

CS FOR HOUSE BILL NO. 329(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/18/04

Referred: 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 sec.
4 15 of this Act, and designate categories of employees eligible to participate in that plan. An
5 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 has credit for service under AS 14.25.110 that occurred before
17 July 1, 1990, or under AS 39.35.370 that occurred before July 1, 1986;

18 (3) employee is at least 50 years of age, and, before application of credit
19 described in (f) of this section, has

20 (A) at least 17 years of credited service as a peace officer or fire
21 fighter, as those terms are defined in AS 39.35.680; or

22 (B) at least 20 years of credited service as an employee other than an
23 employee described in (A) of this paragraph;

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

26 (5) savings to the employer in personal services costs for the employee's
27 position will exceed the costs to the employer for that position within three years after the
28 employee is appointed to retirement.

29 (c) An employer shall file its proposed retirement incentive plan with the
30 commissioner of administration. The commissioner shall approve the plan if the plan meets
31 the requirements of this Act, except that the commissioner may approve a state agency's

1 retirement incentive plan only if the office of management and budget approves the
 2 calculation of savings under (b)(5) of this section. A proposed plan filed under this section
 3 must

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

6 (2) include a reimbursement agreement that

7 (A) requires the employer, for each employee who retires under the
 8 plan, to reimburse the appropriate retirement system, within three years after the end
 9 of the fiscal year in which the employee is appointed to retirement, in an amount equal
 10 to the actuarial equivalent of the difference between the benefits the participant
 11 receives after the addition of the credit under (f) of this section and the amount the
 12 participant would have received without the credit, less the amount the participant has
 13 paid on the indebtedness determined under (d) or (e) of this section; and

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

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

27 (e) A member of the public employees' retirement system who participates in an
 28 approved retirement incentive plan under this Act is indebted to that system for an amount
 29 calculated under this subsection. The indebtedness is 22-1/2 percent for a peace officer or fire
 30 fighter, and 20-1/4 percent for other members, of the member's actual annual compensation
 31 for the year in which the member terminates employment, or the calculated annual

1 compensation for a member who works fewer than 12 months, plus an appropriate share of
 2 the administrative costs of the program. A member may apply annual or personal leave to the
 3 indebtedness before appointment to retirement. An outstanding indebtedness at the time a
 4 member is appointed to retirement under an approved retirement incentive plan requires an
 5 actuarial adjustment to the benefits payable to that member.

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

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

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

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

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

16 (g) In this section,

17 (1) "department" means

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

23 (B) the Office of the Governor;

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

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

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

31 (b) Upon the request of a state agency, the commissioner of administration shall

1 establish one or more periods during which the employees of that state agency who are
 2 eligible under sec. 2(b) of this Act to participate in a retirement incentive plan may apply to
 3 the commissioner of administration to participate in the state agency's approved plan. The
 4 periods shall begin not earlier than July 1, 2004, and end not later than June 30, 2007. The
 5 periods shall be not less than 30 days and not more than 60 days in duration, and may not
 6 begin less than 30 days after their establishment. A state agency is not required to request an
 7 application period, and may request more than one application period.

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

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

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

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

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

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

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

1 the plan.

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

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

8 (b) Upon the request of the Board of Regents, the commissioner of administration
9 shall establish one or more periods during which the employees of the university who are
10 eligible under sec. 2(b) of this Act to participate in a retirement incentive plan may apply to
11 the commissioner of administration to participate in the university's approved plan. The
12 periods shall begin not earlier than July 1, 2004, and end not later than June 30, 2007. The
13 periods shall be not less than 30 days and not more than 60 days in duration, and may not
14 begin less than 30 days after their establishment. The Board of Regents is not required to
15 request an application period, and may request more than one application period.

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

23 (d) A participant in the optional university retirement program under AS 14.40.661 -
24 14.40.799 who is vested in the public employees' retirement system or the teachers' retirement
25 system may participate in a retirement incentive plan for that system if the participant meets
26 the other qualifications of this Act. If a provision of this subsection is inconsistent with
27 another provision of law, the provision of this subsection governs.

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

30 AUTHORIZATION FOR RETIREMENT INCENTIVE FOR OTHER EMPLOYEES
31 IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM. (a) The governing body of a

1 political subdivision of the state or public organization that has elected to participate in the
 2 public employees' retirement system under AS 39.35.550 - 39.35.650 may adopt, and file with
 3 the commissioner of administration for approval, a proposed retirement incentive plan for its
 4 employees. Upon the request of the governing body, the commissioner of administration shall
 5 establish one or more periods during which the employees of a political subdivision or public
 6 organization who are eligible to participate in a retirement incentive plan may apply to the
 7 commissioner of administration to participate in the approved plan. The periods shall begin
 8 not earlier than October 31, 2004, and end not later than June 30, 2007. The periods shall be
 9 not less than 30 days and not more than 60 days in duration, and may not begin less than 60
 10 days after their establishment. The governing body is not required to request an application
 11 period, and may request more than one application period.

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

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

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

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

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

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

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

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

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

20 (2) bring an action against the employer.

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

23 **STOPPING ENROLLMENT FOR ACTUARIAL REASONS.** The commissioner of
24 administration may halt further enrollment in any one of the retirement incentive plans
25 approved under sections 3 - 6 of this Act if the commissioner finds that further enrollment in
26 any one of the approved plans would have a significant negative effect on the actuarial
27 soundness of the retirement plan of that employer.

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

30 **REEMPLOYMENT INDEBTEDNESS; PROHIBITION ON REEMPLOYMENT.**

31 (a) If an individual is reemployed as a member of the public employees' retirement system

1 under AS 39.35, the teachers' retirement system under AS 14.25, the judicial retirement
 2 system under AS 22.25, or the optional university retirement program under AS 14.40.661 -
 3 14.40.799 after appointment to retirement under this Act, that individual forfeits the incentive
 4 credit received under sec. 2(f) of this Act and is indebted to the system under which the
 5 individual took retirement. The indebtedness is 110 percent of the amount the individual
 6 received as a result of participation in a retirement incentive plan under this Act and to which
 7 the individual would not otherwise have been entitled, including the cost of health insurance.
 8 The amount that the individual has paid under sec. 2(d) or (e) of this Act will be applied as a
 9 credit toward the reemployment indebtedness. Interest on the reemployment indebtedness
 10 accrues from the date of reemployment until the date that the individual either is appointed to
 11 retirement and accepts an actuarial adjustment to the individual's future benefits or repays the
 12 indebtedness in full. The rate of interest is that established by regulation for the public
 13 employees' retirement system by the public employees' retirement board and for the teachers'
 14 retirement system by the teachers' retirement board.

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

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

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

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

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

29 (c) Notwithstanding the prohibition in (b) of this section, a state agency or the
 30 University of Alaska may enter into a personal services contract with an individual who was
 31 appointed to retirement under this Act if the Board of Regents, for the University of Alaska,

1 or the commissioner of administration, for a state agency, determines that there is a
 2 compelling reason to do so because of the individual's specialized or extensive experience that
 3 relates to a particular program or project of the state agency or university.

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

6 OFFICE OF MANAGEMENT AND BUDGET. (a) When designating an employee
 7 category for participation in a retirement incentive plan under this Act, the executive head of
 8 the relevant state agency shall describe in detail the expected effect of the plan on the agency's
 9 personal services cost and operation. This financial report must be approved by the director
 10 of the office of management and budget before the commissioner of administration may
 11 approve the proposed plan. The state agency shall report each year to the office of
 12 management and budget on the cost of each employee's participation and the effect on the
 13 agency's personal services cost and operation.

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

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

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

31 (b) In this section, "administrator" means the administrator of the public employees'

1 retirement system for employees who are members of that system, and the administrator of
2 the teachers' retirement system for employees who are members of that system.

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

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

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

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

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

16 (c) In this Act,

17 (1) "office of management and budget" means the office of management and
18 budget in the Office of the Governor;

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

21 (3) "state agency"

22 (A) means

23 (i) the legislative branch of state government;

24 (ii) a principal department of the executive branch of state
25 government; an independent state entity that is attached to a principal
26 department of the executive branch for administrative purposes but that is not a
27 public organization as defined in AS 39.35.680 is part of that department for
28 purposes of this clause; and

29 (iii) the Office of the Governor;

30 (B) does not include

31 (i) the University of Alaska;

- 1 (ii) a political subdivision of the state; or
- 2 (iii) a public organization as defined in AS 39.35.680;
- 3 (4) "teachers' retirement system" means the Teachers' Retirement System of
- 4 Alaska (AS 14.25).

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

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

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

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