

**ALASKA STATE LEGISLATURE**  
**HOUSE STATE AFFAIRS STANDING COMMITTEE**

April 14, 2004

9:31 a.m.

**MEMBERS PRESENT**

Representative Bruce Weyhrauch, Chair  
Representative Jim Holm, Vice Chair  
Representative John Coghill  
Representative Bob Lynn

**MEMBERS ABSENT**

Representative Paul Seaton  
Representative Ethan Berkowitz  
Representative Max Gruenberg

**COMMITTEE CALENDAR**

HOUSE BILL NO. 331

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

- MOVED CSHB 331(STA) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 331

SHORT TITLE:RETIREMENT:TEACHERS/JUDGES/PUB EMPLOYEES

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

| Jrn-Date | Jrn-Page |     | Action                                       |
|----------|----------|-----|--|
| 05/21/03 | 2070     | (H) | READ THE FIRST TIME -<br>REFERRALS           |
| 05/21/03 | 2070     | (H) | STA, L&C, FIN                                |
| 05/21/03 | 2070     | (H) | FN1: ZERO(ADM)                               |
| 05/21/03 | 2070     | (H) | GOVERNOR'S TRANSMITTAL LETTER                |
| 03/30/04 |          | (H) | STA AT 8:00 AM CAPITOL 102                   |
| 03/30/04 |          | (H) | <Bill Hearing Postponed to<br>Thurs. 4/1/04> |
| 04/01/04 |          | (H) | STA AT 8:00 AM CAPITOL 102                   |
| 04/01/04 |          | (H) | Scheduled But Not Heard                      |
| 04/06/04 |          | (H) | STA AT 8:00 AM CAPITOL 102                   |
| 04/06/04 |          | (H) | Heard & Held                                 |

04/14/04

(H)

MINUTE(STA)

STA AT 8:00 AM CAPITOL 102

**WITNESS REGISTER**

MELANIE MILLHORN, Director  
Division of Retirement & Benefits  
Department of Administration  
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the department during the hearing on HB 331.

ANSELM STAACK, Chief Financial Officer  
Division of Retirement & Benefits  
Department of Administration  
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the department during the hearing on HB 331.

**ACTION NARRATIVE**

**TAPE 04-62, SIDE A**

Number 0001

**CHAIR BRUCE WEYHRAUCH** called the House State Affairs Standing Committee meeting to order at 9:31 a.m. Representative Weyhrauch was present at the call to order. Representatives Holm, Coghill, and Lynn arrived as the meeting was in progress.

sb135

sb232

hb254

HB 331-RETIREMENT:TEACHERS/JUDGES/PUB EMPLOYEES

[Contains brief discussion of SB 135, SB 232, and HB 254.]

Number 0044

CHAIR WEYHRAUCH announced that the first order of business was HOUSE BILL NO. 331, "An Act relating to federal requirements for governmental plan and other qualifications for the teachers' retirement system, the public employees' retirement system, and the judicial retirement system; and providing for an effective date."

CHAIR WEYHRAUCH reminded the committee members that at the prior hearing they had adopted the committee substitute (CS) for HB

331, Version 23-GH1009\D, Craver, 4/1/04, as a work draft; therefore, Version D was still before the committee.

Number 0097

MELANIE MILLHORN, Director, Division of Retirement & Benefits, Department of Administration, emphasized that the proposed legislation is important to the division, because it would ensure that the division is in compliance with the Internal Revenue Service (IRS) code. She noted that there was an initiative launched by the division in January 2001, to obtain plan determination letters and private rulings regarding the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS), the Judicial Retirement System (JRS), and the Supplemental Benefits System (SBS), to ensure federal plan compliance.

MS. MILLHORN noted that, in May 2001, Senator Rick Halford introduced SB 135 in the Twenty Second Legislative Session, which added village public safety officers (VPSOs). She continued as follows:

Now, this particular piece of legislation was not made operative, pending an IRS ruling to make a determination if VPSOs could be included in PERS for classification purposes. So, [in] October 2001, there was a comprehensive submission to the IRS to obtain [a] positive determination letter on the plans and private letter rulings.

[In] May of 2002, HB 254 ... made some requirements for changes in the plan. [In] June of 2002, the IRS provided a positive private letter ruling on SBS and TRS, and the private letter ruling was conditioned upon putting into law all of the changes requested by the IRS. [In] November of 2002, the division received notice from the IRS that they intended to rule negatively on the ... VPSO issue, which was the inclusion of VPSOs in [PERS]. There was a formal conference of right that was held with the IRS in Washington, D.C., to make a final plea ... to allow the VPSOs for inclusion in [PERS].

In April of 2003, there was a favorable plan determination letter for PERS, ... TRS, JRS, [and] SBS, based on voluntary compliance requirements. ... In May of 2003, SB 232 was introduced. In August of

2003, the IRS ... provided the division with a positive letter ruling on TRS and PERS, and a negative ruling on VPSO inclusion in PERS.

[In] November of 2003, regulations [were] adopted by PERS and TRS boards on issues required in regulations as to the actuarial reduction factors, which were required by the IRS, and these changes must be implemented in order to maintain PERS, ... TRS, and JRS as plan-qualified status ..., and they have to be made in statute.

Which brings us to January of 2004: The IRS required [statute] changes through SB 232 and HB 331, which are identical bills, and it made a requirement that the VPSO language that was never made operative be repealed from statute. And these changes must be implemented in order to maintain PERS, TRS, and JRS, as plan-qualified status ....

ANSELM STAACK, Chief Financial Officer, Division of Retirement & Benefits, Department of Administration, told the committee that he has been a fully licensed certified public accountant (CPA) for 30 years and is also an attorney at law. He indicated that a qualified [retirement] plan offers good benefits; members of TRS, PERS, and JRS can make contributions to the plan, pre-tax, which is valuable to the plan and lowers the plan's cost. He explained that, under the IRS code, in order for a plan to remain qualified, a plan document must be maintained in concert with the IRS code. He revealed that the plan documents for PERS, TRS, and JRS are the statutes. He noted that SBS has a separate plan document; it has a statutory link, but its main operative provisions are not in the statute itself. He stated that it is under IRS review and control, but it's separately linked. In response to a question from Representative Holm, he explained that SBS is the plan for the State of Alaska and 14 other public employers and is a substitute for social security. Mr. Staack continued as follows:

So, we went to the IRS ... to ask for a review to see if you're in compliance. And we also went to the IRS because there was a desire that people could pay their indebtedness to the system - to purchase, for instance, military time, and to purchase back previously refunded service - to be able to do that with pre-tax dollars ..., and also to be allowed to transfer monies from certain kinds of qualified plans,

in order to pay for that service. Well, that's a tremendous benefit; it helps both the system and ... the member. It's no real cost to the plan.

Well, in order to get that, the IRS has to do a full review of your plan. So, this is where you have to step up to the plate and you have to have every bit of your plan reviewed. And that is precisely what they did. What you see here is, in 2002, ... the first series of changes were adopted as HB 254 in the Twenty Second Legislature, second session. There were additional changes made, and that is what is included here in HB 331. Now, the reason it was introduced on the very last day of the session last year was because we are under a compliance agreement to get these changes in effect.

MR. STAACK, in response to a question from Chair Weyhrauch, stated that all of the language in [HB 331] is "precisely how the IRS accepts it." He indicated that [the version before the committee] was "after twelve iterations." He continued as follows:

As to the VPSO matter that was originally passed ..., I personally, along with three other tax [counsels], argued that case with four members of the IRS, in order to try ... to convince them to keep the VPSOs in the PERS system. However, they disagreed with that.

MR. STAACK stated his understanding that the committee had been provided with copies of that ruling [included in the committee packet].

Number 0775

MR. STAACK noted that the actual employer of the VPSO is what is called the 501(c)(3) nonprofit - a private nonprofit corporation. In order to get the VPSOs that work for the regional Native corporations to be declared employees who could be in a governmental plan, the organization itself must be declared to be the practical equivalent of a government. He clarified, "You can't be a private nonprofit and a governmental plan at the same time."

MR. STAACK summarized that the first issue was one of control. He stated, "We even used an argument with the IRS to try to convince them that ... we considered these least employees."

They felt it was creative, but it wasn't good enough to convince them." He credited the IRS with trying hard to overcome the problems, and it reviewed over 1,000 pages of background documentation regarding the VPSO issue.

Number 0895

REPRESENTATIVE HOLM moved to report CS HB 331, Version 23-GH1009\D, Craver, 4/1/04, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 331(STA) was reported out of the House State Affairs Standing Committee.

**ADJOURNMENT**

Number 0921

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:45 a.m.