

HOUSE BILL NO. 254

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE JAMES BY REQUEST

Introduced: 4/24/01

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the teachers' retirement system, the judicial retirement system, and**
2 **the public employees' retirement system and to the tax qualification under the Internal**
3 **Revenue Code of those systems; amending the definition of 'actuarial adjustment' in the**
4 **teachers' retirement system and the public employees' retirement system; repealing**
5 **certain provisions of the teachers' retirement system and the public employees'**
6 **retirement system; and providing for an effective date."**

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

8 * **Section 1.** AS 14.25.010 is amended by adding a new subsection to read:

9 (b) The retirement system established by this chapter is intended to qualify
10 under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified retirement
11 plan established and maintained by the state for its employees, for the employees of
12 school districts and regional educational attendance areas in the state, and for the
13 employees of other employers whose participation is authorized by this chapter and

1 who participate in this system.

2 * **Sec. 2.** AS 14.25.030 is amended to read:

3 **Sec. 14.25.030. Duties of the administrator.** The administrator shall

4 (1) establish and maintain an adequate system of accounts for the
5 system;

6 (2) approve or disapprove claims for retirement benefits;

7 (3) serve as secretary of the Alaska Teachers' Retirement Board and
8 keep an official record of all proceedings;

9 (4) publish annually a report showing the financial condition of the
10 system; [AND]

11 (5) publish an information handbook for the system at intervals as
12 the administrator considers appropriate; and

13 (6) do whatever else may be necessary to carry out the purposes of this
14 chapter.

15 * **Sec. 3.** AS 14.25.050(a) is amended to read:

16 (a) Except as provided in (c) of this section, beginning January 1, 1991, each
17 teacher shall contribute to the system an amount equal to 8.65 percent of the teacher's
18 base salary accrued from July 1 to the following June 30. The employer shall deduct
19 the contribution from the teacher's salary at the end of each payroll period. The
20 contributions shall be deducted from employee compensation before the computation
21 of applicable federal taxes and shall be treated as employer contributions under 26
22 U.S.C. 414(h)(2); this provision is subject to a ruling by the Internal Revenue
23 Service that these contributions will be treated as employer contributions under
24 26 U.S.C. 414(h), and that these picked-up contributions will not be treated as
25 annual additions for purposes of 26 U.S.C. 415(a) and, therefore, will not be
26 subject to the provisions of AS 14.25.110(k). A member may not have the option
27 of receiving the payroll deduction directly instead of having the contribution
28 picked up by the employer.

29 * **Sec. 4.** AS 14.25.070 is amended to read:

30 **Sec. 14.25.070. Contributions by employer.** An employer shall contribute to
31 the system an amount equal to the percentage, as certified by the administrator, of the

1 sum total of the base salaries of all teachers that is required in addition to teacher
 2 contributions to provide the benefits of this chapter times the sum total of the base
 3 salaries paid to teachers, **including any adjustments to contributions required by**
 4 **AS 14.25.173(a)**, by the employer.

5 * **Sec. 5.** AS 14.25.110 is amended by adding new subsections to read:

6 (k) Notwithstanding any other provisions of this chapter, the projected annual
 7 benefit provided by this chapter and the benefit from all other defined benefit plans
 8 required to be aggregated with the benefits from this system under the provisions of 26
 9 U.S.C. 415 may not increase to an amount in excess of the amount permitted under 26
 10 U.S.C. 415 at any time. In the event that any projected annual benefit of a member
 11 exceeds the limitation of 26 U.S.C. 415 for a limitation year, the system shall take any
 12 necessary remedial action to correct an excess accrued benefit. The provisions of 26
 13 U.S.C. 415, and the regulations adopted under that statute, as applied to qualified
 14 defined benefit plans of governmental employers are incorporated as part of the terms
 15 and conditions of the system. This subsection applies to any member of this system.

16 (l) Notwithstanding (d) of this section, for the system fiscal years beginning
 17 on or after January 1, 1996, the base salary of a member who joined the system after
 18 the first day of the first system fiscal year beginning after December 31, 1995, that is
 19 used to calculate the member's average base salary may not exceed \$150,000, as
 20 adjusted for the cost of living in accordance with 26 U.S.C. 401(a)(17)(B).

21 (m) Notwithstanding the definition of "base salary" in AS 14.25.220, in (l) of
 22 this section, for system fiscal years beginning on or after January 1, 1998, and for
 23 purposes of 26 U.S.C. 415(b)(3) and the regulations adopted under that statute,

24 (1) "base salary"

25 (A) includes any amount that is contributed by the employer
 26 under a salary reduction agreement and that is not includable in the member's
 27 gross income under 26 U.S.C. 125, 132(f)(4), 402(e)(3), 402(h), or 403(b); and

28 (B) is limited to compensation that is actually paid to a member
 29 during the determination period;

30 (2) "determination period" means the system fiscal year.

31 * **Sec. 6.** AS 14.25 is amended by adding a new section to read:

1 **Sec. 14.25.163. Rollover distributions and rollover contributions.** (a) A
 2 distributee may elect, at the time and in the manner prescribed by the administrator, to
 3 have all or part of an eligible rollover distribution paid directly to an eligible
 4 retirement plan specified by the distributee in the direct rollover.

5 (b) The system does not accept contributions of eligible rollover distributions.

6 (c) In this section,

7 (1) "direct rollover" means the payment of an eligible rollover
 8 distribution by the system to an eligible retirement plan specified by a distributee who
 9 is eligible to elect a direct rollover;

10 (2) "distributee" means a member or a beneficiary who is the surviving
 11 spouse of the member;

12 (3) "eligible retirement plan" means an individual retirement account,
 13 described in 26 U.S.C. 408(a); an individual retirement annuity, defined in 26 U.S.C.
 14 408(b); an annuity plan, described in 26 U.S.C. 403(a); or a qualified trust, described
 15 in 26 U.S.C. 401(a), that accepts the eligible rollover distribution; however, in the case
 16 of an eligible rollover distribution to a beneficiary who is the surviving spouse of a
 17 member, "eligible retirement plan" means only an individual retirement account or an
 18 individual retirement annuity described or defined in 26 U.S.C. 408;

19 (4) "eligible rollover distribution" means a distribution of all or part of
 20 a total account to a distributee, except for

21 (A) a distribution that is one of a series of substantially equal
 22 installments payable not less frequently than annually over the life expectancy
 23 of the distributee or the joint and last survivor life expectancy of the distributee
 24 and the distributee's designated beneficiary, as defined in 26 U.S.C. 401(a)(9);

25 (B) a distribution that is one of a series of substantially equal
 26 installments payable not less frequently than annually over a specified period
 27 of 10 years or more;

28 (C) a distribution that is required under 26 U.S.C. 401(a)(9);

29 (D) the portion of any distribution that is not includable in
 30 gross income; and

31 (E) other distributions that are reasonably expected to total less

1 than \$200 during a year.

2 * **Sec. 7.** AS 14.25 is amended by adding a new section to read:

3 **Sec. 14.25.165. Distribution requirements.** (a) The entire interest of a
4 member must be distributed or must begin to be distributed not later than the member's
5 required beginning date.

6 (b) If a member dies after the distribution of the member's interest has begun
7 but before the distribution has been completed, the remaining portion of the interest
8 shall continue to be distributed at least as rapidly as under the method of distribution
9 being used before the member's death.

10 (c) If a member has made a distribution election and dies before the
11 distribution of the member's interest begins, distribution of the member's entire interest
12 shall be completed by December 31 of the calendar year containing the fifth
13 anniversary of the member's death. However, if any portion of the member's interest
14 is payable to a designated beneficiary, distributions may be made over the life of the
15 designated beneficiary or over a period certain not greater than the life expectancy of
16 the designated beneficiary, commencing on or before December 31 of the calendar
17 year immediately following the calendar year in which the member died, and, if the
18 designated beneficiary is the member's surviving spouse, the date distributions are
19 required to begin may not be earlier than the later of December 31 of the calendar year
20 (1) immediately following the calendar year in which the member died, or (2) in which
21 the member would have attained 70 1/2 years of age, whichever is earlier. If the
22 surviving spouse dies after the member but before payments to the spouse have begun,
23 the provisions of this subsection apply as if the surviving spouse were the member.
24 An amount paid to a child of the member will be treated as if it were paid to the
25 surviving spouse if the amount becomes payable to the surviving spouse when the
26 child reaches the age of majority.

27 (d) If a member has not made a distribution election before the member's
28 death, the member's designated beneficiary must elect the method of distribution not
29 later than December 31 of the calendar year (1) in which distributions would be
30 required to begin under this section, or (2) that contains the fifth anniversary of the
31 date of death of the member, whichever is earlier. If the member does not have a

1 designated beneficiary or if the designated beneficiary does not elect a method of
 2 distribution, distribution of the member's entire interest must be completed by
 3 December 31 of the calendar year containing the fifth anniversary of the member's
 4 death.

5 (e) For purposes of (c) of this section, distribution of a member's interest is
 6 considered to begin (1) on the member's required beginning date, or (2) if the
 7 designated beneficiary is the member's surviving spouse and the surviving spouse dies
 8 after the member but before payments to the spouse have begun, on the date
 9 distribution is required to begin to the surviving spouse. If distribution in the form of
 10 an annuity irrevocably commences to the member before the required beginning date,
 11 the date distribution is considered to begin is the date that the distribution actually
 12 commences.

13 (f) Notwithstanding any contrary provisions of this chapter, the requirements
 14 of this section apply to all distributions of a member's interest and take precedence
 15 over any inconsistent provisions of this chapter. Unless otherwise specified, the
 16 provisions of this section apply to calendar years beginning after December 31, 1984.

17 (g) All distributions required under this section are determined and made in
 18 accordance with 26 U.S.C. 401(a)(9) and regulations adopted under that statute,
 19 including any minimum distribution incidental benefit requirement.

20 (h) In this section,

21 (1) "designated beneficiary" means the individual who is designated as
 22 the beneficiary under the system in accordance with 26 U.S.C. 401(a)(9) and
 23 regulations adopted under that statute;

24 (2) "required beginning date" means the first day of April of the
 25 calendar year following the calendar year in which the member either attains 70 1/2
 26 years of age or actually retires, whichever is later.

27 * **Sec. 8.** AS 14.25.173(a) is amended to read:

28 (a) **When** [IF] a change or error is made in the records maintained by the
 29 system **or in the contributions made on behalf of an employee** or an error is made
 30 in computing a benefit, and, as a result, a teacher or member or beneficiary **is entitled**
 31 **to receive** [RECEIVES] from the system more or less than the teacher or member or

1 beneficiary would have been entitled to receive had the records **or contributions** been
 2 correct or had the error not been made, (1) the records, **contributions**, or error shall be
 3 corrected, and (2) [,] as far as practicable, future payments **or benefit entitlement**
 4 shall be adjusted so that the actuarial equivalent of the pension or benefit to which the
 5 teacher or member or beneficiary was correctly entitled will be paid. **An adjustment**
 6 **to contributions shall be picked up by the employer in accordance with**
 7 **AS 14.25.050 or treated as an adjustment to the employer's contributions in**
 8 **accordance with this section, depending upon the nature of the adjustment.** If no
 9 future benefit payments are due, a person who was paid any amount to which the
 10 person was not entitled is liable for repayment of that amount, and a person who was
 11 not paid the full amount to which the person was entitled shall be paid that amount.

12 * **Sec. 9.** AS 14.25 is amended by adding a new section to read:

13 **Sec. 14.25.181. Exclusive benefit.** (a) The corpus or income of the assets
 14 held in trust as required by the system may not be diverted to or used for other than the
 15 exclusive benefit of the members or their beneficiaries.

16 (b) If, upon termination of the system, all liabilities are satisfied, any excess
 17 assets arising from erroneous actuarial computation shall revert to the employers on a
 18 pro rata basis.

19 * **Sec. 10.** AS 14.25 is amended by adding a new section to read:

20 **Sec. 14.25.195. Special rules for treatment of qualified military service.**
 21 Notwithstanding any contrary provisions of this chapter, with respect to qualified
 22 military service, contributions shall be made and benefits and service credit shall be
 23 provided in accordance with 26 U.S.C. 414(u).

24 * **Sec. 11.** AS 14.25.220(2) is amended to read:

25 (2) "actuarial adjustment" means **the adjustment necessary to obtain**
 26 equality in value of the aggregate expected payments under two different forms of
 27 pension payments, considering expected mortality and interest earnings on the basis of
 28 tables **set out in the information handbook published under AS 14.25.030(5)**
 29 [ADOPTED FROM TIME TO TIME BY THE BOARD];

30 * **Sec. 12.** AS 22.25.020 is amended to read:

31 **Sec. 22.25.020. Retirement pay.** **Except as provided in AS 22.25.023(b), a**

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

8 * **Sec. 13.** AS 22.25 is amended by adding new sections to read:

9 **Sec. 22.25.021. Distribution requirements.** (a) The entire interest of a
 10 member must be distributed or must begin to be distributed not later than the member's
 11 required beginning date.

12 (b) If a member dies after the distribution of the member's interest has begun
 13 but before the distribution has been completed, the remaining portion of the interest
 14 shall continue to be distributed at least as rapidly as under the method of distribution
 15 being used before the member's death.

16 (c) If a member has made a distribution election and dies before the
 17 distribution of the member's interest begins, distribution of the member's entire interest
 18 shall be completed by December 31 of the calendar year containing the fifth
 19 anniversary of the member's death. However, if any portion of the member's interest
 20 is payable to a designated beneficiary, distributions may be made over the life of the
 21 designated beneficiary or over a period certain not greater than the life expectancy of
 22 the designated beneficiary, commencing on or before December 31 of the calendar
 23 year immediately following the calendar year in which the member died, and, if the
 24 designated beneficiary is the member's surviving spouse, the date distributions are
 25 required to begin may not be earlier than the later of December 31 of the calendar year
 26 (1) immediately following the calendar year in which the member died, or (2) in which
 27 the member would have attained 70 1/2 years of age, whichever is earlier. If the
 28 surviving spouse dies after the member but before payments to the spouse have begun,
 29 the provisions of this subsection apply as if the surviving spouse were the member.
 30 An amount paid to a child of the member will be treated as if it were paid to the
 31 surviving spouse if the amount becomes payable to the surviving spouse when the

1 child reaches the age of majority.

2 (d) If a member has not made a distribution election before the member's
3 death, the member's designated beneficiary must elect the method of distribution not
4 later than December 31 of the calendar year (1) in which distributions would be
5 required to begin under this section, or (2) that contains the fifth anniversary of the
6 date of death of the member, whichever is earlier. If the member does not have a
7 designated beneficiary or if the designated beneficiary does not elect a method of
8 distribution, distribution of the member's entire interest must be completed by
9 December 31 of the calendar year containing the fifth anniversary of the member's
10 death.

11 (e) For purposes of (c) of this section, distribution of a member's interest is
12 considered to begin (1) on the member's required beginning date, or (2) if the
13 designated beneficiary is the member's surviving spouse and the surviving spouse dies
14 after the member but before payments to the spouse have begun, on the date
15 distribution is required to begin to the surviving spouse. If distribution in the form of
16 an annuity irrevocably commences to the member before the required beginning date,
17 the date distribution is considered to begin is the date that the distribution actually
18 commences.

19 (f) Notwithstanding any contrary provisions of this chapter, the requirements
20 of this section apply to all distributions of a member's interest and take precedence
21 over any inconsistent provisions of this chapter. Unless otherwise specified, the
22 provisions of this section apply to calendar years beginning after December 31, 1984.

23 (g) All distributions required under this section are determined and made in
24 accordance with 26 U.S.C. 401(a)(9) and regulations adopted under that statute,
25 including any minimum distribution incidental benefit requirement.

26 (h) In this section,

27 (1) "designated beneficiary" means the individual who is designated as
28 the beneficiary under the system in accordance with 26 U.S.C. 401(a)(9) and
29 regulations adopted under that statute;

30 (2) "required beginning date" means the first day of April of the
31 calendar year following the calendar year in which the member either attains 70 1/2

1 years of age or actually retires, whichever is later.

2 **Sec. 22.25.022. Rollover distributions and rollover contributions.** (a) A
3 distributee may elect, at the time and in the manner prescribed by the administrator, to
4 have all or part of an eligible rollover distribution paid directly to an eligible
5 retirement plan specified by the distributee in the direct rollover.

6 (b) The system does not accept contributions of eligible rollover distributions.

7 (c) In this section,

8 (1) "direct rollover" means the payment of an eligible rollover
9 distribution by the system to an eligible retirement plan specified by a distributee who
10 is eligible to elect a direct rollover;

11 (2) "distributee" means a member or a beneficiary who is the surviving
12 spouse of the member;

13 (3) "eligible retirement plan" means an individual retirement account,
14 described in 26 U.S.C. 408(a); an individual retirement annuity, defined in 26 U.S.C.
15 408(b); an annuity plan, described in 26 U.S.C. 403(a); or a qualified trust, described
16 in 26 U.S.C. 401(a), that accepts the eligible rollover distribution; however, in the case
17 of an eligible rollover distribution to a beneficiary who is the surviving spouse of a
18 member, "eligible retirement plan" means only an individual retirement account or an
19 individual retirement annuity described or defined in 26 U.S.C. 408;

20 (4) "eligible rollover distribution" means a distribution of all or part of
21 a total account to a distributee, except for

22 (A) a distribution that is one of a series of substantially equal
23 installments payable not less frequently than annually over the life expectancy
24 of the distributee or the joint and last survivor life expectancy of the distributee
25 and the distributee's designated beneficiary, as defined in 26 U.S.C. 401(a)(9);

26 (B) a distribution that is one of a series of substantially equal
27 installments payable not less frequently than annually over a specified period
28 of 10 years or more;

29 (C) a distribution that is required under 26 U.S.C. 401(a)(9);

30 (D) the portion of any distribution that is not includable in
31 gross income; and

1 (E) other distributions that are reasonably expected to total less
2 than \$200 during a year.

3 **Sec. 22.25.023. Limitation on benefits; maximum annual compensation.**

4 (a) Notwithstanding any other provisions of this chapter, the projected annual benefit
5 provided by this chapter and the benefit from all other defined benefit plans required
6 to be aggregated with the benefits from this system under the provisions of 26 U.S.C.
7 415 may not increase to an amount in excess of the amount permitted under 26 U.S.C.
8 415 at any time. In the event that any accrued benefit of a member exceeds the
9 limitation of 26 U.S.C. 415 for a limitation year, the system shall make any necessary
10 remedial action to correct an excess accrued benefit. The provisions of 26 U.S.C. 415,
11 and the regulations adopted under that statute, as applied to qualified defined benefit
12 plans of governmental employers are incorporated as part of the terms and conditions
13 of the system. This subsection shall apply to any member of this system.

14 (b) In this subsection, for system fiscal years beginning on or after January 1,
15 1998, and for purposes of 26 U.S.C. 415(b)(3) and the regulations adopted under that
16 statute, "salary" includes any amount that is contributed by the employer under a
17 salary reduction agreement and that is not includable in the member's gross income
18 under 26 U.S.C. 125, 132(f)(4), 402(e)(3), 402(h), or 403(b) and is limited to
19 compensation that is actually paid to a member during the determination period, which
20 is the fiscal year of the system.

21 * **Sec. 14.** AS 22.25.025 is amended to read:

22 **Sec. 22.25.025. Administration.** The commissioner of administration is
23 responsible for the administration of the judicial retirement system. **The system is**
24 **intended to qualify as a governmental plan established and maintained by the**
25 **government of this state for the state's employees, as permitted under 26 U.S.C.**
26 **414(d). The commissioner shall publish an information handbook for the system**
27 **at intervals as the commissioner considers appropriate.**

28 * **Sec. 15.** AS 22.25.030(a) is amended to read:

29 (a) Upon the death of a justice or judge who has served for at least two years,
30 the surviving spouse is entitled to receive **survivors' benefits** [MONTHLY
31 COMPENSATION] equal to one-half of the monthly retirement pay the justice or

1 judge would thereafter have been entitled to receive if retired at the time of death. If
 2 at death the justice or judge was not yet entitled to retirement pay, or was or would
 3 have been entitled to less than 60 percent of the monthly salary authorized for the
 4 office, the surviving spouse is entitled to monthly **survivors' benefits**
 5 [COMPENSATION] equal to 30 percent of the salary authorized for justices or
 6 judges, respectively, at the time each monthly payment is made.

7 * **Sec. 16.** AS 22.25.048(a) is amended to read:

8 (a) The commissioner of administration shall establish a judicial retirement
 9 trust fund for the judicial retirement system in which the assets of the system are
 10 deposited and held. **The trust fund is subject to the restrictions of (h) of this**
 11 **section.** The commissioner shall maintain accounts and records for the system.

12 * **Sec. 17.** AS 22.25.048 is amended by adding new subsections to read:

13 (h) The corpus or income of the assets held in trust as required by the system
 14 may not be diverted to or used for other than the exclusive benefit of the members or
 15 their beneficiaries.

16 (i) If, upon termination of the system, all liabilities are satisfied, any excess
 17 assets arising from erroneous actuarial computation shall revert to the employer.

18 * **Sec. 18.** AS 22.25 is amended by adding a new section to read:

19 **Sec 22.25.110. Special rules for treatment of qualified military service.**

20 Notwithstanding any contrary provisions of this chapter, with respect to qualified
 21 military service, contributions shall be made and benefits and service credit shall be
 22 provided in accordance with 26 U.S.C. 414(u).

23 * **Sec. 19.** AS 22.25.900 is repealed and reenacted to read:

24 **Sec. 22.25.900. Definitions.** In this chapter, unless the context otherwise
 25 requires,

26 (1) "actuarial equivalent" means equality in value of the aggregate
 27 expected payments under two different forms of pension payments, considering
 28 expected mortality and interest earnings on the basis of tables set out in the
 29 information handbook published under AS 22.25.025;

30 (2) "judge" means a judge of the court of appeals, a superior court
 31 judge, or a district court judge;

1 (3) "justice" means a supreme court justice;

2 (4) "member" means an administrative director of the Alaska Court
3 System who is eligible to participate in the system, a justice, or a judge;

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

6 (A) creates or recognizes the existence of an alternate payee's
7 right to, or assigns to an alternate payee the right to, receive all or a portion of
8 the member contributions and interest or benefits payable with respect to a
9 justice or judge;

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

12 (C) sets out the amount or percentage of the justice's or judge's
13 benefit, or of any survivor's benefit, to be paid to the alternate payee, or sets
14 out the manner in which that amount or percentage is to be determined;

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

17 (E) sets out the plan to which the order applies;

18 (F) does not require any type or form of benefit or any option
19 not otherwise provided by this chapter;

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

22 (H) does not require the payment, to an alternate payee, of
23 benefits that are required to be paid to another alternate payee under another
24 order previously determined to be a qualified domestic relations order.

25 * **Sec. 20.** AS 39.35.010 is amended by adding a new subsection to read:

26 (c) The retirement system established by this chapter is intended to qualify
27 under 26 U.S.C. 401(a) and 414(d) (Internal Revenue Code) as a qualified retirement
28 plan established and maintained by the state for its employees and for the employees
29 of political subdivisions, public corporations, and public organizations of the state, and
30 for the employees of other employers whose participation is authorized by this chapter
31 and who participate in this system.

1 * **Sec. 21.** AS 39.35 is amended by adding a new section to read:

2 **Sec. 39.35.011. Exclusive benefit.** The corpus or income of the assets held in
3 trust as required by the system may not be diverted to or used for other than the
4 exclusive benefit of the members or their beneficiaries.

5 * **Sec. 22.** AS 39.35.060 is amended to read:

6 **Sec. 39.35.060. Duties of the administrator.** The administrator shall

7 (1) with the assistance of a technical actuarial advisor, submit to the
8 board the required actuarial tables and the statistical data necessary for periodic
9 actuarial surveys of the operating experience of the system;

10 (2) maintain records of the employees included in the system that are
11 necessary for the proper administration of the system and furnish information
12 requested by the actuary for preparing valuations and periodic experience analyses;

13 (3) attend meetings of the board and serve as secretary of the board;

14 (4) certify to the appropriate division of the Department of
15 Administration the payments made under this chapter;

16 (5) remit to the Department of Revenue, for deposit in the pension
17 fund, assets received for the account of the system;

18 (6) formulate and recommend to the board regulations to govern the
19 operation of the system;

20 (7) formulate and recommend to the board regulations to govern the
21 operation of the supplemental employee benefit program under AS 39.30.150 -
22 39.30.180;

23 **(8) publish an information handbook for the system at intervals as**
24 **the administrator considers appropriate.**

25 * **Sec. 23.** AS 39.35.160(a) is amended to read:

26 (a) Beginning January 1, 1987, each peace officer or fire fighter shall
27 contribute to the system an amount equal to seven and one-half percent of the peace
28 officer's or fire fighter's compensation. Except as provided in (d) of this section,
29 beginning January 1, 1987, each other employee shall contribute to the system an
30 amount equal to six and three-quarters percent of the employee's compensation. The
31 contributions shall be deducted by the employer at the end of each payroll period. The

1 contributions shall be deducted from employee compensation before computation of
 2 applicable federal taxes, and the contributions shall be treated as employer
 3 contributions under 26 U.S.C. 414(h)(2); **this provision is subject to a ruling by the**
 4 **Internal Revenue Service that these contributions will be treated as employer**
 5 **contributions under 26 U.S.C. 414(h), and that these picked-up contributions will**
 6 **not be treated as annual additions for purposes of 26 U.S.C. 415(a) and,**
 7 **therefore, will not be subject to the provisions of AS 39.35.370(i). A member may**
 8 **not have the option of receiving the payroll deduction directly instead of having**
 9 **the contribution picked up by the employer.**

10 * **Sec. 24.** AS 39.35 is amended by adding a new section to read:

11 **Sec. 39.35.195. Rollover distributions and rollover contributions.** (a) A
 12 distributee may elect, at the time and in the manner prescribed by the administrator, to
 13 have all or part of an eligible rollover distribution paid directly to an eligible
 14 retirement plan specified by the distributee in the direct rollover.

15 (b) The system does not accept contributions of eligible rollover distributions.

16 (c) In this section,

17 (1) "direct rollover" means the payment of an eligible rollover
 18 distribution by the system to an eligible retirement plan specified by a distributee who
 19 is eligible to elect a direct rollover;

20 (2) "distributee" means a member or a beneficiary who is the surviving
 21 spouse of the member;

22 (3) "eligible retirement plan" means an individual retirement account,
 23 described in 26 U.S.C. 408(a); an individual retirement annuity, defined in 26 U.S.C.
 24 408(b); and annuity plan, described in 26 U.S.C. 403(a); or a qualified trust, described
 25 in 26 U.S.C. 401(a), that accepts the eligible rollover distribution; however, in the case
 26 of an eligible rollover distribution to a beneficiary who is the surviving spouse of a
 27 member, "eligible retirement plan" means only an individual retirement account or an
 28 individual retirement annuity described or defined in 26 U.S.C. 408;

29 (4) "eligible rollover distribution" means a distribution of all or part of
 30 a total account to a distributee, except for

31 (A) a distribution that is one of a series of substantially equal

1 installments payable not less frequently than annually over the life expectancy
 2 of the distributee or the joint and last survivor life expectancy of the distributee
 3 and the distributee's designated beneficiary, as defined in 26 U.S.C. 401(a)(9);

4 (B) a distribution that is one of a series of substantially equal
 5 installments payable not less frequently than annually over a specified period
 6 of 10 years or more;

7 (C) a distribution that is required under 26 U.S.C. 401(a)(9);

8 (D) the portion of any distribution that is not includable in
 9 gross income; and

10 (E) other distributions that are reasonably expected to total less
 11 than \$200 during a year.

12 * **Sec. 25.** AS 39.35.270 is amended to read:

13 **Sec. 39.35.270. Amount of employer's contributions.** The amount of each
 14 employer's contributions shall be determined by applying the employer's contribution
 15 rate to the total compensation paid to the active employees of the employer for each
 16 payroll period **and by including any adjustments to contributions required by**
 17 **AS 39.35.520(a).** This amount shall be remitted by the employer to the administrator
 18 in accordance with AS 39.35.610.

19 * **Sec. 26.** AS 39.35.370 is amended by adding new subsections to read:

20 (i) Notwithstanding any other provisions of this chapter, the projected annual
 21 benefit provided by this chapter and the benefit from all other defined benefit plans
 22 required to be aggregated with the benefits from this system under the provisions of 26
 23 U.S.C. 415 may not increase to an amount in excess of the amount permitted under 26
 24 U.S.C. 415 at any time. In the event that any projected annual benefit of a member
 25 exceeds the limitation of 26 U.S.C. 415 for a limitation year, the system shall take any
 26 necessary remedial action to correct an excess accrued benefit. The provisions of 26
 27 U.S.C. 415, and the regulations adopted under that statute, as applied to qualified
 28 defined benefit plans of governmental employers are incorporated as part of the terms
 29 and conditions of the system. This subsection applies to any member of this system.

30 (j) Notwithstanding (c) of this section, for the system fiscal years beginning on
 31 or after January 1, 1996, the annual compensation of a member who joined the system

1 after the first day of the first system fiscal year beginning after December 31, 1995,
 2 that is used to calculate the member's average monthly compensation may not exceed
 3 \$150,000, as adjusted for the cost of living in accordance with 26 U.S.C.
 4 401(a)(17)(B). The cost of living adjustment in effect for a calendar year applies to a
 5 determination period beginning in the calendar year.

6 (k) Notwithstanding the definition of "compensation" in AS 39.35.680, in (j)
 7 of this section, for system fiscal years beginning on or after January 1, 1998, and for
 8 purposes of 26 U.S.C. 415(b)(3) and the regulations adopted under that statute,

9 (1) "annual compensation"

10 (A) includes any amount that is contributed by the employer
 11 under a salary reduction agreement and that is not includable in the member's
 12 gross income under 26 U.S.C. 125, 132(f)(4), 402(e)(3), 402(h), or 403(b); and

13 (B) is limited to compensation that is actually paid to a member
 14 during the determination period;

15 (2) "determination period" means the system fiscal year.

16 * **Sec. 27.** AS 39.35 is amended by adding a new section to read:

17 **Sec. 39.35.371. Distribution requirements.** (a) The entire interest of a
 18 member must be distributed or must begin to be distributed not later than the member's
 19 required beginning date.

20 (b) If a member dies after the distribution of the member's interest has begun
 21 but before the distribution has been completed, the remaining portion of the interest
 22 shall continue to be distributed at least as rapidly as under the method of distribution
 23 being used before the member's death.

24 (c) If a member has made a distribution election and dies before the
 25 distribution of the member's interest begins, distribution of the member's entire interest
 26 shall be completed by December 31 of the calendar year containing the fifth
 27 anniversary of the member's death. However, if any portion of the member's interest
 28 is payable to a designated beneficiary, distributions may be made over the life of the
 29 designated beneficiary or over a period not greater than the life expectancy of the
 30 designated beneficiary, commencing on or before December 31 of the calendar year
 31 immediately following the calendar year in which the member died; and if the

1 designated beneficiary is the member's surviving spouse, the date distributions are
2 required to begin may not be earlier than the later of December 31 of the calendar year
3 (1) immediately following the calendar year in which the member died, or (2) in which
4 the member would have attained 70 1/2 years of age, whichever is earlier. If the
5 surviving spouse dies after the member but before payments to the spouse have begun,
6 the provisions of this subsection apply as if the surviving spouse were the member.
7 An amount paid to a child of the member will be treated as if it were paid to the
8 surviving spouse if the amount becomes payable to the surviving spouse when the
9 child reaches the age of majority.

10 (d) If a member has not made a distribution election before the member's
11 death, the member's designated beneficiary must elect the method of distribution not
12 later than December 31 of the calendar year (1) in which distributions would be
13 required to begin under this section, or (2) that contains the fifth anniversary of the
14 date of death of the member, whichever is earlier. If the member does not have a
15 designated beneficiary or if the designated beneficiary does not elect a method of
16 distribution, distribution of the member's entire interest must be completed by
17 December 31 of the calendar year containing the fifth anniversary of the member's
18 death.

19 (e) For purposes of (c) of this section, distribution of a member's interest is
20 considered to begin (1) on the member's required beginning date, or (2) if the
21 designated beneficiary is the member's surviving spouse and the surviving spouse dies
22 after the member but before payments to the spouse have begun, on the date
23 distribution is required to begin to the surviving spouse. If distribution in the form of
24 an annuity irrevocably commences to the member before the required beginning date,
25 the date distribution is considered to begin is the date that the distribution actually
26 commences.

27 (f) Notwithstanding any contrary provisions of this chapter, the requirements
28 of this section apply to all distributions of a member's interest and take precedence
29 over any inconsistent provisions of this chapter. Unless otherwise specified, the
30 provisions of this section apply to calendar years beginning after December 31, 1984.

31 (g) All distributions required under this section are determined and made in

1 accordance with 26 U.S.C. 401(a)(9) and regulations adopted under that statute,
2 including any minimum distribution incidental benefit requirement.

3 (h) In this section,

4 (1) "designated beneficiary" means the individual who is designated as
5 the beneficiary under the system in accordance with 26 U.S.C. 401(a)(9) and
6 regulations adopted under that statute;

7 (2) "required beginning date" means the first day of April of the
8 calendar year following the calendar year in which the member either attains 70 1/2
9 years of age or actually retires, whichever is later.

10 * **Sec. 28.** AS 39.35.520(a) is amended to read:

11 (a) When a change or error is made in the records maintained by the system **or**
12 **in the contributions made on behalf of an employee** [,] or an error is made in
13 computing a benefit, and, as a result, an employee or beneficiary **is entitled to receive**
14 **[RECEIVES]** from the system more or less than the employee would have been
15 entitled to receive had the records **or contributions** been correct or had the error not
16 been made, (1) the records, **contributions**, or error shall be corrected, and (2) as far as
17 practicable, future payments **or benefit entitlement** shall be adjusted so that the
18 actuarial equivalent of the pension or benefit to which the employee or beneficiary
19 was correctly entitled shall be paid. **An adjustment to contributions shall be picked**
20 **up by the employer under AS 39.35.160 or treated as an adjustment to the**
21 **employer's contributions under AS 39.35.270, depending upon the nature of the**
22 **adjustment.** If no future payment is due, a person who was paid any amount to which
23 the person was not entitled is liable for repayment of that amount, and a person who
24 was not paid the full amount to which the person was entitled shall be paid the balance
25 of that amount.

26 * **Sec. 29.** AS 39.35 is amended by adding a new section to read:

27 **Sec 39.35.677. Special rules for treatment of qualified military service.**

28 Notwithstanding any contrary provisions of this chapter, with respect to qualified
29 military service, contributions shall be made, and benefits and service credit shall be
30 provided in accordance with 26 U.S.C. 414(u).

31 * **Sec. 30.** AS 39.35.680(2) is amended to read:

1 (2) "actuarial adjustment" means **the adjustment necessary to obtain**
 2 equality in value of the aggregate expected payments under two different forms of
 3 pension payments, considering expected mortality and interest earnings on the basis of
 4 tables **set out in the information handbook published under AS 39.35.060(8)**
 5 [ADOPTED FROM TIME TO TIME BY THE BOARD];

6 * **Sec. 31.** AS 39.35.680(8) is amended to read:

7 (8) "compensation" means the remuneration earned by an employee
 8 for personal services rendered to an employer, including employee contributions under
 9 AS 39.35.160, cost-of-living differentials only as provided in AS 39.35.675, payments
 10 for leave that is actually used by the employee, the amount by which the employee's
 11 wages are reduced under AS 39.30.150(c), and any amount deferred under an
 12 employer-sponsored deferred compensation plan, but does not include retirement
 13 benefits, severance pay or other separation bonuses, welfare benefits, per diem,
 14 expense allowances, workers' compensation payments, or payments for leave not used
 15 by the employee whether those leave payments are scheduled payments, lump-sum
 16 payments, donations, or cash-ins; for a member first hired on or after **July 1, 1989**
 17 [JULY 1, 1996], compensation does not include remuneration in excess of the
 18 limitations set out in 26 U.S.C. 401(a)(17) (Internal Revenue Code);

19 * **Sec. 32.** AS 14.25.110(f), 14.25.110(g), and 14.25.110(h); AS 22.25.010(g); and
 20 AS 39.35.451 are repealed.

21 * **Sec. 33.** The uncodified law of the State of Alaska is amended by adding a new section to
 22 read:

23 RETROACTIVITY. (a) The following provisions of this Act are retroactive to
 24 January 1, 1985:

25 (1) AS 22.25.021, enacted by sec. 13 of this Act;

26 (2) AS 39.35.371, enacted by sec. 27 of this Act.

27 (b) The following provision of this Act is retroactive to July 1, 1989:
 28 AS 39.35.680(8), as amended by sec. 31 of this Act.

29 (c) The following provision of this Act is retroactive to January 1, 1995:
 30 AS 14.25.165, enacted by sec. 7 of this Act.

31 (d) The following provisions of this Act are retroactive to January 1, 1996:

1 (1) AS 14.25.110(l), enacted by sec. 5 of this Act;

2 (2) AS 39.35.370(j), enacted by sec. 26 of this Act.

3 (e) The following provisions of this Act are retroactive to January 1, 1998:

4 (1) AS 14.25.110(m), enacted by sec. 5 of this Act;

5 (2) AS 22.25.023(b), enacted by sec. 13 of this Act;

6 (3) AS 39.35.370(k), enacted by sec. 26 of this Act.

7 * **Sec. 34.** This Act takes effect immediately under AS 01.10.070(c).