



ALASKA MUNICIPAL LEAGUE

RESOLUTION #2016-08

A RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE URGING THE STATE OF ALASKA TO 1) REVISE STATUTES TO REDUCE REQUIREMENTS FOR TERMINATION STUDIES; AND 2) REVISE THE PROPOSED ALLOCATION OF PERS AND TRS LIABILITY RELATED TO GASB 67 AND GASB 68 REPORTS; AND 3) REVISE STATUTES TO CLARIFY THAT EMPLOYEES OF GOVERNMENTAL CONTRACTORS ARE NOT ELIGIBLE FOR STATE RETIREMENT SYSTEM MEMBERSHIP

WHEREAS, the Alaska Municipal League (AML) has identified the following three issues with the State of Alaska administration regarding the Public Employees' Retirement System (PERS) and the Teacher's Retirement System (TRS) which may, and in some cases already have, adversely impacted municipalities; and

1. The requirement for PERS termination studies and imposition of termination penalties when a single occupant position is removed or a small classification of employees is eliminated;
2. Unwarranted administrative allocation of the net pension liability of PERS and TRS to individual employers; and
3. The risk of significant costs if governmental contractors were treated as employees qualified for inclusion in PERS or TRS; and

WHEREAS, AML believes the Legislature did not intend to create inequitable financial damage to any PERS member employer, however, with the implementation of the required PERS termination studies, as required by AS 39.35.625, a clear and inequitable impact has been created for municipal PERS employers. The history and detailed information on this issue is provided in Attachment A; and

WHEREAS, AML acknowledges that the State has issued a statement of allocation of PERS and TRS pension liabilities which is inconsistent with the 2008 statute change and is applied unfairly to municipalities through unsupported administrative allocations of the net pension liability of PERS and TRS to individual employers. The history and detailed information on this issue is provided in Attachment B; and

WHEREAS, the PERS and TRS statement of allocation was developed through a troubling agency process that lacked transparency and excluded municipal governments and school district involvement, comment or collaboration; and

WHEREAS, AML recognizes the potential for unreasonable expenses to the system if governmental contractors were treated as employees, due to the fact that municipalities, particularly smaller municipalities in Alaska, often contract with profit and non-profit entities to provide services under government contracts, and the unexpected and unplanned addition of employees entitled to potentially years of back service credit in a governmental retirement plan like PERS may adversely impact not only the particular employer, but all of the participants in the plan. The history and detailed information on this issue are provided in Attachment C.

NOW, THEREFORE BE IT RESOLVED that the Alaska Municipal League:

1. While supporting the maintenance of a sustainable salary base to pay off the PERS unfunded obligation, believes that AS 39.35.625 and any other similar statutes or regulations that require termination studies, should be revised to eliminate termination studies and costs for minor changes in municipal work force and staffing for the reasons set out in Attachment A; and further, that legislation such as SB 100, considered in the 27th legislature (included as Attachment D) would be an appropriate method to achieve this.
2. Expresses strong objections to the proposed allocation of PERS and TRS liability in the State of Alaska's contemplated GASB #67 and GASB #68 reports for audit purposes, for the reasons set out in Attachment B.
3. Supports a change to Alaska law that would, in a manner similar to Washington State, clarify that employees of governmental contractors are not eligible for state retirement system membership.

PASSED AND APPROVED by the Alaska Municipal League on this 20th day of November, 2015.

Signed: Bob Harcharek
Bob Harcharek, President, Alaska Municipal League

Attest: Kathie Wasserman
Kathie Wasserman, Executive Director, Alaska Municipal League

ATTACHMENT C

1. The Alaska Municipal League has identified the following three issues with the State of Alaska administration of the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS) which may, and in some cases already have, adversely impacted municipalities and school districts.
 - a. The requirement for PERS termination studies and imposition of termination penalties when any position is eliminated; and
 - b. Unwarranted allocation of the net pension liability of PERS and TRS to individual employers; and
 - c. The risk of significant costs if governmental contractors were treated as employees qualified for inclusion in PERS or TRS.
2. The Alaska Municipal League has previously expressed concerns regarding two of these issues (a. & b.).
3. The Alaska Municipal League recognizes the potential for significant expenses to PERS and TRS if governmental contractors were treated as employees, specifically noting that:
 - a. Municipalities, particularly smaller municipalities in Alaska, often contract for governmental services; and
 - b. A municipality contracting for governmental services may, in order to ensure that public services are provided in a manner acceptable to the community, exercise more control over the contractor than what is normally seen in a purely contractual basis; and
 - c. The Supreme Court of the State of Washington ruled in 2012 that employees of several private non-profit public defender agencies that provided services to King County by contract, were employees of the King County for purposes of the Washington PERS, resulting in a \$31 million PERS liability for King County; and
 - d. The Washington State Legislature subsequently modified the Washington State PERS statute to clarify that a governmental contractor is not an employer for purposes of the Washington State Retirement System, and that employees of governmental contractors are not eligible for state retirement system membership.
 - e. The Washington legislation also clarifies that the determination of whether an employee/employer relationship exists under the Washington State PERS is limited solely to the relationship between the government contractor employee and the retirement system employer, and not the relationship between a government contractor and a retirement system employer.
 - f. The unexpected and unplanned addition of employees entitled to potentially years of retroactive service credit in a governmental retirement plan like PERS, may adversely impact not only the particular employer, but all of the participants in the system.
 - g. The intent in establishing Alaska's PERS was not to provide a retirement system to employees of government contractors.

4. While the Alaska Municipal League supports maintaining a sustainable salary base to pay off the PERS unfunded obligation, it believes that AS 39.35.625 and any other similar statutes or regulations that require termination studies, should be revised to eliminate termination studies and costs for minor changes in municipal workforce and staffing for the reasons set out in Attachment A; and further, that legislation such as SB 100, considered in the 27 Legislature (Attachment D) would be an appropriate method to achieve this.
5. The Alaska Municipal League expresses strong objections to the proposed allocation of PERS and TRS liability in the State of Alaska's contemplated GASB #67 and GASB #68 reports for audit purposes for the reasons set out in Attachment B.
6. The Alaska Municipal League supports a change to Alaska law that would, in a manner similar to Washington State, clarify that employees of governmental contractors are not eligible for state retirement system membership.