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Chapter No.

68

AN ACT

Relating to information contained in retirement system records; relating to retirement boards; relating to procedures and hearings under state retirement systems; relating to benefits for reemployed retired members of retirement systems; relating to eligibility for normal retirement for members of the teachers' retirement system who have Alaska BIA credited service; relating to disability benefits for members of state retirement systems; relating to deduction of premiums from retirement benefits; relating to protection of, and assignment and transfer of, amounts held in retirement systems; relating to retirement benefits for certain employees earning high salaries; relating to qualified domestic relations orders in state retirement systems; relating to the definition of "retirement fund" in the teachers' retirement system; relating to membership of state employees in the teachers' retirement system; relating to refund of contributions made to the judicial retirement system and repayment of refunded contributions in that system; relating to self-insurance and excess loss insurance for persons receiving benefits from a state retirement system; relating to participation of elected officials in the public employees' retirement system; relating to the level income option benefit under the public employees' retirement system; relating to participation of employees of political subdivisions and public organizations in the public employees' retirement system; relating to crimes for defrauding a state retirement system; relating to the definition of "pension fund" in the public employees' retirement system; and relating to calculation of years of service and of benefits under the public employees' retirement system for noncertificated employees of certain educational employers.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: May 22, 2000

Actual Effective Date: August 20, 2000

AN ACT

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

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

12

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

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

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

- 23 (1) the person or the person's guardian;
- 24 (2) the person's employer or former employer;
- 25 (3) a state agency authorized to obtain confidential information;
- 26 (4) another person if the person has
- 27 (A) written authorization for release from the affected member

1 or former member or the member's or former member's guardian; or

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

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

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

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

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

9 (4) the personal representative of the member's or former member's
10 estate;

11 (5) another person if the person has

12 (A) written authorization for release from the member or former
13 member, the member's named beneficiary, or the personal representative of the
14 member's or former member's estate; or

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

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

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

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

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

28 (1) the governor shall appoint five members for overlapping three-year
29 terms; one member must be a resident who is receiving retirement benefits under this
30 chapter; statewide teacher organizations may submit to the governor a list of
31 recommended nominees to serve on the board;

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

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

25 (b) Members of the board appointed under (a)(1) of this section are entitled
26 to receive [DO NOT RECEIVE COMPENSATION] for their services on the
27 retirement board an honorarium equal to the honorarium provided to trustees of
28 the Alaska State Pension Investment Board under AS 37.10.250. Physician
29 members of the board are entitled to hourly compensation for their services at a rate
30 to be determined by the commissioner of administration. The rate of compensation
31 shall be consistent with the physicians' normal hourly earnings. All members of the

1 board are entitled to travel expenses and per diem authorized for boards and
2 commissions under AS 39.20.180 [WHEN IT IS NECESSARY TO TRAVEL].

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

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

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

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

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

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

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

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

29 **Sec. 14.25.043. Reemployment of retired members.** If a retired member
30 again becomes an active member, benefit payments may not be made during the period
31 of reemployment. The retirement benefit must be suspended for the entire school year

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

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

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

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

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

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

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

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

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

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

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

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

7 or

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

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

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

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

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

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

24 (b) After an election of coverage under this section, major medical insurance
25 coverage takes effect on the same date as retirement benefits begin and stops when the
26 member or survivor is no longer eligible to receive a monthly benefit. The coverage
27 for persons age 65 or older is the same as that available for persons under age 65.
28 The benefits payable to those persons age 65 or older supplement any benefits
29 provided under the federal old age, survivors and disability insurance program. The
30 medical premium and optional insurance premiums owed by a member or
31 survivor shall be deducted from the benefit owed to the member or survivor

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1 **before payment of the benefit.**

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

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

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

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

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

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

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

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

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

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

31 (c) An inactive member may elect to have the taxable portion of the member

1 contribution account transferred directly to another plan or an individual retirement
2 arrangement that is qualified under the federal Internal Revenue Code and that accepts
3 the transfer.

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

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

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

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

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

15 (6) "base salary"

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (B) [THE COMMISSIONER OF EDUCATION AND EARLY
26 DEVELOPMENT AND ALL SUPERVISORY POSITIONS IN THE
27 DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT;

28 (C)] a full-time or part-time teacher of the University of Alaska
29 or a person occupying a full-time administrative position at the University of
30 Alaska that requires academic standing; the approval of the administrator must
31 be obtained before an administrative position qualifies for membership in the

1 system; however, a teacher or administrative person at the university who is
 2 participating in the optional university retirement program under AS 14.40.661
 3 - 14.40.799 is not a member under this system;

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

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

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

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

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

27 (b) A justice or judge whose contributions have been involuntarily refunded
 28 because of a levy **under AS 09.38.065 or because of a federal tax levy** may repay
 29 the amount levied together with accrued interest whether or not the justice or judge is
 30 on active service. Repayments shall be made under (a) of this section.

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

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

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

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

14 (3) the spouse cannot be located;

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

17 (5) another reason established by regulation exists.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (5) does not require any type or form of benefit or any option not
29 otherwise provided by this chapter;

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

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

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

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

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

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

16 (B) to a trust or similar legal device that meets the requirements
17 for a Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C.
18 1396p(d)(4);

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

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

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

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

27 Notwithstanding AS 21.86.310 or AS 39.30.090, the Department of Administration
28 may provide, by means of self-insurance, one or more of the benefits listed in
29 AS 39.30.090(a)(1) for state employees eligible for the benefits by law or under a
30 collective bargaining agreement and for persons receiving benefits under AS 14.25,
31 AS 22.25, AS 39.35, or former AS 39.37, and their dependents. The department

1 shall procure any necessary excess loss insurance under AS 39.30.090.

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

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

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

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

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

20 (d) The governor shall appoint two physicians authorized to practice medicine
21 in the state to serve as members of the board and two physicians authorized to
22 practice medicine in the state to serve as alternate members to the physician
23 members of the board. The physicians are members of the board only for the
24 purpose of hearing appeals to determine medical eligibility for disability benefits under
25 AS 39.35.400 and 39.35.410. If the administrator, after making a reasonable effort
26 to secure the participation of two physician members or alternates to serve on a
27 disability appeal, is unable to do so, the board may hear the appeal with the
28 participation of only one physician member or alternate, in which case, for
29 purposes of a quorum, the board shall be considered to have only one physician
30 as a member [THE GOVERNOR SHALL APPOINT TWO PHYSICIANS EACH
31 FROM AT LEAST TWO OF THE STATE'S FOUR JUDICIAL DISTRICTS]. The

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1 Public Employees' Retirement Board and the Teachers' Retirement Board may submit
2 to the governor a list of recommended physicians to serve on the board. [THE TWO
3 PHYSICIAN MEMBERS FROM THE JUDICIAL DISTRICT IN WHICH A
4 DISABILITY APPEAL HEARING IS CONDUCTED SHALL SERVE ON THE
5 BOARD DURING THE HEARING. IF ONE OR MORE OF THE PHYSICIANS IN
6 THE JUDICIAL DISTRICT IN WHICH A DISABILITY HEARING IS
7 CONDUCTED IS UNABLE TO SERVE AT THE HEARING, OR IF THERE IS NO
8 PHYSICIAN MEMBER FROM THAT JUDICIAL DISTRICT, OTHER PHYSICIAN
9 MEMBERS SHALL SERVE AT THE HEARING, SELECTED FOR SUCH
10 HEARINGS ON A ROTATING BASIS, IN ACCORDANCE WITH REGULATIONS
11 ADOPTED BY THE BOARD.] Physician members serve at the pleasure of the
12 governor.

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

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

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

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

26 (1) to hold regular meetings and special meetings considered necessary;
27 all meetings are open to the public, and the board keeps a full record of all its
28 proceedings; the board may, by regulation, define a quorum for the conduct of its
29 business, including appeals and disability appeals;

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

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

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

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

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

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

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

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

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

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

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

28 (11) to adopt regulations for the election of trustees to the Alaska State
29 Pension Investment Board and for removal from the investment board of trustees
30 elected from the system;

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

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

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

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

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

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

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

22 (a) An elected official of the state or of a political subdivision of the state
23 if the political subdivision has elected under AS 39.35.550 - 39.35.650 to designate
24 elected officials in the classifications of employees entitled to participate in the
25 system is included in the system unless the official files a written waiver of coverage
26 with the administrator. A waiver under this subsection waives coverage of future
27 employment as an elected official, regardless of any change of employer. An elected
28 official may file a waiver under this subsection at any time after election to office,
29 including the period before taking the oath of office. An elected official may revoke
30 a waiver under this subsection by filing a written revocation with the administrator.
31 A revocation under this subsection operates prospectively only, and the elected official

1 may not receive credited service for service as an elected official while the waiver was
2 in effect. There is no limit on the number of times an elected official may file a
3 waiver or revocation under this subsection.

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

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

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

29 (c) An employee who has made an [IRREVOCABLE] election under
30 AS 39.35.300(c) or 39.35.310(c) to have the employee's years of service as a
31 noncertificated employee of a state boarding school, of a school district or regional

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1 educational attendance area, of the special education service agency, or of the Alaska
2 Vocational Technical Center determined by reference to AS 14.25.220 shall pay a
3 contribution surcharge for that service. The amount of the surcharge is the difference
4 between the amount the employer would have had to contribute under AS 39.35.250 -
5 39.35.290 for the employee when treating the employee's credited service as service
6 earned under AS 39.35.300(c) or 39.35.310(c) less the amount the employer would
7 have had to contribute under AS 39.35.250 - 39.35.290 without treating the employee's
8 credited service as service earned under AS 39.35.300(c) or 39.35.310(c).

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

10 (c) A noncertificated employee of the Alaska Vocational Technical Center or
11 a state boarding school who first becomes a member of the system on or after July 1,
12 1999, may, within 90 days after the employee first joins the system, make an
13 [IRREVOCABLE] election under this subsection to have the years of service that the
14 employee earns as a noncertificated employee determined using the table for service
15 on or after July 1, 1969, that is set out in the definition of "year of service" in
16 AS 14.25.220. A noncertificated employee of the Alaska Vocational Technical Center
17 or a state boarding school who is an active member of the system on July 1, 1999,
18 may, within 180 days after July 1, 1999, make the [IRREVOCABLE] election. A
19 member of the system who is an inactive member on July 1, 1999, and who is later
20 employed as a noncertificated employee of the Alaska Vocational Technical Center or
21 a state boarding school may, within 90 days after beginning the subsequent
22 employment, make the [IRREVOCABLE] election. An election under this subsection
23 is irrevocable except as provided in (d) of this section and shall be made in writing
24 on a form provided by the administrator. The election applies to the employee's
25 service earned for the school year in which the election is accepted by the
26 administrator and applies to all subsequent employment as a noncertificated employee
27 of a state boarding school, a school district or regional educational attendance area, the
28 special education service agency, or the Alaska Vocational Technical Center. An
29 employee who makes an election under this subsection shall pay the contribution
30 surcharge as set out in AS 39.35.160(c).

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

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

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

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

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

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1 administrator and applies to all subsequent employment as a noncertificated employee
2 of a state boarding school, a school district or regional educational attendance area, the
3 special education service agency, or the Alaska Vocational Technical Center. An
4 employee who makes an election under this subsection shall pay the contribution
5 surcharge as set out in AS 39.35.160(c).

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

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

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

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

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

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

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

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

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

- 1 (1) 75 percent of the reduced benefit payable for life; or
2 (2) [THE EMPLOYEE IS ENTITLED TO RECEIVE A REDUCED
3 BENEFIT PAYABLE FOR LIFE, AND, AFTER THE EMPLOYEE'S DEATH, THE
4 CONTINGENT BENEFICIARY IS ENTITLED TO RECEIVE PAYMENTS IN THE
5 AMOUNT OF] 50 percent of the reduced benefit payable for life.

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

7 **Sec. 39.35.500. Safeguard of employee funds held by the system.** Except
8 as provided in AS 29.45.030(a)(1) or in (b) of this section, employee contributions
9 and other amounts held in the system are exempt from Alaska state and local taxes.
10 Except as provided in this subsection and in (b) of this section, amounts
11 [AMOUNTS] held on behalf of, or payable to, any employee or other person who is
12 or may become eligible for benefits under the system are not subject to anticipation,
13 alienation, sale, transfer, assignment, pledge, encumbrance, or charge of any kind,
14 either voluntary or involuntary, before being received by the person entitled to the
15 amount under the terms of the system. An attempt to anticipate, alienate, sell, transfer,
16 assign, pledge, encumber, charge, or otherwise dispose of a right to amounts held
17 under the system is void. However, an employee's right to receive benefits or the
18 member's employee contribution account may be assigned

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

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

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

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

28 (b) In order to obtain consideration of a waiver under this section, the affected
29 member or beneficiary must appeal to the board in writing within 30 days after receipt
30 of notice that the records have been adjusted. [THE BOARD SHALL RULE ON THE
31 APPEAL IN WRITING WITHIN 120 DAYS AFTER ITS RECEIPT.]

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

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

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

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

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

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

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

25 (a) A political subdivision or public organization may request that its
26 participation agreement be amended. The request may be made only after adoption
27 of a resolution by the legislative body of the political subdivision and approval of the
28 resolution by the person required by law to approve the resolution, or, in the case of
29 a public organization, after adoption of a resolution by the governing body of that
30 public organization. A certified copy of the resolution shall be filed with the
31 administrator. If a political subdivision or public organization amends its participation

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1 agreement so as to terminate coverage of a department, group, or other classification
2 of employees, each employee whose coverage is so terminated, regardless of the
3 employee's employment status at the date of termination, shall be considered fully
4 vested in actuarially adjusted accrued retirement benefits as of the date of termination,
5 unless

6 (1) the employee's contributions have been refunded; or
7 (2) the political subdivision or public organization amended its
8 participation agreement to exclude coverage for the affected department, group,
9 or other classification of employees at the written request of a majority of the
10 employees employed in that department, group, or other classification at the time
11 the request was made.

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

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

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

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

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

28 (B) for employees first hired on or after July 1, 1996, the five
29 consecutive payroll years during the period of credited service that yield the
30 highest average;

31 (C) [, OR] if the employee does not have the [REQUIRED]

1 number of consecutive payroll years required by (A) or (B) of this
2 paragraph, the actual number of months, including fractional months, that
3 the employee worked [EMPLOYEE'S PERIOD OF CREDITED SERVICE];

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

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

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

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

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

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

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

30 (A) creates or recognizes the existence of an alternate payee's
31 right to, or assigns to an alternate payee the right to, receive all or a portion of

1 employee contribution account or the benefits payable with respect to an
2 employee;

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

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

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

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

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

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

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

19 (8) "public official" means

20 (A) a judicial officer;

21 (B) the governor or the lieutenant governor;

22 (C) a person hired or appointed in a department in the executive
23 branch as

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

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

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

27 (iv) a person serving as the legislative liaison for the
28 department;

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

30 (E) the chair or a member of a state commission or board other
31 than physician members or alternates of the Alaska Teachers' Retirement

1 Board appointed under AS 14.25.035(a)(2) or of the Public Employees'

2 Retirement Board appointed under AS 39.35.030(d);

3 (F) state investment officers and the state comptroller in the
4 Department of Revenue;

5 (G) the executive director of the Alaska Tourism Marketing
6 Council;

7 (H) the chief procurement officer appointed under
8 AS 36.30.010;

9 (I) the executive director of the Alaska Human Resource
10 Investment Council; and

11 (J) each appointed or elected municipal officer;

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

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

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

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

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

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

3 (3) the spouse cannot be located;

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

6 (5) another reason established by regulation exists.

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

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

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

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

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

28 (d) Notwithstanding former AS 39.37.145, receipt under a qualified domestic relations
29 order of a monthly benefit under former AS 39.37 (elected public officer retirement system)
30 does not entitle a person or the person's spouse or child to insurance coverage. However, an
31 elected public officer's former spouse who receives a monthly benefit from the former elected

1 public officer retirement system under a qualified domestic relations order is entitled to
2 receive major medical insurance coverage if the former spouse

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

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

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

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

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