

CS FOR HOUSE BILL NO. 329(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 2/23/04

Referred: Labor and Commerce, Finance

Sponsor(s): REPRESENTATIVES MCGUIRE, Kerttula

A BILL

FOR AN ACT ENTITLED

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

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

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

14 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 RETIREMENT INCENTIVE PROGRAM. (a) An employer may adopt a retirement
3 incentive plan under secs. 3 - 6 of this Act, as appropriate, subject to the requirements of secs.
4 9 and 15 of this Act, and designate categories of employees eligible to participate in that plan.
5 An employer need not extend the incentive plan to all employees who would otherwise be
6 eligible, but may choose to extend the plan only to employees

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

12 (b) An employee is eligible to participate in a retirement incentive plan under this Act
13 only if the

14 (1) employee is a vested member of the public employees' retirement system
15 or the teachers' retirement system;

16 (2) employee will be qualified to retire under AS 14.25.110 or AS 39.35.370
17 after receipt of the credit described in (f) of this section; and

18 (3) savings to the employer in personal services costs for the employee's
19 position will exceed the costs to the employer for that position within three years after the
20 employee is appointed to retirement.

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

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

29 (2) include a reimbursement agreement that

30 (A) requires the employer, for each employee who retires under the
31 plan, to reimburse the appropriate retirement system, within three years after the end

1 of the fiscal year in which the employee is appointed to retirement, in an amount equal
2 to

3 (i) the actuarial equivalent of the difference between the
4 benefits the participant receives after the addition of the credit under (f) of this
5 section and the amount the participant would have received without the credit,
6 less the amount the participant has paid on the indebtedness determined under
7 (d) or (e) of this section; and

8 (ii) an appropriate share of the administrative costs of the
9 program; and

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

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

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

31 (f) An employee who participates in an approved retirement incentive plan under this

1 Act receives a credit of three years. The three years must be applied in the following order
2 until exhausted:

3 (1) to meet the age or service required for eligibility for normal retirement
4 under AS 14.25.110 before July 1, 1990, or AS 39.35.370 before July 1, 1986, as appropriate;

5 (2) to meet the age required for early retirement under AS 14.25.110 before
6 July 1, 1990, or AS 39.35.370 before July 1, 1986, as appropriate;

7 (3) to reduce the actuarial adjustment required for early retirement under
8 AS 14.25.110 before July 1, 1990, or AS 39.35.370 before July 1, 1986, as appropriate;

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

10 (g) In this section,

11 (1) "department" means

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

17 (B) the Office of the Governor;

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

20 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 **AUTHORIZATION FOR STATE EMPLOYEE RETIREMENT INCENTIVE.** (a) A
23 state agency may adopt, and file with the commissioner of administration for approval, a
24 proposed retirement incentive plan for its employees.

25 (b) Upon the request of a state agency, the commissioner of administration shall
26 establish one or more periods during which the employees of that state agency who are
27 eligible under sec. 2(b) of this Act to participate in a retirement incentive plan may apply to
28 the commissioner of administration to participate in the state agency's approved plan. The
29 periods shall begin no earlier than July 1, 2004, and end no later than June 30, 2007. The
30 periods shall be no less than 30 days and no more than 60 days in duration, and may not begin
31 less than 30 days after their establishment. A state agency is not required to request an

1 application period, and may request more than one application period.

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

6 (d) A proposed retirement incentive plan adopted under this section may permit
7 participation only by an employee who is eligible to participate under sec. 2(b) of this Act and
8 who

9 (1) has been continuously employed by the state for at least one year before
10 the employee applies to participate in the state agency's approved plan;

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

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

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

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

27 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
28 read:

29 **AUTHORIZATION FOR RETIREMENT INCENTIVE FOR EMPLOYEES OF THE**
30 **UNIVERSITY OF ALASKA.** (a) The Board of Regents of the University of Alaska may
31 adopt, and file with the commissioner of administration for approval, a proposed retirement

1 incentive plan for university employees.

2 (b) Upon the request of the Board of Regents, the commissioner of administration
3 shall establish one or more periods during which the employees of the university who are
4 eligible under sec. 2(b) of this Act to participate in a retirement incentive plan may apply to
5 the commissioner of administration to participate in the university's approved plan. The
6 periods shall begin no earlier than July 1, 2004, and end no later than June 30, 2007. The
7 periods shall be no less than 30 days and no more than 60 days in duration, and may not begin
8 less than 30 days after their establishment. The Board of Regents is not required to request an
9 application period, and may request more than one application period.

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

17 (d) A participant in the optional university retirement program under AS 14.40.661 -
18 14.40.799 who is vested in the public employees' retirement system or the teachers' retirement
19 system may participate in a retirement incentive plan for that system if the participant meets
20 the other qualifications of this Act. If a provision of this subsection is inconsistent with
21 another provision of law, the provision of this subsection governs.

22 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 **AUTHORIZATION FOR RETIREMENT INCENTIVE FOR OTHER EMPLOYEES**
25 **IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM.** (a) The governing body of a
26 political subdivision of the state or public organization that has elected to participate in the
27 public employees' retirement system under AS 39.35.550 - 39.35.650 may adopt, and file with
28 the commissioner of administration for approval, a proposed retirement incentive plan for its
29 employees. Upon the request of the governing body, the commissioner of administration shall
30 establish one or more periods during which the employees of a political subdivision or public
31 organization who are eligible to participate in a retirement incentive plan may apply to the

1 commissioner of administration to participate in the approved plan. The periods shall begin
 2 no earlier than October 31, 2004, and end no later than June 30, 2007. The periods shall be no
 3 less than 30 days and no more than 60 days in duration, and may not begin less than 60 days
 4 after their establishment. The governing body is not required to request an application period,
 5 and may request more than one application period.

6 (b) The commissioner of administration may not accept the application of an
 7 employee to participate in an approved retirement incentive plan adopted under this section
 8 unless the employee will be appointed to retirement not later than the first day of the month
 9 that is six months after the last day of the application period established by the commissioner
 10 under (a) of this section. The governing body of the political subdivision or public
 11 organization, in a plan adopted under this section, may set an earlier date by which an
 12 employee must be appointed to retirement in order to participate in the plan.

13 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
 14 read:

15 **AUTHORIZATION FOR RETIREMENT INCENTIVE FOR OTHER EMPLOYEES**
 16 **IN THE TEACHERS' RETIREMENT SYSTEM.** (a) An employer under the teachers'
 17 retirement system who is not otherwise covered by secs. 3 or 4 of this Act may adopt, and file
 18 with the commissioner of administration for approval, a proposed retirement incentive plan
 19 for its employees. A plan adopted under this section must provide that the application period
 20 for participation in the retirement incentive plan is July 1, 2004, through June 30, 2007.

21 (b) The commissioner of administration may not accept the application of an
 22 employee to participate in an approved retirement incentive plan adopted under this section
 23 unless the employee will be appointed to retirement on or before August 1, 2007. The
 24 employer, in a plan adopted under this section, may set an earlier date by which an employee
 25 must be appointed to retirement in order to participate in the plan.

26 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
 27 read:

28 **POLITICAL SUBDIVISION OR PUBLIC ORGANIZATION EMPLOYMENT.** For
 29 purposes of determining the years of service requirements for retirement under AS 14.25.110
 30 or AS 39.35.370, as appropriate, a vested member who is a state employee and who applies to
 31 participate in a retirement incentive plan approved under this Act may receive credit for

1 employment with a political subdivision or public organization before the political
 2 subdivision or organization became an employer under the public employees' retirement
 3 system. The member may not receive credit for those years under this subsection for
 4 purposes of determining benefits. If a provision of this section is inconsistent with any other
 5 provision of law, the provision of this section governs.

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

8 RECOVERY OF EMPLOYER DELINQUENCIES. To recover a delinquency owed
 9 by an employer other than the state under an agreement entered into under sec. 2(c)(2) of this
 10 Act, the Department of Administration may

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

14 (2) bring an action against the employer.

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

17 STOPPING ENROLLMENT FOR ACTUARIAL REASONS. The commissioner of
 18 administration may halt further enrollment in any one of the retirement incentive plans
 19 approved under sections 3 - 8 of this Act if the commissioner finds that further enrollment in
 20 any one of the approved plans would have a significant negative effect on the actuarial
 21 soundness of the retirement plan of that employer.

22 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
 23 read:

24 REEMPLOYMENT INDEBTEDNESS; PROHIBITION ON REEMPLOYMENT.

25 (a) If an individual is reemployed as a member of the public employees' retirement system
 26 under AS 39.35, the teachers' retirement system under AS 14.25, the judicial retirement
 27 system under AS 22.25, or the optional university retirement program under AS 14.40.661 -
 28 14.40.799 after appointment to retirement under this Act, that individual forfeits the incentive
 29 credit received under sec. 2(f) of this Act and is indebted to the system under which the
 30 individual took retirement. The indebtedness is 110 percent of the amount the individual
 31 received as a result of participation in a retirement incentive plan under this Act and to which

1 the individual would not otherwise have been entitled, including the cost of health insurance.
 2 The amount that the individual has paid under sec. 2(d) or (e) of this Act will be applied as a
 3 credit toward the reemployment indebtedness. Interest on the reemployment indebtedness
 4 accrues from the date of reemployment until the date that the individual either is appointed to
 5 retirement and accepts an actuarial adjustment to the individual's future benefits or repays the
 6 indebtedness in full. The rate of interest is that established by regulation for the public
 7 employees' retirement system by the public employees' retirement board and for the teachers'
 8 retirement system by the teachers' retirement board.

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

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

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

18 (3) the individual may accept employment with a school district as a substitute
 19 teacher; and

20 (4) an individual who participated in the teachers' retirement system may
 21 accept employment with a school district if the employment is on an hourly basis and does not
 22 entitle the individual to receive retirement, health, or leave benefits.

23 (c) Notwithstanding the prohibition in (b) of this section, a state agency or the
 24 University of Alaska may enter into a personal services contract with an individual who was
 25 appointed to retirement under this Act if the Board of Regents, for the University of Alaska,
 26 or the commissioner of administration, for a state agency, determines that there is a
 27 compelling reason to do so because of the individual's specialized or extensive experience that
 28 relates to a particular program or project of the state agency or university.

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

31 OFFICE OF MANAGEMENT AND BUDGET. (a) When designating an employee

1 category for participation in a retirement incentive plan under this Act, the executive head of
 2 the relevant state agency shall describe in detail the expected effect of the plan on the agency's
 3 personal services cost and operation. This financial report must be approved by the director
 4 of the office of management and budget before the commissioner of administration may
 5 approve the proposed plan. The state agency shall report each year to the office of
 6 management and budget on the cost of each employee's participation and the effect on the
 7 agency's personal services cost and operation.

8 (b) The office of management and budget shall submit to the legislature annual
 9 reports on the retirement incentive under this Act beginning January 15, 2005, and continuing
 10 through January 15, 2007, and shall submit a final report January 15, 2008. Each report must
 11 provide the information necessary for the legislature to evaluate the effectiveness of the plans
 12 in achieving their objectives. The report must include information on the designated
 13 employee categories under the plans, including the cost of each plan per participant, the cost
 14 to the state, the cost to the employee, the annual budgeted amount, by state agency, for the
 15 incentives, the number of positions deleted or left vacant, and the projected or actual net
 16 savings over the three-year period.

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

19 PROGRAM CHANGES. (a) An individual employee does not have a vested or
 20 contractual right to a benefit under this Act until an agreement is executed with the
 21 administrator that specifically authorizes that employee to participate in the retirement
 22 incentive program under this Act. The legislature reserves the right to change any aspect of
 23 the retirement incentive plan as it relates to employees for whom participation agreements
 24 have not yet been executed with the administrator or with the commissioner of administration.

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

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

30 REGULATIONS. The commissioner of the Department of Administration may adopt
 31 regulations under AS 44.62 (Administrative Procedure Act) to implement and interpret this

1 Act.

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

4 DEFINITIONS. (a) Unless provided otherwise in this Act, the definitions set out in
5 AS 14.25.220 apply to provisions in secs. 2 - 10 of this Act that relate to the teachers'
6 retirement system and members of the teachers' retirement system.

7 (b) Unless provided otherwise in this Act, the definitions set out in AS 39.35.680
8 apply to provisions in secs. 2 - 10 of this Act that relate to the public employees' retirement
9 system and members of the public employees' retirement system.

10 (c) In this Act,

11 (1) "office of management and budget" means the office of management and
12 budget in the Office of the Governor;

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

15 (3) "state agency"

16 (A) means

17 (i) the legislative branch of state government;

18 (ii) a principal department of the executive branch of state
19 government; an independent state entity that is attached to a principal
20 department of the executive branch for administrative purposes but that is not a
21 public organization as defined in AS 39.35.680 is part of that department for
22 purposes of this clause; and

23 (iii) the Office of the Governor;

24 (B) does not include

25 (i) the University of Alaska;

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

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

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

30 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 APPLICABILITY TO EXISTING BENEFICIARIES. The implementation of a
2 retirement incentive program under this Act may not impair or diminish benefits to a member
3 appointed to retirement before the effective date of this Act.

4 * **Sec. 16.** Sections 1 - 7 of this Act are repealed July 1, 2007.

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