



LAWS OF ALASKA

1976

Source

Chapter No.

FCCS CSHB 198

123

AN ACT

Relating to the public employees' retirement system; and providing for an effective date.

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

* Section 1. AS 39.35.340 is repealed and re-enacted to read:

Sec. 39.35.340. MILITARY SERVICE. (a) An employee is entitled to service credit for active military service in the armed forces of the United States, either by enlistment or induction, if the employee did not receive a dishonorable discharge. The service credit allowed may not exceed an aggregate period of five years. The service credit available to the employee under this section may not be granted until the employee becomes vested in the retirement system. Benefits are not payable on military service credit unless the employee makes retroactive contributions to the system for the period of time that service credit is claimed. However, if the employee was in the employ of an employer on the date of entry into the armed forces and returned to the employ of an employer within 90 days after the date of his discharge from military service, he is not required to make retroactive contributions under this system for the period of service credit.

(b) In order to obtain service credit under this section, an employee shall make an election to do so and shall verify his period of military service before July 1, 1977 or within one year following the date when the employee becomes vested under this chapter, if later. When eligibility for military service credit has been established, an indebtedness shall be determined as follows: (1) the employee's actual compensation, or the calculated annual compensation for those employees working less than 12 months, during the calendar year 1976 or the year in which an employee first becomes vested under this chapter, whichever is later, multiplied by (2) six per cent, such product

multiplied by (3) the number of years of military service credited under this section. Interest as prescribed by regulation accrues on such indebtedness commencing on July 1, 1977 or one year following the date a person first becomes vested, whichever is later. Any outstanding indebtedness which exists at the time a person is appointed to retirement will necessitate an actuarial adjustment to the benefits payable based upon such military service.

(c) A person receiving retirement benefits under this chapter on the effective date of this Act is eligible to receive increased benefits based upon military service as described in (a) of this section. To receive military service credit, a retired person must verify his military service before July 1, 1977. When such service has been verified for a retired person to receive military service credit, he is entitled to receive an increased benefit which shall be actuarially adjusted to reflect his indebtedness for such credit. The indebtedness shall be calculated in the same manner as described in (b) of this section except that it shall be based on the average monthly compensation used in calculating the retirement benefit. The effective date of this increased benefit is the beginning of the month following that in which eligibility has been established.

(d) The service credit granted under this section may not count years of service for the purpose of satisfying eligibility for normal retirement or as eligibility for normal retirement before reaching normal retirement age under this chapter.

* Sec. 2. AS 39.35.160(a) is amended to read:

(a) While participating in the system each peace officer and each fireman shall contribute five per cent and every other employee shall contribute five and one-quarter per cent of his compensation to the public employees' retirement system.

* Sec. 3. AS 39.35.680(11) is amended to read:

(11) "normal retirement date" for a peace officer or a fireman means the first day of the month following either his 55th birthday and five years of credited service or his 20th year of credited service, whichever is earlier. For any other employee it means the first day of the month following either his 55th birthday and five years of credited service or his 25th year of credited service, whichever is earlier.

* Sec. 4. AS 39.35.400(b) is repealed and re-enacted to read:

(b) The nonoccupational disability pension benefits accrue beginning the first day of the month following termination of employment as a result of the disability. If a final determination granting the pension is not made in time to pay the first month's pension when due, a retroactive payment shall be made to cover the period of deferment. Benefits shall be continued after one year from the date of appointment to nonoccupational disability only if the disabled person fulfills the requirements set out in (e) of this section. The last payment shall be for the month in which (1) the death of the disabled employee occurs, or (2)

the month in which the disabled employee recovers from disability, or (3) the month in which the disabled employee ceases to be eligible for disability benefits under the Social Security Act, or (4) the month the disabled employee reaches normal retirement age, whichever occurs first.

- * Sec. 5. AS 39.35.400(c) is amended to read:

(c) If the disabled employee becomes ineligible to receive nonoccupational disability benefits, he is entitled to receive a normal or early retirement pension if he would have been eligible for the pension had his employment continued during the period of disability. However, the period of disability does not constitute credited service.

- * Sec. 6. AS 39.35.400(d) is amended to read:

(d) The monthly amount of the nonoccupational disability pension shall be determined in accordance with sec. 370(c) of this chapter, considering the employee's credited service and compensation before termination of employment.

- * Sec. 7. AS 39.35.400(e) is repealed and re-enacted to read:

(e) A disabled employee receiving a nonoccupational disability pension shall provide the administrator, one year after appointment to disability retirement and once each year thereafter until disability benefits cease, proof of continuing eligibility to receive disability payments under the Social Security Act. If a disabled employee is otherwise ineligible for social security, he shall provide the administrator with sufficient medical evidence once each year to demonstrate that disability benefits under the Social Security Act would be payable had the employee been otherwise eligible. If the disabled employee fails to provide the administrator with evidence of continuing eligibility for disability payments under the Social Security Act or other medical evidence required by the administrator within 30 days following each anniversary date, the disability payments from the system shall cease. If that information is subsequently provided to the administrator, payments will resume beginning for the month following that in which the information is provided. When disability payments under the Social Security Act cease, it is the responsibility of the disabled employee to notify the administrator immediately. Upon notification, the administrator shall cease making disability payments.

- * Sec. 8. AS 39.35.400 is amended by adding a new subsection to read:

(f) A disabled employee's nonoccupational disability pension terminates when the employee first attains eligibility for normal retirement. At that time, his retirement benefits will be calculated under the provisions of sec. 370(c) of this chapter.

- * Sec. 9. AS 39.35.410(b) is repealed and re-enacted to read:

(b) The occupational disability pension benefits accrue beginning the first day of the month following termination of employment as a result of the disability. If a final determination granting the pension is not made in time

to pay the first month's pension when due, a retroactive payment shall be made to cover the period of deferment. Benefits shall be continued after one year from date of appointment to occupational disability only if the disabled person fulfills the requirements set out in (g) of this section. The last payment shall be for the month in which (1) the death of the disabled employee occurs, or (2) the month in which the disabled employee recovers from disability, or (3) the month in which the disabled employee ceases to be eligible for disability benefits under the Social Security Act, or (4) the month the disabled employee reaches normal retirement age, whichever occurs first.

* Sec. 10. AS 39.35.410(c) is amended to read:

(c) If the disabled employee becomes ineligible to receive occupational disability benefits before his normal retirement date, the disabled employee shall then be entitled to receive an early retirement pension if he would have been eligible for the pension had his employment continued during the period of disability. The period of disability constitutes credited service.

* Sec. 11. AS 39.35.410(d) is repealed and re-enacted to read:

(d) The monthly amount of an occupational disability pension is 40 per cent of the disabled employee's gross monthly compensation at the time of termination due to disability.

* Sec. 12. AS 39.35.410(e) is repealed.

* Sec. 13. AS 39.35.410(g) is repealed and re-enacted to read:

(g) A disabled employee receiving an occupational disability pension shall provide the administrator, one year after appointment to disability retirement and once each year thereafter until disability benefits cease, proof of continuing eligibility to receive disability payments under the Social Security Act. If a disabled employee is otherwise ineligible for social security, he shall provide the administrator with sufficient medical evidence once each year to demonstrate that disability benefits under the Social Security Act would be payable had the employee been otherwise eligible. If the disabled employee fails to provide the administrator with evidence of continuing eligibility for disability payments under the Social Security Act or other medical evidence required by the administrator within 30 days following each anniversary date, the disability payments from the system shall cease. If that information is subsequently provided to the administrator, payments will resume beginning for the month following that in which the information is provided. When disability payments under the Social Security Act cease, it is the responsibility of the disabled employee to notify the administrator immediately. Upon notification, the administrator shall cease making disability payments.

* Sec. 14. AS 39.35.420(a) is amended to read:

(a) If the death of an employee occurs from nonoccupational causes before appointment to retirement, and after completing at least one year but less than five years of credited service, a lump sum death benefit shall be paid to the beneficiary of the employee. The amount of the lump sum death benefit shall be \$1,000 plus \$100 for each year of credited service. The lump sum death benefit is in addition to a refund of the balance of the employee contribution account of the deceased employee under sec. 210 of this chapter.

* Sec. 15. AS 39.35.420(b) is amended to read:

(b) If the death of an employee or deferred vested member occurs from nonoccupational causes before appointment to retirement and after completing at least five years of credited service, the surviving spouse may at his or her discretion receive either the benefits described in (a) of this section or a 50 per cent joint and survivor option based upon credited service to the date of the employee's death or termination and payable to the surviving spouse commencing for the month following the death of the employee.

* Sec. 16. AS 39.35.430(a) is repealed.

* Sec. 17. AS 39.35.430(b) is amended to read:

(b) If (1) the death of an employee occurs before his retirement and before his normal retirement date, and (2) the proximate cause of death is a bodily injury sustained or a hazard undergone while in the performance and within the scope of his duties, and (3) the injury or hazard is not the proximate result of wilful negligence of the employee, a monthly survivor's pension equal to 40 per cent of his monthly compensation in the month in which he died shall be paid to his surviving spouse. If there is no surviving spouse the monthly survivor's pension shall be paid in equal parts to the children of the employee, including those adopted, who are either under 19 years old or under 23 years old and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education. On the date the normal retirement of the employee would have occurred if he had lived, monthly payments shall equal the monthly amount of the normal retirement benefit to which the employee, had he lived and continued his employment until his normal retirement date, would have been entitled with an average monthly compensation as existed at his death and the credited service to which he would have been entitled.

* Sec. 18. AS 39.35.430(c) is amended to read:

(c) The first payment of the surviving spouse's pension or of the surviving child's pension shall be made for the month following the month in which the employee dies and the payment shall cease to be made for the month in which there is no eligible surviving spouse or child.

* Sec. 19. AS 39.35.430(d) and (e) and 39.35.440(a) are repealed.

* Sec. 20. AS 39.35.440(b) is amended to read:

(b) Upon the death of a retired employee who is receiving or is entitled to receive an occupational disability pension, a surviving spouse's pension equal to 40 per cent of his average monthly compensation shall be paid to his surviving spouse. If there is no surviving spouse, the survivor's pension shall be paid in equal parts to the children of the employee, including those adopted, who are either under 19 years old or under 23 years old and registered at and attending on a full-time basis an accredited educational or a technical institution recognized by the Department of Education. On the date the normal retirement of the employee would have occurred if he had lived, monthly payments shall equal the monthly amount of the normal retirement benefit to which the employee, had he lived and continued his employment until his normal retirement date, would have been entitled with an average monthly compensation as existed at his death and the credited service to which he would have been entitled.

* Sec. 21. AS 39.35.440(c) is amended to read:

(c) The first payment of the surviving spouse's pension or of the surviving child's pension shall be made for the month following the month in which the employee dies and the payments shall cease to be made for the month in which there is no eligible surviving spouse or child.

* Sec. 22. AS 39.35.680(10) is amended to read:

(10) "nonoccupational disability" means a physical or mental condition which, in the judgment of the administrator, based upon medical reports and other evidence satisfactory to the administrator, presumably permanently prevents an employee from satisfactorily performing his usual duties for his employer or the duties of another position or job which his employer makes available and for which the employee is qualified by training or education, not including a condition resulting from a cause which the board, in its rules, has excluded;

* Sec. 23. AS 39.35.680(12) is amended to read:

(12) "occupational disability" means a physical or mental condition which presumably permanently prevents an employee from satisfactorily performing his usual duties for his employer; however, the proximate cause of the condition must be a bodily injury sustained, or a hazard undergone, while in the performance and within the scope of the employee's duties and not the proximate result of the wilful negligence of the employee; a determination of whether occupational disability exists shall be made by the administrator based upon medical reports and other evidence satisfactory to the administrator;

* Sec. 24. AS 39.35.485(a) is amended to read:

(a) An employee who is eligible for a benefit calculated in accordance with sec. 370(c) of this chapter is entitled to a benefit of at least \$17.50 a month for each year of credited service, not including adjustments made under secs. 380, 410, 450, 475 and 480 of this chapter.

* Sec. 25. Sections 2 and 3 of this Act become effective on July 1, 1976 if approved by a majority of the votes cast in a special election conducted by the Public Employees Retirement Board to be held among active members of the retirement system. During the conduct of this election, the division shall remain impartial and take no position on the question.

* Sec. 26. This Act, except for secs. 2 and 3, takes effect July 1, 1976.