

SENATE BILL NO. 232

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 5/21/03

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to federal requirements for governmental plan and other qualifications**
2 **for the teachers' retirement system, the public employees' retirement system, and the**
3 **judicial retirement system; and providing for an effective date."**

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

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

7 PURPOSE. The purpose of this Act is to

8 (1) assure that the teachers' retirement system, the public employees'
9 retirement system, and the judicial retirement system continue to meet governmental plan
10 qualifications set by the Internal Revenue Service so that those plans may qualify for
11 favorable federal tax treatment; and

12 (2) implement changes in those retirement systems for members to take
13 advantage of changes in federal tax laws to better plan their retirement.

14 * **Sec. 2.** AS 14.25.060(a) is amended to read:

1 (a) If a member first joined the **system** [SERVICE] before July 1, 1990, and
 2 has military service or Alaska Bureau of Indian Affairs (BIA) service, or if a member
 3 joined the system before July 1, 1978, and has creditable outside service, **the member**
 4 **may claim this service. If claimed,** the member is indebted to the system as follows:

5 (1) At the time of first becoming a member of the system, the arrearage
 6 indebtedness is seven percent of the base salary multiplied by the total number of
 7 years of creditable outside, military, and Alaska BIA service. The administrator shall
 8 add compound interest at the rate prescribed by regulation to the arrearage
 9 indebtedness beginning July 1, 1963, or at the time the member first becomes eligible
 10 to claim the service, whichever is later, to the date of payment or the date of
 11 retirement, whichever occurs first.

12 (2) If a member terminates from the system and is subsequently
 13 reemployed as a member, the arrearage indebtedness to the system for outside,
 14 military, or Alaska BIA service accumulated in the interim is seven percent of the base
 15 salary upon reentering membership service, multiplied by the number of years of
 16 interim outside, military, and Alaska BIA service. Compound interest at the rate
 17 prescribed by regulation shall be added to the arrearage indebtedness beginning July 1,
 18 1963, or the date of reemployment as a member, whichever is later, to the date of
 19 payment or the date of retirement, whichever occurs first.

20 * **Sec. 3.** AS 14.25.062 is amended to read:

21 **Sec. 14.25.062. Reinstatement indebtedness.** A teacher who has received a
 22 refund of contributions in accordance with AS 14.25.150 **forfeits corresponding**
 23 **credited service under this chapter. A teacher may elect to reinstate credited**
 24 **service associated with the refund by repaying the total amount of the refund. If**
 25 **an election is made under this section, an indebtedness** [IS INDEBTED] to the
 26 system in the amount of the total refund **shall be established.** Compound interest at
 27 the rate prescribed by regulation shall be added to the reinstatement indebtedness from
 28 the date of the refund to the date of repayment or the date of retirement, whichever
 29 occurs first.

30 * **Sec. 4.** AS 14.25.075(a) is amended to read:

31 (a) An employee who is eligible to purchase credited service under

1 AS 14.25.047 or 14.25.048, a member who is eligible to purchase credited service
 2 under AS 14.25.048, 14.25.060 [AS 14.25.060], 14.25.061, [OR] 14.25.100, or
 3 14.25.107, or a teacher who is eligible to purchase credited service under
 4 AS 14.20.345, AS 14.25.050, 14.25.062, or 14.25.105 [IS A MEMBER FOR
 5 PURPOSES OF THIS SECTION. A MEMBER], in lieu of making payments directly
 6 to the system, may elect to have the member's employer make payments as provided
 7 in this section.

8 * **Sec. 5.** AS 14.25.075(b) is amended to read:

9 (b) A member may elect to have the employer make payments for all or any
 10 portion of the amounts payable for the member's purchase of credited service through
 11 a salary reduction program as follows:

12 (1) the amounts paid under a salary reduction program are in lieu of
 13 contributions by the member making the election; the electing member's salary or
 14 other compensation shall be reduced by the amount paid by the employer under this
 15 subsection [SECTION];

16 (2) the member shall make an irrevocable [AN] election under this
 17 subsection [SECTION] to purchase credited service as permitted in AS 14.20.345,
 18 AS 14.25.047, 14.25.048, 14.25.050, 14.25.060, 14.25.061, 14.25.062, 14.25.100,
 19 [OR] 14.25.105, or 14.25.107 before the member's termination of employment; the
 20 irrevocable election must specify the number of payroll periods that deductions will
 21 be made from the member's compensation and the dollar amount of deductions for
 22 each payroll period during the specified number of payroll periods; the deductions
 23 made under this paragraph cease upon the earliest of the member's termination
 24 of employment with the employer or the member's death; amounts paid by an
 25 employer under (f) of this section may not be applied toward the payment of the
 26 dollar amount of the deductions representing the portion of the credited service
 27 that is being purchased by the member through payroll deduction in accordance
 28 with the member's irrevocable election under this subsection;

29 (3) [A MEMBER WHO MAKES AN ELECTION UNDER THIS
 30 SECTION TO HAVE THE EMPLOYER MAKE PAYMENTS FOR LESS THAN
 31 ALL OF THE AMOUNTS PAYABLE FOR THE MEMBER'S PURCHASE OF

1 CREDITED SERVICE MAY SUBSEQUENTLY ELECT TO HAVE THE
 2 EMPLOYER MAKE PAYMENTS FOR ALL OR ANY PORTION OF THE
 3 REMAINING AMOUNTS PAYABLE FOR THE MEMBER'S PURCHASE OF
 4 CREDITED SERVICE;

5 (4)] amounts paid by an employer under this **subsection** [SECTION]
 6 shall be treated as employer contributions for the purpose of determining tax treatment
 7 under 26 U.S.C. (Internal Revenue Code); the amounts paid by the employer under
 8 this **subsection** [SECTION] may not be included in the member's gross income for
 9 income tax purposes until those amounts are distributed by refund or retirement
 10 benefit payments.

11 * **Sec. 6.** AS 14.25.075(f) is amended to read:

12 (f) **The** [TO THE EXTENT THAT A PAYMENT UNDER THIS SECTION
 13 DOES NOT ALTER, AMEND, OR REVOKE ANY ONE OR MORE CURRENTLY
 14 EFFECTIVE ELECTIONS MADE BY THE EMPLOYEE, THE] board may accept
 15 **rollover** [EMPLOYEE] contributions **from a member, and direct transfers as**
 16 **described in this subsection, for the purchase, in whole or in part, of credited**
 17 **service under this section for the reinstatement, in whole or in part, of forfeited**
 18 **credited service in accordance with AS 14.25.062. A rollover contribution or**
 19 **transfer as described in this subsection** [, WHICH] shall [ALSO] be treated as
 20 employer contributions for the purpose of determining tax treatment under the Internal
 21 Revenue Code, **and may be made** [FOR THE PAYMENT FOR CREDITED
 22 SERVICE PURCHASES MADE UNDER THIS SECTION IN WHOLE OR IN
 23 PART,] by any one or a combination of the following methods:

24 (1) subject to the limitations prescribed in [26 U.S.C. 401(a)(3) AND]
 25 26 U.S.C. 402(c), accepting eligible rollover distributions directly from one or more
 26 retirement programs of another employer that are qualified under 26 U.S.C. 401(a) or
 27 accepting rollovers directly from **a member** [AN EMPLOYEE];

28 (2) subject to the limitations prescribed in 26 U.S.C. 408(d)(3)(A)(ii),
 29 accepting from **a member** [AN EMPLOYEE] conduit rollover contributions that are
 30 received by the **member** [EMPLOYEE] from one or more conduit rollover individual
 31 retirement accounts previously established by the **member** [EMPLOYEE];

1 (3) subject to the limitations prescribed in 26 U.S.C. 403(b)(13),
 2 accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the
 3 **member** [EMPLOYEE], on **or** [AND] after January 1, 2002, from a tax sheltered
 4 annuity described in 26 U.S.C. 403(b);

5 (4) subject to the limitations prescribed in 26 U.S.C. 457(e)(17),
 6 accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the
 7 **member** [EMPLOYEE], on **or** [AND] after January 1, 2002, from an eligible deferred
 8 compensation plan of a tax-exempt organization or a state or local government
 9 described in 26 U.S.C. 457(b);

10 (5) accepting direct trustee-to-trustee transfer from an account
 11 established for the benefit of the member in AS 39.30.150 - 39.30.180 (Alaska
 12 Supplemental Annuity Plan).

13 * **Sec. 7.** AS 14.25.075(i) is amended to read:

14 (i) On satisfaction of the eligibility requirements of AS 14.20.345,
 15 AS 14.25.047, 14.25.048, 14.25.050, 14.25.060, 14.25.061, **14.25.062**, 14.25.100,
 16 [OR] 14.25.105, **or 14.25.107**, the requirements of this section, and the administrative
 17 filing requirements specified by the board, the system shall adjust the member's
 18 credited service history and add any additional service credits acquired.

19 * **Sec. 8.** AS 14.25.110(k) is amended to read:

20 (k) **For system fiscal years beginning after December 31, 1975, and**
 21 **notwithstanding** [NOTWITHSTANDING] any other provision of this chapter, the
 22 projected annual benefit provided by this chapter and the benefit from all other defined
 23 benefit plans required to be aggregated with the benefits from this system under the
 24 provisions of 26 U.S.C. 415 may not increase to an amount in excess of the amount
 25 permitted under 26 U.S.C. 415 at any time. In the event that any projected annual
 26 benefit of a member exceeds the limitation of 26 U.S.C. 415 for a limitation year, the
 27 system shall take any necessary remedial action to correct an excess accrued **annual**
 28 benefit. The provisions of 26 U.S.C. 415, and the regulations adopted under that
 29 statute, as applied to qualified defined benefit plans of governmental employers are
 30 incorporated as part of the terms and conditions of the system. This subsection applies
 31 to any member of this system.

1 * **Sec. 9.** AS 22.25.011 is amended to read:

2 **Sec. 22.25.011. Contributions of judges and justices.** Each justice and
 3 judge appointed after July 1, 1978, **and covered as a member under the judicial**
 4 **retirement system as of the date of the justice's or judge's appointment** shall
 5 contribute seven percent of the base annual salary received by the justice or judge to
 6 the judicial retirement system. Contributions shall be made for all creditable service
 7 under this chapter up to a maximum of 15 years. This contribution is made in the
 8 form of a deduction from compensation, at the end of each payroll period, and is made
 9 even if the compensation paid in cash to the justice or judge is reduced below the
 10 minimum prescribed by law. The contributions shall be deducted from the justice's or
 11 judge's compensation before the computation of applicable federal taxes and shall be
 12 treated as employer contributions under 26 U.S.C. 414(h)(2). A member may not have
 13 the option of making the payroll deduction directly in cash instead of having the
 14 contribution picked up by the employer. Each justice and judge is considered to
 15 consent to the deduction from compensation. Payment of compensation less the
 16 deduction constitutes a full discharge of all claims and demands for the services
 17 rendered by the justice or judge during the period covered by the payment, except as
 18 to the benefits provided for under this chapter. The contributions shall be credited to
 19 the judicial retirement fund established in accordance with AS 22.25.048.

20 * **Sec. 10.** AS 22.25.012(a) is amended to read:

21 (a) An administrative director of the Alaska court system appointed under
 22 art. IV, sec. 16 of the state constitution is **covered as a member under the judicial**
 23 **retirement system as of the date of the administrative director's appointment and**
 24 **is** entitled to retirement benefits under this chapter on the terms and conditions
 25 applicable to a superior court judge appointed after July 1, 1978, except that an
 26 administrative director may receive retirement benefits only with service as
 27 administrative director for 10 or more years.

28 * **Sec. 11.** AS 22.25.048(i) is amended to read:

29 (i) **If the judicial retirement system is terminated, a member whose**
 30 **contributions have not been refunded, regardless of the member's employment**
 31 **status at the date of the termination of the system, shall be considered fully vested**

1 **in the member's adjusted accrued retirement benefits as of the date of the**
 2 **termination of the system.** If, upon termination of the system, all liabilities are
 3 satisfied, any excess assets arising from erroneous actuarial computation shall revert to
 4 the employer.

5 * **Sec. 12.** AS 39.35.165(b) is amended to read:

6 (b) An employee may elect to have the employer make payments for all or any
 7 portion of the amounts payable for the employee's purchase of credited service
 8 through a salary reduction program as follows:

9 (1) the amounts paid under a salary reduction program are in lieu of
 10 contributions by the employee making the election; the electing employee's salary or
 11 other compensation shall be reduced by the amount paid by the employer under this
 12 subsection;

13 (2) the employee shall make an **irrevocable** election under this section
 14 to purchase credited service as permitted in AS 39.35.310, 39.35.330, 39.35.340,
 15 39.35.342, 39.35.345, 39.35.350, 39.35.360, 39.35.370, 39.35.375, or 39.35.381 and
 16 before the employee's termination of employment; the **irrevocable** election must
 17 specify the number of payroll periods that deductions will be made from the
 18 employee's compensation and the dollar amount of deductions for each payroll period
 19 during the specified number of payroll periods; **the deductions made under this**
 20 **paragraph cease upon the earliest of the member's termination of employment**
 21 **with the employer or the member's death; amounts paid by an employer under**
 22 **(f) of this section may not be applied toward the payment of the dollar amount of**
 23 **the deductions representing the portion of the credited service that is being**
 24 **purchased by the member through payroll deduction in accordance with the**
 25 **member's irrevocable election under this subsection;**

26 (3) [AN EMPLOYEE WHO MAKES AN ELECTION UNDER THIS
 27 SECTION TO HAVE THE EMPLOYER MAKE PAYMENTS FOR LESS THAN
 28 ALL OF THE AMOUNTS PAYABLE FOR THE EMPLOYEE'S PURCHASE OF
 29 CREDITED SERVICE MAY SUBSEQUENTLY ELECT TO HAVE THE
 30 EMPLOYER MAKE PAYMENTS FOR ALL OR ANY PORTION OF THE
 31 REMAINING AMOUNTS PAYABLE FOR THE EMPLOYEE'S PURCHASE OF

1 CREDITED SERVICE;

2 (4) amounts paid by an employer under this **subsection** [SECTION]
3 shall be treated as employer contributions for the purpose of determining tax treatment
4 under the Internal Revenue Code; the amounts paid by the employer under this
5 **subsection** [SECTION] may not be included in the member's gross income for income
6 tax purposes until those amounts are distributed by refund or retirement benefit
7 payments.

8 * **Sec. 13.** AS 39.35.165(f) is amended to read:

9 (f) **The** [TO THE EXTENT THAT A PAYMENT UNDER THIS SECTION
10 DOES NOT ALTER, AMEND, OR REVOKE ANY ONE OR MORE CURRENTLY
11 EFFECTIVE ELECTIONS MADE BY THE EMPLOYEE, THE] board may accept
12 **rollover** [EMPLOYEE] contributions **from a member and direct transfers, as**
13 **described in this subsection, for the purchase, in whole or in part, of credited**
14 **service or for the reinstatement, in whole or in part, of forfeited credited service**
15 **in accordance with AS 39.35.350. A rollover contribution or transfer as**
16 **described in this subsection** [, WHICH] shall also be treated as employer
17 contributions for the purpose of determining tax treatment under the Internal Revenue
18 Code, **and may be made** [FOR THE PAYMENT FOR CREDITED SERVICE
19 PURCHASES MADE UNDER THIS SECTION IN WHOLE OR IN PART,] by any
20 one or a combination of the following methods:

21 (1) subject to the limitations prescribed in [26 U.S.C. 401(a)(3) AND]
22 26 U.S.C. 402(c), accepting eligible rollover distributions directly from one or more
23 retirement programs of another employer that are qualified under 26 U.S.C. 401(a) or
24 accepting rollovers directly from **a member** [AN EMPLOYEE];

25 (2) subject to the limitations prescribed in 26 U.S.C. 408(d)(3)(A)(ii),
26 accepting from **a member** [AN EMPLOYEE] conduit rollover contributions that are
27 received by the employee from one or more conduit rollover individual retirement
28 accounts previously established by the **member** [EMPLOYEE];

29 (3) subject to the limitations prescribed in 26 U.S.C. 403(b)(13),
30 accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the
31 **member** [EMPLOYEE], on **or** [AND] after January 1, 2002, from a tax sheltered

1 annuity described in 26 U.S.C. 403(b);

2 (4) subject to the limitations prescribed in 26 U.S.C. 457(e)(17),
3 accepting direct trustee-to-trustee transfers of all or a portion of the accounts of the
4 **member** [EMPLOYEE], on **or** [AND] after January 1, 2002, from an eligible deferred
5 compensation plan of a tax-exempt organization or a state or local government
6 described in 26 U.S.C. 457(b);

7 (5) accepting direct trustee-to-trustee transfer from an account
8 established for the benefit of the member in AS 39.30.150 - 39.30.180 (Alaska
9 Supplemental Annuity Plan).

10 * **Sec. 14.** AS 39.35.340(a) is amended to read:

11 (a) **An** [A VESTED] employee is entitled to credited service for active
12 military service in the armed forces of the United States, either by enlistment or
13 induction, if the employee received a discharge under honorable conditions and is not
14 entitled to receive retirement benefits from the United States government for the same
15 service. The credited service allowed may not exceed an aggregate period of five
16 years. Benefits are not payable on credited service for military service unless the
17 employee makes retroactive contributions to the system for the period of time that
18 service credit is claimed. However, if the employee was in the employ of an employer
19 on the date of entry into the armed forces and returned to the employ of an employer
20 within 90 days after the date of discharge from military service, the employee is not
21 required to make retroactive contributions under this system for the period of credited
22 service.

23 * **Sec. 15.** AS 39.35.370(i) is amended to read:

24 (i) **For system fiscal years beginning after December 31, 1975, and**
25 **notwithstanding** [NOTWITHSTANDING] any other provision of this chapter, the
26 projected annual benefit provided by this chapter and the benefit from all other defined
27 benefit plans required to be aggregated with the benefits from this system under the
28 provisions of 26 U.S.C. 415 may not increase to an amount in excess of the amount
29 permitted under 26 U.S.C. 415 at any time. In the event that any projected annual
30 benefit of a member exceeds the limitation of 26 U.S.C. 415(g) for a limitation year,
31 the system shall take any necessary remedial action to correct an excess accrued

1 **annual** benefit. The provisions of 26 U.S.C. 415, and the regulations adopted under
 2 that statute, as applied to qualified defined benefit plans of governmental employers
 3 are incorporated as part of the terms and conditions of the system. This subsection
 4 applies to any member of this system.

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

7 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
 8 heading of AS 39.35.546 from "Tax exemption" to "State and federal taxation of benefits."

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

11 APPLICABILITY OF CERTAIN CREDITED SERVICE PURCHASES UNDER
 12 PUBLIC EMPLOYEES' AND TEACHERS' RETIREMENT SYSTEMS. The provisions of
 13 this Act listed in (1) and (2) of this section first apply on the day after the date on which the
 14 Department of Administration receives favorable rulings on the changes from the Internal
 15 Revenue Service that, under 26 U.S.C. 414(h)(2), the amounts paid by the employer will not
 16 be included in the member's gross income for income tax purposes until those amounts are
 17 distributed by refund or retirement benefit payment:

18 (1) the changes made to AS 14.25.075(b)(4), redesignated as
 19 AS 14.25.075(b)(3) by sec. 5 of this Act;

20 (2) the changes made to AS 39.35.165(b)(4), redesignated as
 21 AS 39.35.165(b)(3) by sec. 12 of this Act.

22 (b) The commissioner of administration shall promptly notify the revisor of statutes of
 23 the dates that the rulings described in (a) of this section were received.

24 * **Sec. 18.** The uncodified law of the State of Alaska enacted in sec. 49, ch. 59, SLA 2002,
 25 is amended by adding a new subsection to read:

26 (f) Notwithstanding AS 14.25.177 and AS 39.35.547, the following provisions
 27 of this Act are retroactive to January 1, 1993:

28 (1) AS 14.25.163, enacted by sec. 9 of this Act;

29 (2) AS 22.25.022, enacted by sec. 19 of this Act;

30 (3) AS 39.35.195, enacted by sec. 32 of this Act.

31 * **Sec. 19.** This Act takes effect immediately under AS 01.10.070(c).