

SENATE BILL NO. 9

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY SENATORS DUNCAN, Zharoff

Introduced: 1/16/95

Referred: STA, L&C, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to credited service in public employee retirement systems and
2 retirement benefits."

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

4 * **Section 1.** AS 14.25.200(a) is amended to read:

5 (a) Except as provided in AS 29.45.030(a)(1), member contributions and other
6 amounts held in the system on behalf of a member or other person who is or may
7 become eligible for benefits under the system are exempt from Alaska state and
8 municipal taxes and are not subject to anticipation, alienation, sale, transfer,
9 assignment, pledge, encumbrance, or charge of any kind, either voluntary or
10 involuntary, before they are received by the person entitled to the amount under the
11 terms of the system, and any attempt to anticipate, alienate, sell, transfer, assign,
12 pledge, encumber, charge, or otherwise dispose of any right to amounts accrued in the
13 system is void. However, a member's right to receive benefits may be **claimed under**
14 **AS 39.35.375 and may be** assigned

- 1 (1) under a qualified domestic relations order; or
2 (2) to a trust or similar legal device that meets the requirements for a
3 Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4).

4 * **Sec. 2.** AS 39.35.150 is amended to read:

5 Sec. 39.35.150. RE-EMPLOYMENT OF RETIRED EMPLOYEES. If a
6 retired employee subsequently becomes an active member, no benefit payments **may**
7 [WILL] be made during the period of re-employment. During the period of
8 re-employment, deductions from the employee's salary **shall** [WILL] be made in
9 accordance with AS 39.35.160. Upon subsequent retirement, the retired employee is
10 entitled to receive

11 (1) an additional pension based on the credited service and the average
12 monthly compensation earned during the period of re-employment in accordance with
13 AS 39.35.370; **and**

14 (2) **if the employee was employed by a participating employer on**
15 **or after January 1, 1995, an increase to the amount of the employee's initial**
16 **monthly benefit equal to the amount of the post retirement pension adjustments**
17 **for which the employee would have been eligible under AS 39.35.475 had the**
18 **member been receiving retirement benefits during the period of re-employment,**
19 **including adjustments granted before the effective date of this section.**

20 * **Sec. 3.** AS 39.35.340(i) is amended to read:

21 (i) Credited service under (a) of this section includes service as a

22 (1) foreign service officer, a foreign service reserve officer, or a limited
23 foreign service reserve officer with the United States Department of State in Vietnam,
24 Cambodia, or Laos from August 4, 1964, through November 7, 1975; [AND]

25 (2) member of the United States Merchant Marine Service from
26 December 7, 1941, through September 30, 1945; **and**

27 (3) **member of a unit of the national guard or the national guard**
28 **reserve as provided in (j) of this section.**

29 * **Sec. 4.** AS 39.35.340 is amended by adding a new subsection to read:

30 (j) A vested member may claim credited service for active duty service and
31 for training in a unit of the national guard or national guard reserve if the member

1 received a discharge under honorable conditions or release from training after
2 satisfactory service and is not entitled to receive retirement benefits from the United
3 States government for the same service. To obtain credited service for national guard
4 service, the member shall elect to do so and shall verify the periods of active duty
5 service or training. When eligibility for credited service for national guard service has
6 been established, an indebtedness shall be determined under (b) of this section, except
7 that interest at the rate prescribed by regulation shall be added to the indebtedness
8 beginning on the effective date of this Act or the date the member is first eligible to
9 claim the service, whichever is later, and ending on the date of payment of the
10 indebtedness or the date of retirement, whichever occurs first. However, if the
11 member was in the employ of an employer on the date of entry into active duty service
12 in the unit and returned to the employ of an employer within 90 days after the date of
13 discharge from active duty service, the member is not required to make retroactive
14 contributions under this subsection for the period of credited service. Any outstanding
15 indebtedness that exists at the time a member is appointed to retirement will require
16 an actuarial adjustment to the benefits payable based upon that national guard service.

17 * **Sec. 5.** AS 39.35.345(d) is repealed and reenacted to read:

18 (d) An employee may choose whether the credited service granted under this
19 section is used to satisfy the credited service requirements for normal retirement or is
20 only used for the calculation of benefits. An election under this subsection is
21 irrevocable and applies to all temporary credited service that the employee has accrued
22 when the employee retires.

23 * **Sec. 6.** AS 39.35.360 is amended by adding new subsections to read:

24 (l) A member is eligible to receive credited service for service that was
25 rendered as a temporary employee of the legislature of the state or territory during
26 legislative sessions for which the member has not received credit under (g) of this
27 section or AS 39.35.345. To receive retroactive credited service under this subsection,
28 a member must claim the service. When the member claims the service, an
29 indebtedness of the member to the system shall be established. The amount of this
30 indebtedness is equal to the full actuarial cost of providing benefits for the credited
31 service claimed. Interest as prescribed by regulation accrues on this indebtedness

1 beginning on the date the service is claimed. Any outstanding indebtedness that exists
2 at the time the member retires will require an actuarial adjustment to the benefits that
3 are based upon credited service claimed under this subsection.

4 (m) A vested member is eligible to receive credited service for employment
5 with the former Alaska State Development Corporation, established under former
6 AS 44.59. To receive retroactive credited service, the member must claim the service.
7 When the member claims retroactive credited service under this subsection, an
8 indebtedness of the member to the system shall be established. The amount of this
9 indebtedness is equal to the full actuarial cost of providing benefits for the service
10 claimed. Interest as established by regulation accrues on the indebtedness beginning
11 January 1, 1995. Any outstanding indebtedness that exists at the time of retirement
12 will require an actuarial adjustment to the benefits that are based on the retroactive
13 credited service.

14 * **Sec. 7.** AS 39.35 is amended by adding a new section to read:

15 Sec. 39.35.375. PUBLIC SERVICE BENEFIT. (a) An active or inactive
16 member who has never been vested in this system or in the teachers' retirement system
17 under AS 14.25, who has at least two years of credited service in this system, and who
18 has membership service in the teachers' retirement system may claim credited service
19 in this system in an amount equal to the membership service the member has in the
20 teachers' retirement system. The claimed credited service may be added to service
21 earned under this chapter to enable the member to qualify for a public service benefit
22 under this section. The member may not claim credited service for membership
23 service for which the member has received a refund under AS 14.25.150 unless the
24 member fully pays the indebtedness as established under AS 14.25.063. The member
25 may not claim credited service in this system based on unused sick leave under
26 AS 14.25.115.

27 (b) To claim credited service under this section, the member shall file a written
28 request with the administrator when the member applies to retire. The administrator
29 shall determine the full actuarial cost of benefits based on the member's total credited
30 service and shall transfer from the teachers' retirement system to this system an
31 amount equal to the sum of the member contribution account in the teachers'

1 retirement system and the employer contributions to the teachers' retirement system
2 made on behalf of the employee together with interest earned on those contributions.
3 If the amount to be transferred, when combined with the amount in the employee
4 contribution account in this system, the amount of employer contributions in this
5 system, and interest earned on contributions for the employee, is less than the full
6 actuarial cost computed under this subsection, an indebtedness to the system equal to
7 the amount of the difference is established. Interest as prescribed by regulation
8 accrues on the indebtedness. The member must pay any outstanding indebtedness
9 existing at the time the member applies for retirement in full before the member is
10 appointed to retirement under this section.

11 (c) A member is entitled to receive a public service benefit under this section
12 if the member has at least a total of five years credited service under this chapter and
13 credited service from the teachers' retirement system claimed under this section. A
14 public service benefit shall be calculated using the higher of the average monthly
15 compensation for service in this system or the average base salary for service in the
16 teachers' retirement system. If the member has more than 10 years of total credited
17 service, benefits for the part of the credited service over 10 years earned on and after
18 the effective date of this Act shall be calculated under AS 39.35.370(c) using a
19 multiplier of two and one-quarter percent.

20 (d) Credited service earned under either this system or the teachers' retirement
21 system that has been claimed for a public service benefit under this section may not
22 be used for any other purpose. A member who claims credited service under this
23 section loses all rights to benefits under AS 14.25 based on the claimed credited
24 service. A member may not claim credited service under this section unless the
25 member claims all of the membership service the member has in the teachers'
26 retirement system. A public service benefit does not constitute a normal or early
27 retirement benefit for purposes of qualifying for a conditional service retirement benefit
28 under AS 14.25.125 or AS 39.35.385.

29 (e) A member whose rights to benefits under AS 14.25 are subject to a
30 qualified domestic relations order may claim credited service under this section.
31 However, the credited service claimed remains subject to the terms of the order.

1 (f) Notwithstanding AS 14.25.063 and AS 39.35.350, a former member of the
2 teachers' retirement system who is an active member or inactive member of this
3 system may reinstate, under this section, membership service earned under AS 14.25
4 for which the member received a refund of contributions.

5 (g) If a member retires under this section and subsequently returns to work for
6 an employer under this system or the teachers' retirement system, benefits under this
7 section shall cease during the period of reemployment and shall recommence when the
8 reemployment is ended. The credited service earned during the period of
9 reemployment may not be added to the credited service claimed for a public service
10 benefit under this section. If a member vests and meets the other eligibility
11 requirements under this system or the teachers' retirement system during the
12 reemployment, the member is entitled to a benefit under AS 14.25 or AS 39.35, as
13 appropriate.

14 * **Sec. 8.** Notwithstanding AS 39.35.340(j), enacted by sec. 4 of this Act, a retired member
15 of the public employees' retirement system who claims credited service for service in a unit
16 of the national guard or the national guard reserve under AS 39.35.340(j), is entitled to
17 benefits based on the national guard service beginning on the first day of the month after the
18 division of retirement and benefits receives the member's application for inclusion of the
19 service.

20 * **Sec. 9.** A member of the public employees' retirement system who has claimed credited
21 service under AS 39.35.345 on or before the effective date of this Act may exercise the
22 election established under AS 39.35.345(d), as amended by sec. 5 of this Act, before the
23 member is appointed to retirement.