



# LAWS OF ALASKA

1989

**Source**

CSHB 216(Fin)

**Chapter No.**

104

**AN ACT**

Establishing an optional university retirement program for certain employees of the University of Alaska and certain community colleges; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 11

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 13, 1989  
Actual Effective Date: July 1, 1989

AN ACT

Establishing an optional university retirement program for certain employees of the University of Alaska and certain community colleges; and providing for an effective date.

\* Section 1. AS 14.25.040(a) is amended to read:

(a) Unless a teacher or member has elected to participate in the optional university retirement program under AS 14.40.661 - 14.40.799, a [A] teacher or member contracting for service with a participating employer is subject to this chapter.

\* Sec. 2. AS 14.25.115(a) is amended to read:

(a) A teacher in membership service on or after July 1, 1977, who is appointed to retirement on or after July 1, 1978, may elect to apply unused sick leave credit in computing the total number of years of credited service under AS 14.25.110(d) except for sick leave earned while participating in the optional university retirement program under AS 14.40.661 - 14.40.799. To obtain service credit for unused sick leave, a teacher must apply to the administrator no later than one year after appointment to retirement. Unused sick leave shall be credited on a day-for-day basis in accordance with the table for service after July 1, 1969, contained in AS 14.25.220(43). Teacher contributions may not be required for credited unused sick leave.

\* Sec. 3. AS 14.25.220(40) is amended to read:

(40) "teacher" or "member" means a person eligible to

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1 participate in the system and who is covered by the system, limited to

2 (A) a certificated full-time or part-time elementary  
3 or secondary teacher, a certificated school nurse, or a certifi-  
4 cated person in a position requiring a teaching certificate as a  
5 condition of employment in a public school of the state;

6 (B) the commissioner of education and all supervisory  
7 positions in the Department of Education;

8 (C) a full-time or part-time teacher of the University  
9 of Alaska or a person occupying a full-time administrative posi-  
10 tion at the University of Alaska which requires academic stand-  
11 ing; the approval of the administrator must be obtained before an  
12 administrative position qualifies for membership in the system;  
13 however, a teacher or administrative person at the university who  
14 is participating in the optional university retirement program  
15 under AS 14.40.661 - 14.40.799 is not a member under this system;

16 (D) a state legislator who elects membership under  
17 AS 14.25.040(b);

18 \* Sec. 4. AS 14.40 is amended by adding new sections to read:

19 ARTICLE 5. OPTIONAL UNIVERSITY RETIREMENT PROGRAM.

20 Sec. 14.40.661. AUTHORITY OF BOARD. (a) The board may estab-  
21 lish an optional university retirement program for eligible employees  
22 in which retirement and death benefits are provided through the pur-  
23 chase of annuity contracts, either fixed, variable, or a combination  
24 of fixed and variable. Participation in the program is in place of  
25 participation in a state retirement system.

26 (b) The board shall

27 (1) provide for the administration of the program, includ-  
28 ing procedures for resolving complaints from participating employees;

29 (2) designate the company or companies to which payment of

1 the contributions required under AS 14.40.691 may be made, after  
2 considering the

3 (A) nature and extent of the rights and benefits that  
4 the contracts will provide to employees who elect to participate  
5 and to their beneficiaries;

6 (B) relation of the contractual rights and benefits to  
7 the contributions to be made under AS 14.40.661 - 14.40.799;

8 (C) suitability of the contractual rights and benefits  
9 to the needs and interests of employees electing to participate  
10 and to the interest of the university in the employment and  
11 retention of employees;

12 (D) ability of the designated company or companies to  
13 provide rights and benefits under the contracts; and

14 (E) efficacy of the contracts in the recruitment and  
15 retention of faculty and administrators;

16 (3) take other actions required to ensure that the program  
17 qualifies as a qualified trust under 26 U.S.C. 401(a) (Internal Reve-  
18 nue Code).

19 Sec. 14.40.671. PARTICIPATION. (a) An employee in a partici-  
20 pating position may elect to participate in the optional university  
21 retirement program or to participate in the appropriate state retire-  
22 ment system. Eligibility to participate in the program begins on an  
23 employee's appointment to a participating position.

24 (b) An election to participate in the program is irrevocable.  
25 The election shall be made in writing on a form provided by the board  
26 and approved for the state by the commissioner of administration. The  
27 form must be filed with the board no later than 30 days after the date  
28 on which the employee first becomes eligible to participate in the  
29 program. A copy of the form shall be delivered to the appropriate

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1 state retirement system. The election becomes irrevocable on the date  
2 it is received by the board.

3 (c) The election to participate in the program constitutes a  
4 waiver of all rights and benefits under the state retirement systems  
5 earned on or after the effective date of the election while the em-  
6 ployee is participating in the program.

7 (d) Except as provided in (e) of this section, if a nonvested  
8 member of a state retirement system elects to participate in the  
9 program, the employee may choose to transfer the amount in the em-  
10 ployee's contribution account to the program. If the employee chooses  
11 to transfer the account, the appropriate state retirement system shall  
12 pay to the university on behalf of the employee an amount equal to the  
13 balance in the account. The payment must be made within 45 days after  
14 the election is received by the state retirement system. The finan-  
15 cial officer of the university shall immediately pay the amount re-  
16 ceived to the designated company or companies for the benefit of the  
17 employee. An employee who transfers assets under this subsection may  
18 not reclaim the corresponding service in the state retirement system  
19 if the employee is reemployed under the state retirement system.

20 (e) An employee whose rights to transfer assets out of a state  
21 retirement system are subject to a qualified domestic relations order  
22 is entitled to transfer assets from the state retirement system to the  
23 program only if the requirements for receiving a refund under AS 14.-  
24 25.150(b) or AS 39.35.200(c), as appropriate, are met.

25 (f) If a vested member of a state retirement system elects to  
26 participate in the program, the employee ceases to be an active member  
27 of the retirement system on the effective date of the participation in  
28 the program. The employee retains all benefits accrued in the state  
29 retirement system.

1 (g) An employee who does not elect to participate in the program  
2 under this section becomes or remains a member of the appropriate  
3 state retirement system.

4 Sec. 14.40.681. RETIREMENT SYSTEM MEMBERSHIP. An eligible  
5 employee electing to participate in the program may not participate in  
6 a state retirement system during the time the employee is employed in  
7 a participating position. If the employee is later employed in a  
8 position covered by a state retirement system that is not a partic-  
9 ipating position, the employee may not continue to participate in the  
10 program and shall begin to participate in the state retirement system.

11 Sec. 14.40.691. CONTRIBUTIONS. (a) The university shall con-  
12 tribute on behalf of each employee participating in the program an  
13 amount established by the board.

14 (b) An employee participating in the program shall contribute to  
15 the program an amount established by the board.

16 (c) The board may specify that contributions required by this  
17 section are made by a reduction in salary under 26 U.S.C. 414(h)(2)  
18 (Internal Revenue Code).

19 (d) The financial officer of the university shall pay the con-  
20 tributions authorized or required by this section to the designated  
21 company or companies for the benefit of each participant.

22 Sec. 14.40.701. BENEFITS. Payment of benefits to participants  
23 of the program is the responsibility of the company or companies  
24 designated by the board and is not the responsibility of the board,  
25 the university, or the state. The benefits are payable to partici-  
26 pants or their beneficiaries in accordance with the terms of the  
27 annuity contract or contracts. However, retirement benefits must be  
28 paid in the form of a lifetime income. Except for death benefits, a  
29 single-sum cash payment is not permitted under this section.

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1           Sec. 14.40.799. DEFINITIONS. In AS 14.40.661 - 14.40.799,

2           (1) "appropriate state retirement system" means the state  
3 retirement system that includes the employee's position;

4           (2) "board" means the Board of Regents of the University of  
5 Alaska;

6           (3) "contribution account" means the member contribution  
7 account under AS 14.25 or the employee contribution account under  
8 AS 39.35, whichever is appropriate;

9           (4) "employee" means an employee of the University of  
10 Alaska or a community college under AS 14.40;

11           (5) "participating position" means a position that is a  
12 permanent position that is at least a .5 full-time appointment as

13                   (A) a faculty appointment; or

14                   (B) an administrator and the position has been des-  
15 igned by the board for inclusion in the program;

16           (6) "program" means the optional university retirement  
17 program;

18           (7) "state retirement system" means the teachers' retire-  
19 ment system under AS 14.25 or the public employees' retirement system  
20 under AS 39.35.

21 \* Sec. 5. AS 39.35.120 is amended to read:

22           Sec. 39.35.120. COMMENCEMENT OF PARTICIPATION. (a) An employee  
23 of the state shall be included in this system upon commencement of  
24 employment with the state, or on January 1, 1961, whichever is later.  
25 Unless an employee has elected to participate in the optional univer-  
26 sity retirement program under AS 14.40.661 - 14.40.799, an [AN] em-  
27 ployee of a political subdivision or public organization that becomes  
28 an employer shall be included in the system on the effective date of  
29 the employer's participation or the date of the employee's

commencement of employment with the employer, whichever is later.

(b) Inclusion in the system is a condition of employment for an employee except as otherwise provided for an elected official and for an employee of the university who has elected to participate in the optional university retirement program under AS 14.40.661 - 14.40.799.

\* Sec. 6. AS 39.35.680(21) is amended to read:

(21) "member" or "employee"

(A) means a person eligible to participate in the system and who is covered by the system;

(B) includes

(i) active member;

(ii) inactive member;

(iii) vested member;

(iv) deferred vested member;

(v) non-vested member;

(vi) disabled member;

(vii) retired member;

(C) does not include

(i) former members;

(ii) persons compensated on a contractual or fee basis;

(iii) casual or emergency workers or nonpermanent employees as defined in AS 39.25.200;

(iv) persons covered by the Alaska Teachers' Retirement System or the optional university retirement program;

(v) employees of the division of marine transportation engaged in operating the state ferry system who are covered by a union or group retirement system to which the

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state makes contributions;

(vi) justices of the supreme court or judges of the court of appeals or of the superior or district courts of Alaska;

(vii) the administrative director of courts appointed under art. IV, sec. 16 of the state constitution unless the director becomes a member under AS 39.35.158; and

(viii) members of the elected public officers' retirement system (former AS 39.37);

(D) may include employees of the division of marine transportation excluded under (C)(v) of this paragraph provided that

(i) the State of Alaska formally agrees to their inclusion through the process of collective bargaining; and

(ii) no collective bargaining agreement has the effect of obligating contributions made by the state under AS 39.30.150 in the event the state resumes participation in the federal social security system;

\* Sec. 7. Section 7, ch. 26, SLA 1986, is amended to read:

Sec. 7. INDEBTEDNESS ON REEMPLOYMENT. If a participant in the retirement incentive program is reemployed as a member of the Public Employees' Retirement System under AS 39.35, the optional university retirement program under AS 14.40.661 - 14.40.799, or the Teachers' Retirement System under AS 14.25 after appointment to retirement under the program, the participant loses the incentive credit received under sec. 5 (c) of this Act and is indebted to the system. The amount of the indebtedness is equal to 110 percent of the amount the participant received as a result of participation in the program for which the participant was not otherwise entitled, including the cost of health

1 insurance. The participant is entitled to a credit to be applied  
2 against the reemployment indebtedness in the amount the participant  
3 has paid under sec. 5 (d) of this Act. Interest accrues on the  
4 indebtedness at the rate established by regulation from the date of  
5 reemployment until the member is appointed to retirement and accepts  
6 an actuarial adjustment to the member's future benefits or until the  
7 amount is paid in full.

8 \* Sec. 8. If an Act is enacted by the First Session of the Sixteenth  
9 Alaska State Legislature that authorizes establishment of a retirement  
10 incentive program for employees of the University of Alaska and if the  
11 retirement incentive program includes a provision imposing an indebtedness  
12 if a participant in the retirement incentive program is reemployed, after  
13 retirement under the program, as a member of AS 39.35 (public employees'  
14 retirement system) or AS 14.25 (teachers' retirement system), positions  
15 that become part of the optional university retirement program under  
16 AS 14.40.661 - 14.40.799, enacted by sec. 4 of this Act, shall be treated,  
17 for purposes of the retirement incentive program, as being positions under  
18 AS 14.25 or AS 39.35, as appropriate.

19 \* Sec. 9. (a) Notwithstanding AS 14.40.671, added by sec. 4 of this  
20 Act, an employee of the University of Alaska holding a permanent faculty  
21 appointment that is at least a .5 full-time appointment on the date the  
22 Board of Regents of the university establishes an optional university  
23 retirement program may elect to participate in the program by filing an  
24 election form with the board within 120 days after the date the program is  
25 established.

26 (b) Notwithstanding AS 14.40.671, added by sec. 4 of this Act, an  
27 employee of the University of Alaska holding, on the date the Board of  
28 Regents establishes an optional university retirement program, an adminis-  
29 trative appointment that has been designated by the Board of Regents for

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1 inclusion in the optional university retirement program may elect to par-  
2 ticipate in the program by filing an election form with the board within  
3 120 days after the date the program is established or the date the position  
4 is designated as a participating position, whichever comes later.

5 \* Sec. 10. This Act takes effect July 1, 1989.  
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