

SENATE BILL NO. 137

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/20/95

Referred: HES, STA, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to retirement incentive programs for the public employees'
2 retirement system and the teachers' retirement system; relating to separation
3 incentives for certain state employees; and providing for an effective date."

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

5 * **Section 1.** FINDINGS AND PURPOSE. The State of Alaska and many local
6 governments and school districts are facing the need to restructure their operations and their
7 work forces in order to reduce expenditures and balance budgets. Retirement and separation
8 incentives are management tools that have been used extensively by the private sector, the
9 federal government, and other state and local governments across the country. The purpose
10 of this Act is to make these management tools temporarily available to the state and to the
11 municipalities and school districts of the state. This Act will enable these entities to be more
12 efficient and cost-effective by eliminating certain non-essential positions, and producing a net
13 reduction in personnel costs.

14 * **Sec. 2.** RETIREMENT INCENTIVE PROGRAM. (a) An employer may adopt a

1 retirement incentive plan under secs. 3 - 6 of this Act, as appropriate, and designate categories
2 of employees eligible to participate in that plan. An employer need not extend the incentive
3 plan to all employees who would otherwise be eligible, but may choose to extend the plan
4 only to employees

- 5 (1) in specific budget or administrative components of the employer;
- 6 (2) in specific job classifications;
- 7 (3) in specific geographic locations; or
- 8 (4) on the basis of any combination of factors under (1) - (3) of this
9 subsection.

10 (b) An employee is eligible to participate in a retirement incentive plan under this Act
11 only if

- 12 (1) the employee is a vested member of the public employees' retirement
13 system or the teachers' retirement system;
- 14 (2) the employee will be qualified to retire under AS 14.25.110 or
15 AS 39.35.370 after receipt of the credit described in (f) of this section;
- 16 (3) the savings to the employer in personal services costs for the employee's
17 position will exceed the costs to the employer for that position within three years after the
18 employee is appointed to retirement.

19 (c) An employer shall file its proposed retirement incentive plan with the
20 commissioner of administration. The commissioner shall approve the plan if the plan meets
21 the requirements of this Act, except that the commissioner may approve a state agency's
22 retirement incentive plan only if the office of management and budget approves the calculation
23 of savings under (b)(3) of this section. A proposed plan filed under this section must

24 (1) identify job classifications of employees, and specific budget or
25 administrative components, eligible to participate in the plan;

26 (2) include a reimbursement agreement that
27 (A) requires the employer, for each employee who retires under the
28 plan, to reimburse the appropriate retirement system, within three years after the end
29 of the fiscal year in which the employee is appointed to retirement, in an amount equal
30 to

31 (i) the actuarial equivalent of the difference between the benefits

1 the participant receives after the addition of the credit under (f) of this section
2 and the amount the participant would have received without the credit, less the
3 amount the participant has paid on the indebtedness determined under (d) or (e)
4 of this section; and

5 (ii) an appropriate share of the administrative costs of the
6 program; and

7 (B) provides that contributions from the employer under this section
8 take priority over other obligations of the employer to the maximum extent permitted
9 by law.

10 (d) A member of the teachers' retirement system who participates in an approved
11 retirement incentive plan under this Act is indebted to that system for an amount calculated
12 under this subsection. The indebtedness is 25.95 percent of the member's actual compensation
13 for the school year in which the member terminates employment, or the calculated school year
14 compensation for a member who works less than the entire school year. An outstanding
15 indebtedness at the time a member is appointed to retirement under an approved retirement
16 incentive plan requires an actuarial adjustment to the benefits payable to that member.

17 (e) A member of the public employees' retirement system who participates in an
18 approved retirement incentive plan under this Act is indebted to that system for an amount
19 calculated under this subsection. The indebtedness is 22-1/2 percent for a peace officer or fire
20 fighter, and 20-1/4 percent for other members, of the member's actual annual compensation
21 for the year in which the member terminates employment, or the calculated annual
22 compensation for a member who works fewer than 12 months. An outstanding indebtedness
23 at the time a member is appointed to retirement under an approved retirement incentive plan
24 requires an actuarial adjustment to the benefits payable to that member.

25 (f) An employee who participates in an approved retirement incentive plan under this
26 Act receives a credit of three years. The three years must be applied in the following order
27 until exhausted:

28 (1) to meet the age or service required for eligibility for normal retirement
29 under AS 14.25.110 or AS 39.35.370, as appropriate;

30 (2) to meet the age required for early retirement under AS 14.25.110 or
31 AS 39.35.370, as appropriate;

1 (3) to reduce the actuarial adjustment required for early retirement under
2 AS 14.25.110 or AS 39.35.370, as appropriate;

3 (4) as years of credited service for calculating retirement benefits.

4 (g) In this section,

5 (1) "department" means

6 (A) a principal department of the executive branch of state government;
7 an independent state entity that is attached to a principal department of the executive
8 branch for administrative purposes but that is not a public organization as defined in
9 AS 39.35.680 is part of that department for purposes of this paragraph; and

10 (B) the Office of the Governor;

11 (2) "employer" has the meaning given in AS 14.25.220 and AS 39.35.680 and
12 includes a department.

13 * **Sec. 3. AUTHORIZATION FOR STATE EMPLOYEE RETIREMENT INCENTIVE.**

14 (a) A state agency may adopt, and file with the commissioner of administration for approval,
15 a proposed retirement incentive plan for its employees.

16 (b) Upon the request of a state agency, the commissioner of administration shall
17 establish one or more periods during which the employees of that state agency who are
18 eligible under sec. 2(b) of this Act to participate in a retirement incentive plan may apply to
19 the commissioner of administration to participate in the state agency's approved plan. The
20 periods shall begin no earlier than July 1, 1995, and end no later than June 30, 1998. The
21 periods shall be no less than 30 days and no more than 60 days in duration, and may not
22 begin less than 30 days after their establishment. A state agency is not required to request an
23 application period, and may request more than one application period.

24 (c) A proposed retirement incentive plan adopted under this section may not permit
25 an employee who is the governor, the lieutenant governor, or a commissioner, deputy
26 commissioner, or assistant commissioner of a principal department of the executive branch to
27 participate in the plan.

28 (d) A proposed retirement incentive plan adopted under this section may permit
29 participation only by an employee who is eligible to participate under sec. 1(b) of this Act and
30 who

31 (1) has been continuously employed by the state for at least one year before

1 the employee applies to participate in the state agency's approved plan;

2 (2) is a permanent seasonal employee who has been continuously employed
3 by the state in a permanent seasonal position during all of the time in the one year before the
4 employee's application to participate in which the position normally is filled;

5 (3) has a job sharing agreement with a state agency in which two or more
6 employees share a single position identified by a single position control number and in which
7 the employee who applies to participate in the plan was continuously employed by the agency
8 during the portion of the one year before the employee's application in which the employee
9 normally worked under the job sharing agreement; or

10 (4) meets a combination of the requirements of this subsection.

11 (e) The commissioner of administration may not accept the application of an employee
12 to participate in an approved retirement incentive plan adopted under this section unless the
13 employee will be appointed to retirement not later than the first day of the month that is six
14 months after the last day of the application period established by the commissioner under (b)
15 of this section. A state agency, in a plan adopted under this section, may set an earlier date
16 by which an employee must be appointed to retirement in order to participate in the plan.

17 * **Sec. 4. AUTHORIZATION FOR RETIREMENT INCENTIVE FOR EMPLOYEES OF**
18 **THE UNIVERSITY OF ALASKA.** (a) The Board of Regents of the University of Alaska
19 may adopt, and file with the commissioner of administration for approval, a proposed
20 retirement incentive plan for university employees.

21 (b) Upon the request of the Board of Regents, the commissioner of administration
22 shall establish one or more periods during which the employees of the university who are
23 eligible under sec. 2(b) of this Act to participate in a retirement incentive plan may apply to
24 the commissioner of administration to participate in the university's approved plan. The
25 periods shall begin no earlier than July 1, 1995, and end no later than June 30, 1998. The
26 periods shall be no less than 30 days and no more than 60 days in duration, and may not
27 begin less than 30 days after their establishment. The Board of Regents is not required to
28 request an application period, and may request more than one application period.

29 (c) The commissioner of administration may not accept the application of an employee
30 to participate in an approved retirement incentive plan adopted under this section unless the
31 employee will be appointed to retirement not later than the first day of the month that is six

1 months after the last day of the application period established by the commissioner under (b)
2 of this section. The Board of Regents, in a plan adopted under this section, may set an earlier
3 date by which an employee of the University of Alaska must be appointed to retirement in
4 order to participate in the plan.

5 (d) A participant in the optional university retirement program under AS 14.40.661 -
6 14.40.799 who is vested in the public employees' retirement system or the teachers' retirement
7 system may participate in a retirement incentive plan for that system if the participant meets
8 the other qualifications of this Act. If a provision of this subsection is inconsistent with
9 another provision of law, the provision of this subsection governs.

10 * **Sec. 5. AUTHORIZATION FOR RETIREMENT INCENTIVE FOR OTHER**
11 **EMPLOYEES IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM.** (a) The
12 governing body of a political subdivision of the state or public organization that has elected
13 to participate in the public employees' retirement system under AS 39.35.550 - 39.35.650 may
14 adopt, and file with the commissioner of administration for approval, a proposed retirement
15 incentive plan for its employees. A plan adopted under this section must provide that the
16 application period for participation in the retirement incentive plan is December 31, 1995
17 through June 30, 1996.

18 (b) The commissioner of administration may not accept the application of an employee
19 to participate in an approved retirement incentive plan adopted under this section unless the
20 employee will be appointed to retirement on or before February 1, 1997. The governing body
21 of the political subdivision or public organization, in a plan adopted under this section, may
22 set an earlier date by which an employee must be appointed to retirement in order to
23 participate in the plan.

24 * **Sec. 6. AUTHORIZATION FOR RETIREMENT INCENTIVE FOR OTHER**
25 **EMPLOYEES IN THE TEACHERS' RETIREMENT SYSTEM.** (a) An employer under the
26 teachers' retirement system who is not otherwise covered by secs. 3 or 4 of this Act may
27 adopt, and file with the commissioner of administration for approval, a proposed retirement
28 incentive plan for its employees. A plan adopted under this section must provide that the
29 application period for participation in the retirement incentive plan is June 30, 1995 through
30 December 31, 1995.

31 (b) The commissioner of administration may not accept the application of an employee

1 to participate in an approved retirement incentive plan adopted under this section unless the
2 employee will be appointed to retirement on or before August 1, 1996. The employer, in a
3 plan adopted under this section, may set an earlier date by which an employee must be
4 appointed to retirement in order to participate in the plan.

5 * **Sec. 7. POLITICAL SUBDIVISION OR PUBLIC ORGANIZATION EMPLOYMENT.**

6 For purposes of determining the years of service requirements for retirement under
7 AS 14.25.110 or AS 39.35.370, as appropriate, a vested member who is a state employee and
8 who applies to participate in a retirement incentive plan approved under this Act may receive
9 credit for employment with a political subdivision or public organization before the political
10 subdivision or organization became an employer under the public employees' retirement
11 system. The member may not receive credit for those years under this subsection for purposes
12 of determining benefits. If a provision of this section is inconsistent with any other provision
13 of law, the provision of this section governs.

14 * **Sec. 8. RECOVERY OF EMPLOYER DELINQUENCIES.** To recover a delinquency
15 owed by an employer other than the state under an agreement entered into under sec. 2(d)(2)
16 of this Act, the Department of Administration may

17 (1) direct that the amount of the delinquency or a lesser amount be withheld
18 from any money payable to the employer by a state department or agency and that the amount
19 withheld be credited to the delinquency; and

20 (2) bring an action against the employer.

21 * **Sec. 9. REEMPLOYMENT INDEBTEDNESS; PROHIBITION ON REEMPLOYMENT.**

22 (a) If an individual is reemployed as a member of the public employees' retirement system
23 under AS 39.35, the teachers' retirement system under AS 14.25, the judicial retirement system
24 under AS 22.25, or the optional university retirement program under AS 14.40.661 - 14.40.799
25 after appointment to retirement under this Act, that individual forfeits the incentive credit
26 received under sec. 2(f) of this Act and is indebted to the system under which the individual
27 took retirement. The indebtedness is 110 percent of the amount the individual received as a
28 result of participation in a retirement incentive plan under this Act and to which the individual
29 would not otherwise have been entitled, including the cost of health insurance. The amount
30 that the individual has paid under sec. 2(d) or (e) of this Act will be applied as a credit toward
31 the reemployment indebtedness. Interest on the reemployment indebtedness accrues from the

1 date of reemployment until the date that the individual either is appointed to retirement and
2 accepts an actuarial adjustment to the individual's future benefits or repays the indebtedness
3 in full. The rate of interest is that established by regulation for the public employees'
4 retirement system by the public employees' retirement board and for the teachers' retirement
5 system by the teachers' retirement board.

6 (b) An individual who was appointed to retirement under this Act may not be
7 employed by, or enter into a contract for personal services with, a state agency or the
8 University of Alaska within the three years after the date of appointment to retirement, except
9 that

10 (1) the University of Alaska may enter into a personal services contract with
11 the individual for teaching or research; and

12 (2) the individual may accept employment with the legislature during a
13 legislative session if the employment is on an hourly basis and does not entitle the individual
14 to receive retirement, health, or leave benefits.

15 (c) Notwithstanding the prohibition in (b) of this section, a state agency or the
16 University of Alaska may enter into a personal services contract with an individual who was
17 appointed to retirement under this Act if the Board of Regents, for the University of Alaska,
18 or the commissioner of administration, for a state agency, determines that there is a
19 compelling reason to do so because of the individual's specialized or extensive experience that
20 relates to a particular program or project of the state agency or university. However, a state
21 agency may not enter into a contract with an individual under this subsection if the individual
22 was employed by that state agency at the time of the individual's appointment to retirement.

23 * **Sec. 10. SEPARATION INCENTIVE PROGRAM.** (a) A state agency may, with the
24 approval of the director of the office of management and budget, establish a separation
25 incentive program for its employees. The program may be offered in combination with an
26 approved retirement incentive plan adopted under sec. 3 of this Act, or may be offered
27 separately from such a plan. A state agency need not extend an incentive program under this
28 section to all employees who would otherwise be eligible to participate, but may choose to
29 extend the program only to employees

30 (1) in specific budget or administrative components of the state agency;

31 (2) in specific job classifications;

1 (3) on the basis of any combination of factors under (1) and (2) of this
2 subsection.

3 (b) A separation incentive payment under this section shall be paid in a lump sum
4 after the employee's separation from state service, and shall be equal to the lesser of an
5 amount equaling six months of the employee's base salary, or \$25,000. However, a state
6 agency or the office of management and budget may set a lower separation incentive payment
7 in the state agency's separation incentive program.

8 (c) Upon the request of a state agency, the commissioner of administration shall
9 establish one or more periods during which the employees of that state agency may apply to
10 the commissioner of administration to participate in the state agency's approved separation
11 incentive program. The periods shall begin no earlier than July 1, 1995, and end no later than
12 June 30, 1998. The periods shall be no less than 30 days and no more than 60 days in
13 duration, and may not begin less than 30 days after their establishment. A state agency is not
14 required to request an application period, and may request more than one application period.
15 If the commissioner of administration has established one or more application periods for a
16 state agency under sec. 3(b) of this Act, the application period or periods established under
17 this subsection must coincide with the period or periods established under sec. 3(b) of this
18 Act.

19 (d) A separation incentive program established under this section must provide that
20 a separation incentive payment to an employee may be made only if

21 (1) the employee is a permanent full-time or permanent full-time seasonal
22 employee with at least five years of service with the state; and

23 (2) the savings to the state agency in personal services costs for the position
24 occupied by that employee would exceed, in the three years after the employee separates, the
25 amount of the separation incentive payment.

26 (e) If an individual who received a separation incentive payment under this section
27 subsequently is reemployed by a state agency or the University of Alaska within the three
28 years after the date that the individual received the separation incentive payment, the
29 individual is liable to the state in an amount equal to 110 percent of the amount of the
30 separation incentive payment, plus interest at the rate prescribed by AS 45.45.010,
31 commencing on the date that the individual received the separation incentive payment.

1 (f) If an employee is eligible to participate in an approved retirement incentive plan
2 adopted under sec. 3 of this Act,

3 (1) a separation incentive payment to that employee may not exceed the
4 amount that the state agency would be obligated to pay to the appropriate retirement system,
5 notwithstanding (b) of this section; and

6 (2) the employee may participate in either the separation incentive program
7 under this section or the retirement incentive plan adopted under sec. 3 of this Act, but not
8 both.

9 (g) In this section, "base salary" means the monthly salary paid to an employee under
10 the applicable collective bargaining agreement, AS 39.27.011, or another applicable pay
11 schedule, and includes geographic differential; if an employee is paid on an hourly basis, the
12 employee's base salary is the employee's hourly rate, including geographic differential,
13 multiplied by the number of hours in the employee's regular work week, multiplied by 4.35.

14 * **Sec. 11. OFFICE OF MANAGEMENT AND BUDGET.** (a) When designating an
15 employee category for participation in a retirement incentive plan or a separation incentive
16 program under this Act, the executive head of the relevant state agency shall describe in detail
17 the expected effect of the plan or program on the agency's personal services cost and
18 operation. This financial report must be approved by the director of the office of management
19 and budget before the commissioner of administration may approve the proposed plan or
20 program. The state agency shall report each year to the office of management and budget on
21 the cost of each employee's participation and the effect on the agency's personal services cost
22 and operation.

23 (b) The office of management and budget shall submit to the legislature annual reports
24 on the retirement incentive and separation incentive programs under this Act beginning
25 January 15, 1997, and continuing through January 15, 1999, and shall submit a final report
26 January 15, 2000. Each report must provide the information necessary for the legislature to
27 evaluate the effectiveness of the programs in achieving their objectives. The report must
28 include information on the designated employee categories under the incentive programs,
29 including the cost of each incentive program per participant, the cost to the state, the cost to
30 the employee, the annual budgeted amount, by state agency, for the incentives, the number of
31 positions deleted or left vacant, and the projected or actual net savings over the three-year

1 period.

2 * **Sec. 12. PROGRAM CHANGES.** (a) An individual employee does not have a vested
3 or contractual right to a benefit under this Act until an agreement is executed with the
4 administrator that specifically authorizes that employee to participate in the retirement
5 incentive program under this Act or until an agreement is executed with the commissioner of
6 administration to participate in the separation incentive program under this Act. The legisla-
7 ture reserves the right to change any aspect of either incentive program as it relates to
8 employees for whom participation agreements have not yet been executed with the
9 administrator or with the commissioner of administration.

10 (b) In this section, "administrator" means the administrator of the public employees'
11 retirement system for employees who are members of that system, and the administrator of
12 the teachers' retirement system for employees who are members of that system.

13 * **Sec. 13. REGULATIONS.** The commissioner of the Department of Administration may
14 adopt regulations under AS 44.62 (Administrative Procedure Act) to implement and interpret
15 this Act.

16 * **Sec. 14. DEFINITIONS.** (a) Unless provided otherwise in this Act, the definitions set
17 out in AS 14.25.220 apply to provisions in secs. 2 - 9 of this Act that relate to the teachers'
18 retirement system and members of the teachers' retirement system.

19 (b) Unless provided otherwise in this Act, the definitions set out in AS 39.35.680
20 apply to provisions in secs. 2 - 9 of this Act that relate to the public employees' retirement
21 system and members of the public employees' retirement system.

22 (c) In this Act,

23 (1) "office of management and budget" means the office of management and
24 budget in the Office of the Governor;

25 (2) "public employees' retirement system" means the Public Employees'
26 Retirement System of Alaska (AS 39.35);

27 (3) "state agency"

28 (A) means

29 (i) the legislative branch of state government;

30 (ii) the judicial branch of state government;

31 (iii) a principal department of the executive branch of state

1 government; an independent state entity that is attached to a principal
2 department of the executive branch for administrative purposes but that is not
3 a public organization as defined in AS 39.35.680 is part of that department for
4 purposes of this clause; and

5 (iv) the Office of the Governor;

6 (B) does not include

7 (i) the University of Alaska;

8 (ii) a political subdivision of the state; or

9 (iii) a public organization as defined in AS 39.35.680;

10 (4) "teachers' retirement system" means the Teachers' Retirement System of
11 Alaska (AS 14.25).

12 * **Sec. 15.** Sections 2, 3, and 10 of this Act are repealed July 1, 1999.

13 * **Sec. 16.** Sections 4 - 7 of this Act are repealed July 1, 1997.

14 * **Sec. 17.** This Act takes effect immediately under AS 01.10.070(c).