully fund the costs to  
8 the plan for employees whose coverage is terminated, including the cost of providing  
9 the employer's share of retiree health benefits under AS 39.35.880, occupational  
10 disability and occupational death benefits under AS 39.35.890 and 39.35.892, and  
11 pension benefits elected under AS 39.35.890(h)(2).

12 \* **Sec. 4.** AS 39.35.958(e) is amended to read:

13 (e) An employer whose [TERMINATING] participation in the plan  
14 terminates shall pay termination costs determined under (c) of this section [BY THE  
15 ADMINISTRATOR], or enter into a payment plan acceptable to the administrator,  
16 within 60 days after the employer receives notice of its termination costs from the  
17 administrator. Termination costs not paid within the prescribed time limit or in  
18 accordance with the approved payment plan shall be collected by the administrator in  
19 accordance with AS 39.35.610(b). Termination of participation by an employer in the  
20 plan does not bar future participation by the employer if the employer has paid in full  
21 its prior termination costs.

22 \* **Sec. 5.** AS 39.35.958(f) is repealed and reenacted to read:

23 (f) An employer that terminates participation in the plan of more than 20  
24 percent of the employer's paid employees within any one-year period shall pay for a  
25 termination cost study that is directly related to the costs of that termination.

26 \* **Sec. 6.** 2 AAC 35.235 is annulled.

27 \* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to  
28 read:

29 APPLICABILITY. Notwithstanding sec. 8 of this Act, secs. 3 and 4 of this Act do not  
30 apply to AS 39.35.958, for termination costs paid before the effective date of this Act for  
31 payroll periods or partial payroll periods that occur before the effective date of this Act.

1     \* **Sec. 8.** The uncoded law of the State of Alaska is amended by adding a new section to  
2 read:

3           RETROACTIVITY. Sections 1 and 2 of this Act are retroactive to July 1, 2008, secs.  
4 3 - 5 of this Act are retroactive to June 7, 2007, and sec. 6 of this Act is retroactive to  
5 January 13, 2010.