



**Explanation of Changes
House Bill 79 version O
House Finance Committee Substitute**

We are presenting version O as a committee substitute to the committee. The original version is version U. Version S was circulated for the last bill hearing, but it was not adopted by the committee. Version O is the most recent bill version.

The Finance Committee first heard HB 79 version U on April 18, 2019. At that hearing, Kathy Lea expressed some concerns about the employer contribution rate of the proposed new tier. Specifically, that it was not a total of 22% like Tiers 3 and 4. This is not the intent of the bill sponsor. Additionally, in meetings with Ms. Lea during the interim, she identified other language ambiguities that failed to achieve the intent of the sponsor.

Specifically, language provisions for some of the cost saving measures, or “levers” as they have been referred to, were not clear enough to make the measures effective. The changes in version O reflect attempts to make these provisions clear.

The changes are as follows:

1. Section 1, the ARM board’s duties and powers: New duties were added to clarify that the board needs to account for appropriate employer contributions for peace officers and fire fighters of this tier and adjustments to these employees’ contributions. (page 3, lines 6-9)
2. What were sections 15 and 16 in the original version have been removed. These two sections were drafted to work in concert but in the administration’s opinion, were problematic. Section 15 contained the exception to the 22% employer contribution of existing statute AS 39.35.255. The exception to that contribution rate for the new plan introduced by the bill was clarified in a new section to AS 39.35.255 in Section 16 of version U.

However, in the administration’s opinion Section 16 was problematic on its own for different reasons. Section 16 attempted to hold harmless small employers within the PERS/TRS system, employers that did not and would not be employing peace officers or fire fighters. The hold harmless provision was that these employers would not be liable for any plan underfunding as a result of the new plan for peace officers or fire fighters. In the administration’s opinion this created IRS compliance issues because the plan is a shared plan and all employers share in the plan’s cost. In their opinion it is impermissible to try and

treat certain employers differently. Therefore, both sections have been removed from version O.

3. Sections 15 through 18 in the new bill version O all work together to institute one of the new tier's corrective measures the prior Section 15 was attempting to accomplish. The new sections propose to amend AS 39.35.255. First, in section 15, the changes clarify that the proposed new tier's total employer contribution is 22%, just like all other tiers. This was unclear in version U. Sections 16 and 17 are conforming technical changes to accommodate a new subsection added in section 18.
4. Section 18 proposes a new subsection to AS 39.35.255. The new subsection (i) sets the employer contribution that goes to the employee's retirement benefit at 12%. Currently in Tier 4, the portion of the employer contribution that goes to the employee is set annually by the ARM board. For 2019 that rate is just under 6%. The remainder of the employer contribution is applied to the plan's unfunded liability. In version U, this idea was proposed as a new statute, AS 39.35.257. In version O, the bill drafter instead adds a new subsection to existing statute AS 39.35.255 to accomplish the same goal.
 - a. Section 18 contains a second corrective measure, or "lever," that provides for an increase of the employer contribution rate. However, in the administration's opinion the prior bill version was unclear and potentially conflicted with the 22% employer contribution rate set by AS 39.35.255. This was not the intent of this particular provision, but the language has been clarified that this new lever is to be implemented in conjunction with changes made to the employee contribution rate in AS 39.35.160.
5. Section 25 contains one of the original bill's new features, or "levers," added to help keep the new tier financially viable. The section has been intended to allow the ARM board to reduce a benefit, the automatic post-retirement pension adjustment, to keep the new tier financially viable. The proposed new subsections:
 - a. (g) there are no changes from the version U. This subsection sets up the adjustment feature of the next subsection.
 - b. (h) allows the ARM board to reduce PRPA payments to peace officers and firefighters participating in the defined benefit plan after June 30, 2006, if the plan has an unfunded liability greater than 10 percent. New language in version O makes it more clear that the feature can be used if an increase in the the liability to PERS is attributable to the employees of this new tier.

Finally, after section 18, except as noted in 6 above, the rest of the bill is the same as the prior version except that the sections have been renumbered accordingly.