

# KETCHIKAN GATEWAY BOROUGH

## RESOLUTION NO. 2617

### **A Resolution of the Assembly of the Ketchikan Gateway Borough Urging the Alaska Municipal League to Consider and Approve a Resolution or Resolutions Addressing Three PERS and TRS Concerns**

#### **RECITALS**

- A. WHEREAS**, the Ketchikan Gateway Borough Assembly (Assembly) 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:
1. the requirement for PERS termination studies and imposition of termination penalties when any position is eliminated;
  2. unwarranted 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
- B. WHEREAS**, the Assembly has previously expressed concerns regarding two of these issues through adoption of Resolution No. 2316, a copy of which is included as Attachment A, and Resolution No. 2613A, a copy of which is included as Attachment B; and
- C. WHEREAS**, the Assembly recognizes the potential for significant expenses to PERS and TRS if governmental contractors were treated as employees, specifically noting that:
1. municipalities, particularly smaller municipalities in Alaska, often contract for governmental services; and
  2. 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 relationship; and
  3. 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 King County for purposes of the Washington PERS, resulting in a \$31-million PERS liability for King County; and

4. 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 Systems, and that employees of governmental contractors are not eligible for state retirement system membership; and
5. 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; and
6. 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; and
7. the intent in establishing Alaska's PERS was not to provide a retirement system to employees of government contractors; and

**D. WHEREAS**, the Assembly requests that the Alaska Municipal League (AML) adopt a resolution substantially similar to the draft AML Resolution included as Attachment C, endorsing the position taken by the Ketchikan Gateway Borough regarding these three issues affecting PERS and TRS.

**NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE FACTS, IT IS RESOLVED BY THE ASSEMBLY OF THE KETCHIKAN GATEWAY BOROUGH** as follows:

**Section 1.** While the Assembly 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 Ketchikan Gateway Borough Resolution No. 2316; and further, that legislation such as SB 100 considered in the 27th Legislature (copy included as Attachment D) would be an appropriate method to achieve this. The Ketchikan Gateway Borough asks AML to join it in taking this position.

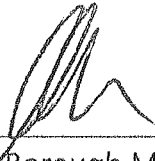
**Section 2.** The Assembly expresses strong objections to the proposed allocation of PERS and TRS liability in the State of Alaska's contemplated GASB # 67 and GASB # 68 reports for audit purposes for the reasons set out in Ketchikan Gateway Borough Resolution No. 2613A. The Ketchikan Gateway Borough asks the AML to join it in taking this position.

**Section 3.** The Assembly supports, and urges AML to support, 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.

**Section 4.** The Borough Clerk is directed to forward this resolution to the AML with the request that the draft AML Resolution included as Attachment C be considered at the 2015 AML Annual Local Government Conference.

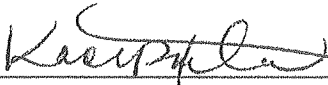
**Effective Date.** This resolution shall be effective upon adoption.

ADOPTED this 5<sup>th</sup> day of October, 2015.



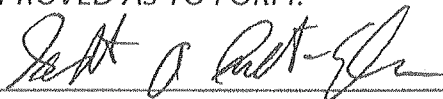
\_\_\_\_\_  
David Landis, Borough Mayor

ATTEST:



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Kacie Paxton, Borough Clerk

APPROVED AS TO FORM:



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Scott A. Brandt-Erichsen, Borough Attorney