

SENATE CS FOR CS FOR HOUSE BILL NO. 335(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/20/00

Referred: Rules

Sponsor(s): REPRESENTATIVE HUDSON

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to information contained in retirement system records; relating
2 to retirement boards; relating to procedures and hearings under state retirement
3 systems; relating to benefits for reemployed retired members of retirement
4 systems; relating to eligibility for normal retirement for members of the
5 teachers' retirement system who have Alaska BIA credited service; relating to
6 disability benefits for members of state retirement systems; relating to deduction
7 of premiums from retirement benefits; relating to protection of, and assignment
8 and transfer of, amounts held in retirement systems; relating to retirement
9 benefits for certain employees earning high salaries; relating to qualified domestic
10 relations orders in state retirement systems; relating to the definition of
11 'retirement fund' in the teachers' retirement system; relating to membership of
12 state employees in the teachers' retirement system; relating to refund of

1 contributions made to the judicial retirement system or to the former elected
 2 public officers retirement system and repayment of refunded contributions in
 3 those systems; relating to self-insurance and excess loss insurance for persons
 4 receiving benefits from a state retirement system; relating to participation of
 5 elected officials in the public employees' retirement system; relating to the level
 6 income option benefit under the public employees' retirement system; relating
 7 to participation of employees of political subdivisions and public organizations
 8 in the public employees' retirement system; relating to crimes for defrauding a
 9 state retirement system; relating to the definition of 'pension fund' in the public
 10 employees' retirement system; relating to calculation of years of service and of
 11 benefits under the public employees' retirement system for noncertificated
 12 employees of certain educational employers; and relating to individual accounts
 13 maintained for members of the former elected public officers retirement system."

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

15 * **Section 1.** AS 09.25 is amended by adding a new section to read:

16 **Sec. 09.25.151. Confidentiality of retirement records.** (a) Except as
 17 provided in (b) - (d) of this section, public records, including electronic services and
 18 products involving public records, containing information about a person and
 19 maintained under AS 14.25, AS 22.25, AS 26.05.222 - 26.05.229, AS 39.35, or former
 20 AS 39.37 shall be kept confidential and are not subject to inspection or copying under
 21 AS 09.25.110 - 09.25.120.

22 (b) Records described in (a) of this section concerning a person who is a
 23 member or former member of a state retirement system who is still living may only
 24 be released to

25 (1) the person or the person's guardian;

26 (2) the person's employer or former employer;

1 (3) a state agency authorized to obtain confidential information;

2 (4) another person if the person has

3 (A) written authorization for release from the affected member
4 or former member or the member's or former member's guardian; or

5 (B) a court order or subpoena to obtain the information.

6 (c) Records described in (a) of this section concerning a member or former
7 member of a state retirement system who is deceased or a deceased member's named
8 beneficiary may only be released to

9 (1) the member's named beneficiary or the beneficiary's guardian;

10 (2) the member's or former member's former employer;

11 (3) a state agency authorized to obtain confidential information;

12 (4) the personal representative of the member's or former member's
13 estate;

14 (5) another person if the person has

15 (A) written authorization for release from the member or former
16 member, the member's named beneficiary, or the personal representative of the
17 member's or former member's estate; or

18 (B) a court order or subpoena to secure the information.

19 (d) The name and address of a living person who is a member or former
20 member of a state retirement system may be released to a retirement organization
21 representing persons receiving benefits under a state retirement system if the retirement
22 organization is affiliated with an organization representing employees of the employer
23 under AS 23.40.070 - 23.40.260 (Public Employment Relations Act).

24 (e) In this section, "state retirement system" means the teachers' retirement
25 system under AS 14.25, the judicial retirement system under AS 22.25, the retirement
26 system for members of the national guard under AS 26.05.222 - 26.05.229, the public
27 employees' retirement system under AS 39.35, or the elected public officers retirement
28 system under former AS 39.37.

29 * **Sec. 2.** AS 14.25.035(a) is amended to read:

30 (a) There is established the Alaska Teachers' Retirement Board as follows:

31 (1) the governor shall appoint five members for overlapping three-year

1 terms; one member must be a resident who is receiving retirement benefits under this
 2 chapter; statewide teacher organizations may submit to the governor a list of
 3 recommended nominees to serve on the board;

4 (2) the governor shall appoint **two** physicians authorized to practice
 5 medicine in the state to serve as members of the board **and two physicians**
 6 **authorized to practice medicine in the state to serve as alternate members to the**
 7 **physician members of the board; the physicians are members of the board** only
 8 for the purpose of hearing appeals to determine medical eligibility for disability
 9 benefits under AS 14.25.130; [THE GOVERNOR SHALL APPOINT TWO
 10 PHYSICIANS EACH FROM AT LEAST TWO OF THE STATE'S FOUR JUDICIAL
 11 DISTRICTS;] the Public Employees' Retirement Board and the Teachers' Retirement
 12 Board may submit to the governor a list of recommended physicians to serve on the
 13 board; **if the administrator, after making a reasonable effort to secure the**
 14 **participation of two physicians to serve on a disability appeal, is unable to do so,**
 15 **the board may hear the appeal with the participation of only one physician or**
 16 **alternate, in which case, for purposes of a quorum, the board shall be considered**
 17 **to have only one physician as a member;** [THE TWO PHYSICIAN MEMBERS
 18 FROM THE JUDICIAL DISTRICT IN WHICH A DISABILITY APPEAL HEARING
 19 IS CONDUCTED SHALL SERVE ON THE BOARD DURING THE HEARING; IF
 20 ONE OR MORE OF THE PHYSICIANS IN THE JUDICIAL DISTRICT IN WHICH
 21 A DISABILITY HEARING IS CONDUCTED IS UNABLE TO SERVE AT THE
 22 HEARING, OR IF THERE IS NO PHYSICIAN MEMBER FROM THAT JUDICIAL
 23 DISTRICT, OTHER PHYSICIAN MEMBERS SHALL SERVE AT THE HEARING,
 24 SELECTED FOR SUCH HEARINGS ON A ROTATING BASIS, IN ACCORDANCE
 25 WITH REGULATIONS ADOPTED BY THE BOARD;] physician members **and**
 26 **alternates** serve at the pleasure of the governor.

27 * **Sec. 3.** AS 14.25.035(b) is amended to read:

28 (b) Members of the board appointed under (a)(1) of this section **are entitled**
 29 **to receive** [DO NOT RECEIVE COMPENSATION] for their services on the
 30 **retirement board an honorarium equal to the honorarium provided to trustees of**
 31 **the Alaska State Pension Investment Board under AS 37.10.250.** Physician

1 members of the board are entitled to hourly compensation for their services at a rate
 2 to be determined by the commissioner of administration. The rate of compensation
 3 shall be consistent with the physicians' normal hourly earnings. All members of the
 4 board are entitled to travel expenses and per diem **authorized for boards and**
 5 **commissions under AS 39.20.180** [WHEN IT IS NECESSARY TO TRAVEL].

6 * **Sec. 4.** AS 14.25.035(f) is amended to read:

7 (f) The board shall meet at the call of the **chair** [CHAIRMAN], any three
 8 members, or at the request of the commissioner of administration. **The board may**
 9 **adopt regulations defining a quorum for the conduct of its business, including**
 10 **appeals and disability appeals.**

11 * **Sec. 5.** AS 14.25 is amended by adding a new section to read:

12 **Sec. 14.25.037. Hearings.** (a) The board shall adopt regulations establishing
 13 procedures for the conduct of hearings and appeals under this chapter.

14 (b) In the conduct of a hearing under this chapter, the board may issue
 15 subpoenas, administer oaths, compel the attendance and testimony of witnesses, compel
 16 the taking of depositions and the submission of affidavits, and compel the production
 17 of documents and records. The board's powers under this subsection do not extend
 18 to prehearing discovery. However, upon good cause shown, the board may permit the
 19 preservation of witness testimony if the board cannot successfully compel the witness
 20 to attend a hearing. The board may authorize hearing officers to conduct hearings
 21 under this chapter and issue decisions; the decision of a hearing officer may be
 22 appealed to the board. The board shall adopt procedures for appeals from a hearing
 23 officer's decision.

24 (c) A majority of a quorum of the board may issue a ruling or modification
 25 of a ruling. If the board's vote on an appeal under this chapter is a tie vote of those
 26 members present and voting, the decision being appealed is affirmed. The board, by
 27 regulation, shall establish procedures for the reconsideration of a ruling issued under
 28 this chapter. A request for reconsideration is timely if it is received within 30 days
 29 after the initial ruling was issued.

30 (d) An aggrieved party may appeal a final decision to the superior court.

31 * **Sec. 6.** AS 14.25.043 is amended to read:

1 **Sec. 14.25.043. Reemployment of retired members.** If a retired member
 2 again becomes an active member, benefit payments may not be made during the period
 3 of reemployment. The retirement benefit must be suspended for the entire school year
 4 if the teacher is reemployed as an active teacher for a period equivalent to a year of
 5 service. During the period of reemployment, deductions from the member's salary will
 6 be made in accordance with AS 14.25.050. Upon subsequent retirement, the retired
 7 member is entitled to receive an additional benefit based on the credited service and
 8 the average base salary during the period of reemployment in accordance with
 9 AS 14.25.110. **If the initial benefit payments to which the retired member is**
 10 **eligible have been actuarially reduced because the member retired early under**
 11 **AS 14.25.110(b), the member shall also receive an incremental benefit based on**
 12 **the amount of the actuarial reduction imposed by AS 14.25.110(j) on the first**
 13 **benefit and the length of time that the employee was reemployed and not**
 14 **receiving retirement benefits. The amount of the incremental benefit is equal to**
 15 **the difference between the normal retirement benefit to which the member would**
 16 **have been entitled had the member taken a normal retirement and the early**
 17 **retirement benefit that the member has been receiving based on the member's**
 18 **initial period of employment multiplied by the total number of months that the**
 19 **member did not receive retirement benefits because of reemployment and that**
 20 **amount actuarially adjusted to be paid over the expected lifetime of the member.**

21 * **Sec. 7.** AS 14.25.110(a) is amended to read:

22 (a) Subject to AS 14.25.167, a member is eligible for a normal retirement
 23 benefit if the member

24 (1) was first hired before July 1, 1975, has attained the age of 55 years,
 25 and has at least 15 years of credited service, the last five of which have been
 26 membership service or is otherwise vested in the system;

27 (2) has attained the age of 60 years and has at least eight years of
 28 membership service;

29 (3) has attained the age of 60 years, has at least five years of
 30 membership service, and has [AT LEAST THREE YEARS OF] Alaska BIA service
 31 **which, when added to the membership service, will equal at least eight years;**

1 (4) has at least 25 years of credited service, the last five of which have
2 been membership service;

3 (5) has at least 20 years of membership service;

4 (6) has at least 20 years of combined membership service and Alaska
5 BIA service, the last five of which have been membership service; or

6 (7) has, for each of 20 school years,

7 (A) at least one-half year of membership service as a part-time
8 teacher;

9 (B) one full year of membership service as a full-time teacher;

10 or

11 (C) any combination of service qualified under this paragraph.

12 * **Sec. 8.** AS 14.25.130(d) is amended to read:

13 (d) The amount of the disability benefit is equal to 50 percent of the member's
14 base salary immediately before becoming disabled. The disability benefit is increased
15 by 10 percent **of the member's base salary immediately before becoming disabled**
16 for each dependent child, up to a maximum of four dependent children.

17 * **Sec. 9.** AS 14.25.130 is amended by adding a new subsection to read:

18 (f) A member is not entitled to a disability benefit under this section unless
19 the member files a timely application for the benefit with the administrator. The
20 application is timely if it is filed by the later of six months after the date that the
21 member's disability began or 90 days after the termination of the member's
22 employment. The board may waive a filing deadline under this subsection if there are
23 extraordinary circumstances that resulted in the inability to meet the filing deadline.
24 The board may delegate the authority to waive a filing deadline under this subsection
25 to the administrator.

26 * **Sec. 10.** AS 14.25.168(b) is amended to read:

27 (b) After an election of coverage under this section, major medical insurance
28 coverage takes effect on the same date as retirement benefits begin and stops when the
29 member or survivor is no longer eligible to receive a monthly benefit. The coverage
30 for persons age 65 or older is the same as that available for persons under age 65.
31 The benefits payable to those persons age 65 or older supplement any benefits

1 provided under the federal old age, survivors and disability insurance program. **The**
 2 **medical premium and optional insurance premiums owed by a member or**
 3 **survivor shall be deducted from the benefit owed to the member or survivor**
 4 **before payment of the benefit.**

5 * **Sec. 11.** AS 14.25.175(b) is amended to read:

6 (b) In order to obtain consideration of a waiver under this section, the affected
 7 member or beneficiary must appeal to the board in writing within 30 days after receipt
 8 of notice that the records have been adjusted. [THE BOARD SHALL RULE ON AN
 9 APPEAL WITHIN 120 DAYS AFTER ITS RECEIPT.] The ruling of the board shall
 10 be in writing.

11 * **Sec. 12.** AS 14.25.175(c) is amended to read:

12 (c) The board may [, AT ITS DISCRETION,] conduct a hearing on an appeal
 13 under this section. [IN REACHING A DECISION ON AN APPEAL, THE BOARD
 14 MAY ISSUE SUBPOENAS, ADMINISTER OATHS, AND COMPEL THE
 15 ATTENDANCE AND TESTIMONY OF WITNESSES, THE TAKING OF
 16 DEPOSITIONS, THE SUBMISSION OF AFFIDAVITS, AND THE PRODUCTION
 17 OF DOCUMENTS AND RECORDS.]

18 * **Sec. 13.** AS 14.25.200(a) is amended to read:

19 (a) Except as provided in AS 29.45.030(a)(1) **or in (c) of this section**, member
 20 contributions and other amounts held in the system on behalf of a member or other
 21 person who is or may become eligible for benefits under the system are exempt from
 22 Alaska state and municipal taxes and are not subject to anticipation, alienation, sale,
 23 transfer, assignment, pledge, encumbrance, or charge of any kind, either voluntary or
 24 involuntary, before they are received by the person entitled to the amount under the
 25 terms of the system. **Any** [, AND ANY] attempt to anticipate, alienate, sell, transfer,
 26 assign, pledge, encumber, charge, or otherwise dispose of any right to amounts accrued
 27 in the system is void. However, a member's right to receive benefits **or the member**
 28 **contribution account** may be assigned

29 (1) under a qualified domestic relations order; [OR]

30 (2) to a trust or similar legal device that meets the requirements for a
 31 Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4); **or**

1 **(3) as provided in (c) of this section.**

2 * **Sec. 14.** AS 14.25.200 is amended by adding a new subsection to read:

3 (c) An inactive member may elect to have the taxable portion of the member
4 contribution account transferred directly to another plan or an individual retirement
5 arrangement that is qualified under the federal Internal Revenue Code and that accepts
6 the transfer.

7 * **Sec. 15.** AS 14.25.210 is amended to read:

8 **Sec. 14.25.210. Penalty for false statements.** A person who [WILFULLY
9 OR] knowingly makes a false statement, or falsifies or permits to be falsified any
10 record of **this** [THE RETIREMENT] system, **in an attempt to defraud this system,**
11 is guilty of a **class A** misdemeanor and [, UPON CONVICTION, IS PUNISHABLE
12 BY A FINE OF NOT MORE THAN \$500 OR BY IMPRISONMENT FOR NOT
13 MORE THAN SIX MONTHS, OR BY BOTH, AND] forfeits all rights under this
14 chapter.

15 * **Sec. 16.** AS 14.25.210 is amended by adding a new subsection to read:

16 (b) In this section, "knowingly" has the meaning given in AS 11.81.900(a).

17 * **Sec. 17.** AS 14.25.220(6) is amended to read:

18 (6) "base salary"

19 (A) means the total remuneration payable under contract for a
20 full year of membership service, including addenda to the contract **but, for a**
21 **member first hired on or after July 1, 1996, does not include remuneration**
22 **in excess of the limitations set out in 26 U.S.C. 401(a)(17);**

23 (B) has the same meaning as "compensation" under
24 AS 39.35.680(8) when applied to a state legislator who elects membership
25 under AS 14.25.040(b);

26 * **Sec. 18.** AS 14.25.220(31) is amended to read:

27 (31) "qualified domestic relations order" means a divorce or dissolution
28 judgment under AS 25.24, including an order approving a property settlement, that

29 (A) creates or recognizes the existence of an alternate payee's
30 right to, or assigns to an alternate payee the right to, receive all or a portion of
31 the **member contribution account or** benefits payable with respect to a

1 member;

2 (B) sets out the name and last known mailing address, if any,
3 of the member and of each alternate payee covered by the order;

4 (C) sets out the amount or percentage of the member's benefit,
5 or of any survivor's benefit, to be paid to the alternate payee, or sets out the
6 manner in which that amount or percentage is to be determined;

7 (D) sets out the number of payments or period to which the
8 order applies;

9 (E) does not require any type or form of benefit or any option
10 not otherwise provided by this chapter;

11 (F) does not require an increase of benefits in excess of the
12 amount provided by this chapter, determined on the basis of actuarial value;
13 and

14 (G) does not require the payment, to an alternate payee, of
15 benefits that are required to be paid to another alternate payee under another
16 order previously determined to be a qualified domestic relations order;

17 * **Sec. 19.** AS 14.25.220(35) is amended to read:

18 (35) "retirement fund" or "fund" means the fund in which the assets of
19 the system, **including income and interest derived from the investment of money,**
20 are deposited and held;

21 * **Sec. 20.** AS 14.25.220(40) is amended to read:

22 (40) "teacher" or "member" means a person eligible to participate in
23 the system and who is covered by the system, limited to

24 (A) a certificated full-time or part-time elementary or secondary
25 teacher, a certificated school nurse, or a certificated person in a position
26 requiring a teaching certificate as a condition of employment in a public school
27 of the state **or in the Department of Education and Early Development;**

28 (B) [THE COMMISSIONER OF EDUCATION AND EARLY
29 DEVELOPMENT AND ALL SUPERVISORY POSITIONS IN THE
30 DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT;

31 (C)] a full-time or part-time teacher of the University of Alaska

1 or a person occupying a full-time administrative position at the University of
 2 Alaska that requires academic standing; the approval of the administrator must
 3 be obtained before an administrative position qualifies for membership in the
 4 system; however, a teacher or administrative person at the university who is
 5 participating in the optional university retirement program under AS 14.40.661
 6 - 14.40.799 is not a member under this system;

7 (C) [(D)] a state legislator who elects membership under
 8 AS 14.25.040(b);

9 * **Sec. 21.** AS 22.25.020 is amended to read:

10 **Sec. 22.25.020. Retirement pay.** A retired justice or judge eligible for
 11 retirement pay shall receive from the date of eligibility until death monthly
 12 compensation equal to five percent per year of service, to a maximum of 75 percent,
 13 of the monthly salary authorized for justices and judges, respectively, at the time each
 14 retirement payment is made. **For a justice or judge who was first employed in this**
 15 **retirement system on or after July 1, 1996, base annual salary does not include**
 16 **remuneration in excess of the limitations set out in 26 U.S.C. 401(a)(17) (Internal**
 17 **Revenue Code).**

18 * **Sec. 22.** AS 22.25.041 is amended to read:

19 **Sec. 22.25.041. Refund of contributions.** (a) **Except as provided in (c) of**
 20 **this section, a** [A] justice or judge who vacates office for any reason and who has not
 21 then accrued five years of creditable service under this chapter is entitled to receive
 22 a refund of the total amount of contributions, **including principal and interest**
 23 **payments on indebtedness,** together with interest credited on the amount. **To receive**
 24 **credit for an earlier period of service under AS 22.25.010(f),** [IF] a justice or judge
 25 who has received a refund of contributions **and who** returns to active service [, THE
 26 JUSTICE OR JUDGE] shall repay **in full, before appointment to retirement,**
 27 [WITHIN ONE YEAR] the refunded contributions with interest at the prevailing rate
 28 [TO RECEIVE CREDIT FOR THE EARLIER PERIOD OF SERVICE UNDER
 29 AS 22.25.010(f)].

30 (b) A justice or judge whose contributions have been involuntarily refunded
 31 because of a levy **under AS 09.38.065 or because of a federal tax levy** may repay

1 the amount levied together with accrued interest whether or not the justice or judge is
2 on active service. Repayments shall be made under (a) of this section.

3 * **Sec. 23.** AS 22.25.041 is amended by adding new subsections to read:

4 (c) A justice or judge whose rights to a refund are subject to a qualified
5 domestic relations order is entitled to receive a refund of the total amount of
6 contributions, together with interest credited on the amount, only if the present spouse
7 of the justice or judge, if any, and each person entitled under the order consent to the
8 refund in writing on a form provided by the administrator. The administrator may
9 waive written consent from the person entitled to benefits under the order if the
10 administrator determines that the person cannot be located or for other reasons
11 established by regulation. The administrator may waive written consent from the
12 spouse if the administrator determines that

13 (1) the justice or judge was not married to the spouse during any period
14 of the justice's or judge's employment under this chapter;

15 (2) the spouse has no right to benefits under this chapter because of the
16 terms of a qualified domestic relations order;

17 (3) the spouse cannot be located;

18 (4) the justice or judge and spouse have been married for less than two
19 years and the justice or judge establishes that they are not cohabiting; or

20 (5) another reason established by regulation exists.

21 (d) Except as provided in this subsection and in AS 29.45.030(a)(1), amounts
22 held in the system on behalf of a justice or judge or other person who is or may
23 become eligible for benefits under the system are exempt from Alaska state and
24 municipal taxes and are not subject to anticipation, alienation, sale, transfer,
25 assignment, pledge, encumbrance, or charge of any kind, either voluntary or
26 involuntary, before they are received by the person entitled to the amount under the
27 terms of the system, and any attempt to anticipate, alienate, sell, transfer, assign,
28 pledge, encumber, charge, or otherwise dispose of any right to amounts accrued in the
29 system is void. However,

30 (1) the right of a justice or judge to receive benefits or the contributions
31 and interest may be assigned

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

4 (2) a justice or judge may elect to have the taxable portion of the
 5 qualifying distributions transferred directly to another qualified plan or an individual
 6 retirement account that accepts the transfer.

7 * **Sec. 24.** AS 22.25.090(b) is amended to read:

8 (b) Except as provided in (d) of this section, major medical insurance coverage
 9 takes effect on the same date as retirement benefits begin [,] and stops when the retired
 10 person or survivor is no longer eligible to receive a monthly benefit. The coverage for
 11 persons age 65 or older is the same as that available for persons under 65 **years of**
 12 **age**. The benefits payable to those persons age 65 or older supplement any benefits
 13 provided under the federal old age, survivors, and disability insurance program. **The**
 14 **medical premium and optional insurance premiums owed by a retired person or**
 15 **survivor shall be deducted from the benefit payable to the retired person or**
 16 **survivor before payment of the benefit.**

17 * **Sec. 25.** AS 22.25.900 is amended to read:

18 **Sec. 22.25.900. Definition.** In this chapter, "qualified domestic relations
 19 order" means a divorce or dissolution judgment under AS 25.24, including an order
 20 approving a property settlement, that

21 (1) creates or recognizes the existence of an alternate payee's right to,
 22 or assigns to an alternate payee the right to, receive all or a portion of the **member**
 23 **contributions and interest or** benefits payable with respect to a justice or judge;

24 (2) sets out the name and last known mailing address, if any, of the
 25 justice or judge and of each alternate payee covered by the order;

26 (3) sets out the amount or percentage of the justice's or judge's benefit,
 27 or of any survivor's benefit, to be paid to the alternate payee, or sets out the manner
 28 in which that amount or percentage is to be determined;

29 (4) sets out the number of payments or period to which the order
 30 applies;

31 (5) does not require any type or form of benefit or any option not

1 otherwise provided by this chapter;

2 (6) does not require an increase of benefits in excess of the amount
3 provided by this chapter, determined on the basis of actuarial value;

4 (7) does not require the payment, to an alternate payee, of benefits that
5 are required to be paid to another alternate payee under another order previously
6 determined to be a qualified domestic relations order.

7 * **Sec. 26.** AS 26.05.224 is amended by adding new subsections to read:

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

16 (1) a member's right to receive benefits or the member contribution
17 account may be assigned

18 (A) under a qualified domestic relations order; or

19 (B) to a trust or similar legal device that meets the requirements
20 for a Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C.
21 1396p(d)(4);

22 (2) a member may elect to have the taxable portion of the qualifying
23 distributions transferred directly to another plan or individual retirement arrangement
24 qualified under the federal Internal Revenue Code.

25 (h) Amounts held in the system and benefits payable under this section are
26 exempt from garnishment, execution, or levy as provided in AS 09.38 (Alaska
27 Exemptions Act).

28 * **Sec. 27.** AS 39.30.091 is amended to read:

29 **Sec. 39.30.091. Authorization for self-insurance and excess loss insurance.**

30 Notwithstanding AS 21.86.310 or AS 39.30.090, the Department of Administration
31 may provide, by means of self-insurance, one or more of the benefits listed in

1 AS 39.30.090(a)(1) for state employees eligible for the benefits by law or under a
 2 collective bargaining agreement **and for persons receiving benefits under AS 14.25,**
 3 **AS 22.25, AS 39.35, or former AS 39.37, and their dependents.** The department
 4 shall procure any necessary excess loss insurance under AS 39.30.090.

5 * **Sec. 28.** AS 39.35.030(b) is repealed and reenacted to read:

6 (b) Three public members are appointed by the governor to serve at the
 7 pleasure of the governor for six-year staggered terms. One of the public members
 8 must be or have been employed by an employer other than the State of Alaska. The
 9 governor shall fill a vacancy in an unexpired appointive term by appointment for the
 10 remainder of the term.

11 * **Sec. 29.** AS 39.35.030(c) is amended to read:

12 (c) Two members of the board must be members of the system elected by [A
 13 MAJORITY OF THE VOTES CAST BY] members of the system. Elections shall be
 14 conducted by the board. **The candidate who receives the most votes cast in the**
 15 **election is elected to the seat. If two seats are to be filled at the election, the**
 16 **candidate who receives the most votes cast and the candidate who receives the**
 17 **next most votes cast are elected to the seats.** The term of office of an elected
 18 member is six years. **The governor shall fill a** [A] vacancy in an unexpired elective
 19 term **by appointment for the period remaining before the next regularly scheduled**
 20 **election held under this subsection** [SHALL BE FILLED BY ELECTION FOR A
 21 NEW SIX-YEAR TERM].

22 * **Sec. 30.** AS 39.35.030(d) is amended to read:

23 (d) The governor shall appoint **two** physicians authorized to practice medicine
 24 in the state to serve as members of the board **and two physicians authorized to**
 25 **practice medicine in the state to serve as alternate members to the physician**
 26 **members of the board. The physicians are members of the board** only for the
 27 purpose of hearing appeals to determine medical eligibility for disability benefits under
 28 AS 39.35.400 and 39.35.410. **If the administrator, after making a reasonable effort**
 29 **to secure the participation of two physician members or alternates to serve on a**
 30 **disability appeal, is unable to do so, the board may hear the appeal with the**
 31 **participation of only one physician member or alternate, in which case, for**

1 **purposes of a quorum, the board shall be considered to have only one physician**
 2 **as a member** [THE GOVERNOR SHALL APPOINT TWO PHYSICIANS EACH
 3 FROM AT LEAST TWO OF THE STATE'S FOUR JUDICIAL DISTRICTS]. The
 4 Public Employees' Retirement Board and the Teachers' Retirement Board may submit
 5 to the governor a list of recommended physicians to serve on the board. [THE TWO
 6 PHYSICIAN MEMBERS FROM THE JUDICIAL DISTRICT IN WHICH A
 7 DISABILITY APPEAL HEARING IS CONDUCTED SHALL SERVE ON THE
 8 BOARD DURING THE HEARING. IF ONE OR MORE OF THE PHYSICIANS IN
 9 THE JUDICIAL DISTRICT IN WHICH A DISABILITY HEARING IS
 10 CONDUCTED IS UNABLE TO SERVE AT THE HEARING, OR IF THERE IS NO
 11 PHYSICIAN MEMBER FROM THAT JUDICIAL DISTRICT, OTHER PHYSICIAN
 12 MEMBERS SHALL SERVE AT THE HEARING, SELECTED FOR SUCH
 13 HEARINGS ON A ROTATING BASIS, IN ACCORDANCE WITH REGULATIONS
 14 ADOPTED BY THE BOARD.] Physician members serve at the pleasure of the
 15 governor.

16 * **Sec. 31.** AS 39.35.030(e) is amended to read:

17 (e) Members of the board **appointed under** [IDENTIFIED IN] (b) of this
 18 section or elected under (c) of this section **are entitled to** [DO NOT] receive
 19 [COMPENSATION] for their services on the **retirement** board **an honorarium equal**
 20 **to the honorarium provided to trustees of the Alaska State Pension Investment**
 21 **Board under AS 37.10.250.** Physician members of the board are entitled to hourly
 22 compensation for their services at a rate to be determined by the commissioner of
 23 administration. The rate of compensation shall be consistent with the physicians'
 24 normal hourly earnings. All members of the board are entitled to travel expenses and
 25 per diem when it is necessary to travel.

26 * **Sec. 32.** AS 39.35.040 is amended to read:

27 **Sec. 39.35.040. Powers and duties of board.** The Public Employees
 28 Retirement Board has the following powers and duties:

29 (1) to hold regular meetings and special meetings considered necessary;
 30 all meetings are open to the public, and the board keeps a full record of all its
 31 proceedings; **the board may, by regulation, define a quorum for the conduct of its**

business, including appeals and disability appeals:

(2) to adopt, with modifications it considers proper, regulations recommended by the administrator for carrying out this chapter;

(3) to consider and adopt resolutions on matters referred to it by the administrator in connection with changes in policy and revisions of this chapter;

(4) to act as an appeals board, hold hearings at the request of an employer, employee, surviving spouse, or a beneficiary on decisions made by the administrator, and submit its findings to the administrator;

(5) to have prepared, at least biennially, an actuarial valuation of the total obligations under the system of each employer and, on the basis of the valuation and in time for incorporation of the results in the state budget, to certify to the appropriate budgetary authorities of each employer:

(A) an appropriate contribution rate for all employers; and

(B) an amount appropriate for each employer to liquidate the employee's past service liability; the board shall have an actuarial and financial experience analysis of the system conducted at appropriate intervals, but no less frequently than once every six years; the actuarial valuations and the actuarial and financial experience analysis shall be prepared and certified by a member of the American Academy of Actuaries;

(6) to prescribe the policies for the proper operation of the system and carry on other activities that are considered necessary to carry out the intent and purpose of the system in accordance with this chapter;

(7) to prescribe the rate of interest that shall be credited to the employee accounts each year;

(8) to waive the requirements of AS 39.35.520 in accordance with AS 39.35.522;

(9) to exercise the duties set out in AS 39.30.155 with respect to the supplemental employee benefit program under AS 39.30.150 - 39.30.180;

(10) to exercise the duties set out in AS 39.45.025 with respect to the deferred compensation program for state employees;

(11) to adopt regulations for the election of trustees to the Alaska State

1 Pension Investment Board and for removal from the investment board of trustees
2 elected from the system;

3 **(12) to adopt a contribution surcharge under AS 39.35.160(c).**

4 * **Sec. 33.** AS 39.35 is amended by adding a new section to read:

5 **Sec. 39.35.077. Hearings.** (a) The board shall adopt regulations establishing
6 procedures for the conduct of hearings and appeals under this chapter.

7 (b) In the conduct of a hearing under this chapter, the board may issue
8 subpoenas, administer oaths, compel the attendance and testimony of witnesses, compel
9 the taking of depositions and the submission of affidavits, and compel the production
10 of documents and records. The board's powers under this subsection do not extend
11 to prehearing discovery. However, upon good cause shown, the board may permit the
12 preservation of witness testimony if the board cannot successfully compel the witness
13 to attend a hearing. The board may authorize hearing officers to conduct hearings
14 under this chapter and issue decisions; the decision of a hearing officer may be
15 appealed to the board. The board shall adopt procedures for appeals from a hearing
16 officer's decision.

17 (c) A majority of a quorum of the board may issue a ruling or modification
18 of a ruling. If the board's vote on an appeal under this chapter is a tie vote of those
19 members present and voting, the decision being appealed is affirmed. The board, by
20 regulation, shall establish procedures for the reconsideration of a ruling issued under
21 this chapter. A request for reconsideration is timely if it is received within 30 days
22 after the initial ruling was issued.

23 (d) An aggrieved party may appeal a final decision to the superior court.

24 * **Sec. 34.** AS 39.35.125(a) is amended to read:

25 (a) An elected official **of the state or of a political subdivision of the state**
26 **if the political subdivision has elected under AS 39.35.550 - 39.35.650 to designate**
27 **elected officials in the classifications of employees entitled to participate in the**
28 **system** is included in the system unless the official files a written waiver of coverage
29 with the administrator. A waiver under this subsection waives coverage of future
30 employment as an elected official, regardless of any change of employer. An elected
31 official may file a waiver under this subsection at any time after election to office,

1 including the period before taking the oath of office. An elected official may revoke
 2 a waiver under this subsection by filing a written revocation with the administrator.
 3 A revocation under this subsection operates prospectively only, and the elected official
 4 may not receive credited service for service as an elected official while the waiver was
 5 in effect. There is no limit on the number of times an elected official may file a
 6 waiver or revocation under this subsection.

7 * **Sec. 35.** AS 39.35.150 is amended to read:

8 **Sec. 39.35.150. Re-employment of retired employees.** If a retired employee
 9 subsequently becomes an active member, benefit payments may not be made during
 10 the period of re-employment. During the period of re-employment, deductions from
 11 the employee's salary shall be made in accordance with AS 39.35.160. Upon
 12 subsequent retirement, the retired employee is entitled to receive an additional pension
 13 based on the credited service and the average monthly compensation earned during the
 14 period of re-employment in accordance with AS 39.35.370. **If the initial benefit**
 15 **payments to which the retired member is eligible have been reduced because the**
 16 **member retired early under AS 39.35.370(b) or increased because the member**
 17 **elected to receive a level income option benefit under former AS 39.35.460, the**
 18 **member shall also receive an incremental benefit based on the amount of the**
 19 **reduction imposed by AS 39.35.370(b) or the increase under former AS 39.35.460**
 20 **on the first benefit and the length of time that the employee was reemployed and**
 21 **not receiving retirement benefits. The amount of the incremental benefit is equal**
 22 **to the difference between the normal retirement benefit to which the member**
 23 **would have been entitled had the member taken a normal retirement and the**
 24 **early retirement benefit or benefit under the level income option that the member**
 25 **has been receiving based on the member's initial period of employment multiplied**
 26 **by the total number of months that the member did not receive retirement**
 27 **benefits because of reemployment and that amount actuarially adjusted to be paid**
 28 **over the expected lifetime of the member. In the case of a member who selected**
 29 **benefits under the level income option, the total number of months may not**
 30 **include any month in which the member was 65 years of age or older.**

31 * **Sec. 36.** AS 39.35.160(c) is amended to read:

1 (c) An employee who has made an [IRREVOCABLE] election under
 2 AS 39.35.300(c) or 39.35.310(c) to have the employee's years of service as a
 3 noncertificated employee of a state boarding school, of a school district or regional
 4 educational attendance area, of the special education service agency, or of the Alaska
 5 Vocational Technical Center determined by reference to AS 14.25.220 shall pay a
 6 contribution surcharge for that service. The amount of the surcharge is the difference
 7 between the amount the employer would have had to contribute under AS 39.35.250 -
 8 39.35.290 for the employee when treating the employee's credited service as service
 9 earned under AS 39.35.300(c) or 39.35.310(c) less the amount the employer would
 10 have had to contribute under AS 39.35.250 - 39.35.290 without treating the employee's
 11 credited service as service earned under AS 39.35.300(c) or 39.35.310(c).

12 * **Sec. 37.** AS 39.35.300(c) is amended to read:

13 (c) A noncertificated employee of the Alaska Vocational Technical Center or
 14 a state boarding school who first becomes a member of the system on or after July 1,
 15 1999, may, within 90 days after the employee first joins the system, make an
 16 [IRREVOCABLE] election under this subsection to have the years of service that the
 17 employee earns as a noncertificated employee determined using the table for service
 18 on or after July 1, 1969, that is set out in the definition of "year of service" in
 19 AS 14.25.220. A noncertificated employee of the Alaska Vocational Technical Center
 20 or a state boarding school who is an active member of the system on July 1, 1999,
 21 may, within 180 days after July 1, 1999, make the [IRREVOCABLE] election. A
 22 member of the system who is an inactive member on July 1, 1999, and who is later
 23 employed as a noncertificated employee of the Alaska Vocational Technical Center or
 24 a state boarding school may, within 90 days after beginning the subsequent
 25 employment, make the [IRREVOCABLE] election. An election under this subsection
 26 **is irrevocable except as provided in (d) of this section and** shall be made in writing
 27 on a form provided by the administrator. The election applies to the employee's
 28 service earned for the school year in which the election is accepted by the
 29 administrator and applies to all subsequent employment as a noncertificated employee
 30 of a state boarding school, a school district or regional educational attendance area, the
 31 special education service agency, or the Alaska Vocational Technical Center. An

1 employee who makes an election under this subsection shall pay the contribution
2 surcharge as set out in AS 39.35.160(c).

3 * **Sec. 38.** AS 39.35.300 is amended by adding new subsections to read:

4 (d) A noncertificated employee who has made an election under (c) of this
5 section and who thereafter changes employment status from working for less than a
6 full year, whether part-time or full time, to working for a full year, whether part-time
7 or full-time, may, between July 1 and September 30, revoke the election and cease
8 payment of the contribution surcharge. A revocation under this subsection is
9 retroactive to July 1 of the school year, as defined in AS 14.25.220, in which the
10 revocation is made.

11 (e) A noncertificated employee who has not made an election under (c) of this
12 section who changes employment status from working for a full year, whether part-
13 time or full-time, to working for less than a full year, whether part-time or full-time,
14 may, between July 1 and September 30, make the election and begin paying the
15 contribution surcharge. The election is retroactive to July 1 of the school year, as
16 defined in AS 14.25.220, in which the election is made.

17 * **Sec. 39.** AS 39.35.310(c) is amended to read:

18 (c) A noncertificated employee of a school district, a regional educational
19 attendance area, or the special education service agency who first becomes a member
20 of the system on or after July 1, 1999, may, within 90 days after the employee first
21 joins the system, make an [IRREVOCABLE] election under this subsection to have
22 the years of service that the employee earns as a noncertificated employee determined
23 using the table for service on or after July 1, 1969, that is set out in the definition of
24 "year of service" in AS 14.25.220. A noncertificated employee of a school district, a
25 regional educational attendance area, or the special education service agency who is
26 an active member of the system on July 1, 1999, may, within 180 days after July 1,
27 1999, make the [IRREVOCABLE] election. A member of the system who is an
28 inactive member on July 1, 1999, and who later is employed as a noncertificated
29 employee of a school district, a regional educational attendance area, or the special
30 education service agency may, within 90 days after beginning the subsequent
31 employment, make the [IRREVOCABLE] election. An election under this subsection

1 **is irrevocable except as provided in (d) of this section and** shall be made in writing
 2 on a form provided by the administrator. The election applies to the employee's
 3 service earned for the school year in which the election is accepted by the
 4 administrator and applies to all subsequent employment as a noncertificated employee
 5 of a state boarding school, a school district or regional educational attendance area, the
 6 special education service agency, or the Alaska Vocational Technical Center. An
 7 employee who makes an election under this subsection shall pay the contribution
 8 surcharge as set out in AS 39.35.160(c).

9 * **Sec. 40.** AS 39.35.310 is amended by adding new subsections to read:

10 (d) A noncertificated employee who has made an election under (c) of this
 11 section and who thereafter changes employment status from working for less than a
 12 full year, whether part-time or full-time, to working for a full year, whether part-time
 13 or full-time, may, between July 1 and September 30, revoke the election and cease
 14 payment of the contribution surcharge. A revocation under this subsection is
 15 retroactive to the beginning of the school year, as defined in AS 14.25.220, in which
 16 the revocation was made.

17 (e) A noncertificated employee who has not made an election under (c) of this
 18 section who changes employment status from working for a full year, whether part-
 19 time or full-time, to working for less than a full year may, between July 1 and
 20 September 30, make the election and begin paying the contribution surcharge. The
 21 election is retroactive to July 1 of the school year, as defined in AS 14.25.220, in
 22 which the election was made.

23 * **Sec. 41.** AS 39.35.400(a) is amended to read:

24 (a) An employee is eligible for a nonoccupational disability benefit if the
 25 employee's employment is terminated because of a total and apparently permanent
 26 nonoccupational disability, as defined in AS 39.35.680, before the employee's normal
 27 retirement date and after five or more years of credited service. **A member is not**
 28 **entitled to a nonoccupational disability benefit under this section unless the**
 29 **member files an application for the benefit with the administrator within 90 days**
 30 **after the member terminated employment. The board may waive a filing deadline**
 31 **if there are extraordinary circumstances that resulted in the inability to meet the**

1 deadline. The board may delegate the authority to waive a filing deadline under
 2 this subsection to the administrator.

3 * **Sec. 42.** AS 39.35.410(f) is amended to read:

4 (f) An employee is not entitled to an occupational disability benefit unless the
 5 employee files an application for it with the administrator [WITHIN SIX MONTHS
 6 AFTER THE DATE OF THE ACCIDENT, IF DISABILITY IS ATTRIBUTABLE TO
 7 AN ACCIDENT, WITHIN SIX MONTHS AFTER THE DATE THE DISABILITY
 8 BEGINS IF THE DISABILITY IS CAUSED BY AN OCCUPATIONAL DISEASE,
 9 OR] within 90 [30] days of the date of terminating employment [, WHICHEVER IS
 10 LATER. IF THE DISABILITY IS ATTRIBUTABLE TO AN ACCIDENT, THE
 11 EMPLOYEE SHALL FILE A NOTICE OF THE ACCIDENT WITH THE
 12 ADMINISTRATOR WITHIN 30 DAYS FOLLOWING THE DATE IT OCCURRED.
 13 THIS 30-DAY FILING PERIOD IS SUSPENDED FOR THE TIME THE
 14 EMPLOYEE'S CONDITION PREVENTS FILING]. If the employee is unable to meet
 15 a filing requirement of this subsection, it may be waived by the Public Employees'
 16 Retirement Board if there are extraordinary circumstances that resulted in the
 17 employee's inability to meet the filing requirement. The board may delegate the
 18 authority to waive a filing deadline under this subsection to the administrator
 19 [FOR CAUSE].

20 * **Sec. 43.** AS 39.35.450(a) is amended to read:

21 (a) Benefits payable under this section are in place of benefits payable under
 22 AS 39.35.370, 39.35.385, and former AS 39.35.460. Upon filing an application with
 23 the administrator or when a disabled employee first attains eligibility for normal
 24 retirement under AS 39.35.400(f) or 39.35.410(h), the employee shall designate the
 25 person who is the employee's spouse at the time of appointment to retirement as the
 26 contingent beneficiary. However, if the designation of the spouse is revoked under (c)
 27 of this section, the employee may designate a dependent approved by the administrator
 28 as the contingent beneficiary or may take normal or early retirement under
 29 AS 39.35.370 or 39.35.385 or, if the employee was first hired before July 1, 1996,
 30 benefit payments under the level income option under former AS 39.35.460. The
 31 administrator shall pay benefits under the option elected by the employee. The

1 employee may elect an option that provides that [(1)] the employee is entitled to
 2 receive a reduced benefit payable for life, and, after the employee's death, the
 3 contingent beneficiary is entitled to payments in the amount of

4 (1) 75 percent of the reduced benefit payable for life; **or**

5 (2) [THE EMPLOYEE IS ENTITLED TO RECEIVE A REDUCED
 6 BENEFIT PAYABLE FOR LIFE, AND, AFTER THE EMPLOYEE'S DEATH, THE
 7 CONTINGENT BENEFICIARY IS ENTITLED TO RECEIVE PAYMENTS IN THE
 8 AMOUNT OF] 50 percent of the reduced benefit payable for life.

9 * **Sec. 44.** AS 39.35.500 is amended to read:

10 **Sec. 39.35.500. Safeguard of employee funds held by the system.** Except
 11 as provided in AS 29.45.030(a)(1) **or in (b) of this section**, employee contributions
 12 and other amounts held in the system are exempt from Alaska state and local taxes.

13 **Except as provided in this subsection and in (b) of this section, amounts**
 14 [AMOUNTS] held on behalf of, or payable to, any employee or other person who is
 15 or may become eligible for benefits under the system are not subject to anticipation,
 16 alienation, sale, transfer, assignment, pledge, encumbrance, or charge of any kind,
 17 either voluntary or involuntary, before being received by the person entitled to the
 18 amount under the terms of the system. An attempt to anticipate, alienate, sell, transfer,
 19 assign, pledge, encumber, charge, or otherwise dispose of a right to amounts held
 20 under the system is void. However, an employee's right to receive benefits **or the**
 21 **member's employee contribution account** may be assigned

22 (1) under a qualified domestic relations order; or

23 (2) to a trust or similar legal device that meets the requirements for a
 24 Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4).

25 * **Sec. 45.** AS 39.35.500 is amended by adding a new subsection to read:

26 (b) An inactive member may elect to have the taxable portion of an inactive
 27 employee contribution account transferred directly to another plan or an individual
 28 retirement arrangement qualified under the federal Internal Revenue Code that accepts
 29 the transfer.

30 * **Sec. 46.** AS 39.35.522(b) is amended to read:

31 (b) In order to obtain consideration of a waiver under this section, the affected

1 member or beneficiary must appeal to the board in writing within 30 days after receipt
 2 of notice that the records have been adjusted. [THE BOARD SHALL RULE ON THE
 3 APPEAL IN WRITING WITHIN 120 DAYS AFTER ITS RECEIPT.]

4 * **Sec. 47.** AS 39.35.522(c) is amended to read:

5 (c) The board may [, AT ITS DISCRETION,] conduct a hearing on an appeal
 6 under this section. [IN REACHING A DECISION ON AN APPEAL, THE BOARD
 7 MAY ISSUE SUBPOENAS, ADMINISTER OATHS, COMPEL THE ATTENDANCE
 8 AND TESTIMONY OF WITNESSES, COMPEL THE TAKING OF DEPOSITIONS
 9 AND THE SUBMISSION OF AFFIDAVITS, AND COMPEL THE PRODUCTION
 10 OF DOCUMENTS AND RECORDS.]

11 * **Sec. 48.** AS 39.35.522(e) is amended to read:

12 (e) The board may reconsider a ruling under this section **under**
 13 **AS 39.35.077(c)** [UPON REQUEST OF THE MEMBER OR BENEFICIARY OR THE
 14 ADMINISTRATOR IF THE REQUEST IS RECEIVED WITHIN 30 DAYS AFTER
 15 THE INITIAL RULING.] Any modification of the initial ruling must be made within
 16 30 days after receipt of a request for reconsideration.

17 * **Sec. 49.** AS 39.35.535(b) is amended to read:

18 (b) Except as provided in (d) of this section, after an election of coverage
 19 under this section, major medical insurance coverage takes effect on the same date that
 20 benefits begin, and stops when the member or survivor is no longer eligible to receive
 21 a monthly benefit. The coverage for persons age 65 or older is the same coverage
 22 available for a person under 65 **years of age**. The benefits payable to persons age 65
 23 or older supplement any benefits provided under the federal old age, survivors and
 24 disability insurance program. **The medical premium and optional insurance**
 25 **premiums owed by a member or survivor shall be deducted from the benefit owed**
 26 **to the member or survivor before payment of the benefit.**

27 * **Sec. 50.** AS 39.35.615(a) is amended to read:

28 (a) A political subdivision or public organization may request that its
 29 participation agreement be amended. The request may be made only after adoption
 30 of a resolution by the legislative body of the political subdivision and approval of the
 31 resolution by the person required by law to approve the resolution, or, in the case of

1 a public organization, after adoption of a resolution by the governing body of that
 2 public organization. A certified copy of the resolution shall be filed with the
 3 administrator. If a political subdivision or public organization amends its participation
 4 agreement so as to terminate coverage of a department, group, or other classification
 5 of employees, each employee whose coverage is so terminated, regardless of the
 6 employee's employment status at the date of termination, shall be considered fully
 7 vested in actuarially adjusted accrued retirement benefits as of the date of termination,
 8 unless

9 (1) the employee's contributions have been refunded; or

10 (2) the political subdivision or public organization amended its
 11 participation agreement to exclude coverage for the affected department, group,
 12 or other classification of employees at the written request of a majority of the
 13 employees employed in that department, group, or other classification at the time
 14 the request was made.

15 * **Sec. 51.** AS 39.35.670 is amended to read:

16 **Sec. 39.35.670. Fraud.** A person who knowingly makes a false statement, or
 17 falsifies or permits to be falsified a record of this system, in an attempt to defraud the
 18 system [,] is guilty of a **class A** misdemeanor [, AND UPON CONVICTION IS
 19 PUNISHABLE BY A FINE OF NOT MORE THAN \$500, OR BY IMPRISONMENT
 20 FOR NOT MORE THAN TWELVE MONTHS, OR BY BOTH].

21 * **Sec. 52.** AS 39.35.680(4) is amended to read:

22 (4) "average monthly compensation" means the result obtained by
 23 dividing the compensation earned by an employee during a considered period by the
 24 number of months, including fractional months, for which compensation was earned;
 25 **an employee must have at least 115 days of credited service in the last payroll**
 26 **year in order for that year to be used as part of the consecutive payroll years;** the
 27 considered period consists of

28 (A) for employees first hired before July 1, 1996, the three
 29 consecutive payroll years during the period of credited service that **yield**
 30 **[YIELDS]** the highest average; [,] and

31 (B) for employees first hired on or after July 1, 1996, the five

1 consecutive payroll years during the period of credited service that yield the
2 highest average;

3 (C) [, OR] if the employee does not have the [REQUIRED]
4 number of consecutive payroll years required by (A) or (B) of this
5 paragraph, the actual number of months, including fractional months, that
6 the employee worked [EMPLOYEE'S PERIOD OF CREDITED SERVICE];

7 (D) for an employee who has made an election under
8 AS 39.35.300(c) or 39.35.310(c), the actual number of months, including
9 fractional months, that the employee worked [AN EMPLOYEE MUST
10 HAVE AT LEAST 115 DAYS OF CREDITED SERVICE IN THE LAST
11 PAYROLL YEAR IN ORDER FOR THAT YEAR TO BE USED AS PART
12 OF THE CONSECUTIVE PAYROLL YEARS];

13 * **Sec. 53.** AS 39.35.680(8) is amended to read:

14 (8) "compensation" means the [TOTAL] remuneration earned by an
15 employee for personal services rendered to an employer, including employee
16 contributions under AS 39.35.160, cost-of-living differentials only as provided in
17 AS 39.35.675, payments for leave that is actually used by the employee, the amount
18 by which the employee's wages are reduced under AS 39.30.150(c), and any amount
19 deferred under an employer-sponsored deferred compensation plan, but does not
20 include retirement benefits, severance pay or other separation bonuses, welfare
21 benefits, per diem, expense allowances, workers' compensation payments, or payments
22 for leave not used by the employee whether those leave payments are scheduled
23 payments, lump-sum payments, donations, or cash-ins; **for a member first hired on**
24 **or after July 1, 1996, compensation does not include remuneration in excess of the**
25 **limitations set out in 26 U.S.C. 401(a)(17) (Internal Revenue Code);**

26 * **Sec. 54.** AS 39.35.680(29) is amended to read:

27 (29) "pension fund" or "fund" means the fund in which the assets of
28 the system, **including income and interest derived from the investment of money,**
29 are deposited and held;

30 * **Sec. 55.** AS 39.35.680(34) is amended to read:

31 (34) "qualified domestic relations order" means a divorce or dissolution

1 judgment under AS 25.24, including an order approving a property settlement, that

2 (A) creates or recognizes the existence of an alternate payee's
3 right to, or assigns to an alternate payee the right to, receive all or a portion of
4 employee contribution account or the benefits payable with respect to an
5 employee;

6 (B) sets out the name and last known mailing address, if any,
7 of the employee and of each alternate payee covered by the order;

8 (C) sets out the amount or percentage of the employee's benefit,
9 or of any survivor's benefit, to be paid to the alternate payee, or sets out the
10 manner in which that amount or percentage is to be determined;

11 (D) sets out the number of payments or period to which the
12 order applies;

13 (E) does not require any type or form of benefit or any option
14 not otherwise provided by this chapter;

15 (F) does not require an increase of benefits in excess of the
16 amount provided by this chapter, determined on the basis of actuarial value;
17 and

18 (G) does not require the payment to an alternate payee of
19 benefits that are required to be paid to another alternate payee under another
20 order previously determined to be a qualified domestic relations order; [.]

21 * **Sec. 56.** AS 39.50.200(a)(8) is amended to read:

22 (8) "public official" means

23 (A) a judicial officer;

24 (B) the governor or the lieutenant governor;

25 (C) a person hired or appointed in a department in the executive
26 branch as

27 (i) the head or deputy head of the department;

28 (ii) the director or deputy director of a division;

29 (iii) a special assistant to the head of the department;

30 (iv) a person serving as the legislative liaison for the

31 department;

1 (D) an assistant to the governor or the lieutenant governor;

2 (E) the chair or a member of a state commission or board **other**
 3 **than physician members or alternates of the Alaska Teachers' Retirement**
 4 **Board appointed under AS 14.25.035(a)(2) or of the Public Employees'**
 5 **Retirement Board appointed under AS 39.35.030(d);**

6 (F) state investment officers and the state comptroller in the
 7 Department of Revenue;

8 (G) the executive director of the Alaska Tourism Marketing
 9 Council;

10 (H) the chief procurement officer appointed under
 11 AS 36.30.010;

12 (I) the executive director of the Alaska Human Resource
 13 Investment Council; and

14 (J) each appointed or elected municipal officer;

15 * **Sec. 57.** AS 14.25.175(f), 14.25.175(g); AS 39.35.522(f), and 39.35.522(g) are repealed.

16 * **Sec. 58.** The uncodified law of the State of Alaska is amended by adding a new section
 17 to read:

18 **ELECTED PUBLIC OFFICERS RETIREMENT SYSTEM QUALIFIED DOMESTIC**
 19 **RELATIONS ORDER PROVISIONS.** (a) Notwithstanding former AS 39.37.060, a former
 20 spouse who was married for at least one year to an elected public officer who is a member
 21 of the retirement system under former AS 39.37 shall be treated as a spouse or surviving
 22 spouse to the extent required by a qualified domestic relations order. Rights under the order
 23 do not take effect until the order is filed with the administrator.

24 (b) Notwithstanding former AS 39.37.130, an elected public officer who is a member
 25 of the retirement system under former AS 39.37 and whose rights to a refund are subject to
 26 a qualified domestic relations order is entitled to receive a refund of the total amount of
 27 contributions together with interest credited on the amount only if the elected public officer's
 28 present spouse, if any, and each person entitled under the order consent to the refund in
 29 writing on a form provided by the administrator. The administrator may waive written
 30 consent from the person entitled to benefits under the order if the administrator determines that
 31 the person cannot be located or for other reasons established by regulation. The administrator

1 may waive written consent from the spouse if the administrator determines that

2 (1) the elected public officer was not married to the spouse during any period
3 of the public officer's membership in the system;

4 (2) the spouse has no right to benefits under former AS 39.37 because of the
5 terms of a qualified domestic relations order;

6 (3) the spouse cannot be located;

7 (4) the elected public officer and spouse have been married for less than two
8 years and the elected public officer establishes that they are not cohabiting; or

9 (5) another reason established by regulation exists.

10 (c) Except as provided in this subsection, amounts held in the retirement system under
11 former AS 39.37 on behalf of an elected public officer or other person who is or may become
12 eligible for benefits under the system are exempt from Alaska state and municipal taxes and
13 are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or
14 charge of any kind, either voluntary or involuntary, before they are received by the person
15 entitled to the amount under the terms of the system, and any attempt to anticipate, alienate,
16 sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any right to amounts
17 accrued in the system is void. Amounts held in the system and benefits payable under former
18 AS 39.37 are exempt from garnishment, execution, or levy as provided in AS 09.38 (Alaska
19 Exemptions Act). However,

20 (1) the right of an elected public officer who is a member of the retirement
21 system under former AS 39.37 to receive benefits or the contributions and interest may be
22 assigned

23 (A) under a qualified domestic relations order; or

24 (B) to a trust or similar legal device that meets the requirements for a
25 Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4) (Title
26 XIX, Social Security Act);

27 (2) an elected public officer who is a member of the retirement system under
28 former AS 39.37 may elect to have the taxable portion of the qualifying distributions
29 transferred directly to another qualified plan or an individual retirement account that accepts
30 the transfer.

31 (d) Notwithstanding former AS 39.37.145, receipt under a qualified domestic relations

1 order of a monthly benefit under former AS 39.37 (elected public officer retirement system)
2 does not entitle a person or the person's spouse or child to insurance coverage. However, an
3 elected public officer's former spouse who receives a monthly benefit from the former elected
4 public officer retirement system under a qualified domestic relations order is entitled to
5 receive major medical insurance coverage if the former spouse

6 (1) elects the coverage within 60 days after the first monthly benefit paid under
7 the order is mailed first class or otherwise delivered; and

8 (2) pays the premium established by the administrator for the coverage.

9 (e) In this section, "qualified domestic relations order" has the same meaning given
10 in AS 39.35.680.

11 * **Sec. 59.** The uncodified law of the State of Alaska is amended by adding a new section
12 to read:

13 INITIAL APPOINTMENT OF PUBLIC MEMBERS OF THE PUBLIC EMPLOYEES'
14 RETIREMENT BOARD. Notwithstanding AS 39.35.030(b), as repealed and reenacted by
15 sec. 28 of this Act, persons serving on the Public Employees' Retirement Board under
16 AS 39.35.030(b) on the day before the effective date of this Act shall continue to serve on the
17 board until the expiration of their current terms on the board. When a vacancy on the board
18 occurs, it shall be filled as provided in AS 39.35.030(b), as repealed and reenacted by sec. 28
19 of this Act.