

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

February 10, 2005

3:34 p.m.

MEMBERS PRESENT

Senator Gene Therriault, Chair
Senator Charlie Huggins
Senator Bettye Davis

MEMBERS ABSENT

Senator Thomas Wagoner, Vice Chair
Senator Kim Elton

COMMITTEE CALENDAR

Department of Administration Overview - Impact of HB 242 (2001)

PREVIOUS COMMITTEE ACTION

No previous action to record.

WITNESS REGISTER

Melanie Millhorn
Division of Retirement & Benefits
Department of Administration
PO Box 110200
Juneau, AK 99811-0200

POSITION STATEMENT: Gave overview on the impact of HB 242

Kevin Brooks, Deputy Commissioner
Department of Administration
PO Box 110200
Juneau, AK 99811-0200

POSITION STATEMENT: Gave overview on the impact of HB 242

ACTION NARRATIVE

CHAIR GENE THERRIAULT called the Senate State Affairs Standing Committee meeting to order at [3:34:33 PM](#). Present were Senators Davis, Huggins and Chair Therriault.

^OVERVIEW:

DEPARTMENT OF ADMINISTRATION IMPACT OF House Bill 242 (2001)

CHAIR GENE THERRIAULT announced the committee would hear a Department of Administration overview of the impacts of House Bill 242 that passed in 2001, which established a program allowing retirees to return to state employment.

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MELANIE MILLHORN, Department of Administration, explained that former Senator Loren Leman introduced Senate Bill 149 to give management the ability to offer incentives for normal retirement teachers to return to work. Shortly thereafter Representative Pete Kott introduced House Bill 242, which expanded the opportunity to include normal retirement PERS employees. The statutes were amended to allow retired TRS/PERS members to return to work by waiving participation in the TRS/PERS retirement program. Under the waiver, neither employees nor employers made contributions to TRS or PERS.

The legislation is scheduled to sunset on July 1, 2005 and the Department of Administration prepared a detailed report on the program and its use to date.

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Approximately 56 percent of all TRS employers participated in the program and 187 waivers were filed. As of November 30, 2004, 124 TRS members were employed under the program.

About 26 percent of all PERS employers participated and 297 waivers were filed. On November 30, 2004, 211 PERS members were employed under the program.

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On 9/14/04 the Division of Retirement and Benefits received an attorney general determination that once the PERS and TRS statute sunsets, reemployed retirees could no longer receive retirement benefits while employed by any PERS/TRS employer. In addition, those who elect to continue working as a PERS/TRS member, would be required to make contributions to PERS/TRS and their retirement payments would stop. The employer would also make PERS/TRS contributions.

CHAIR THERRIAULT said they would return to regular employee status.

MS. MILLHORN said that's correct and the employee would begin to earn service credit for a second retirement benefit.

So they're separate. If you worked for 20 years and were enrolled under House Bill 242, you would come and work another three years and then as of July 1, 2005 - unless the Legislature extends this program or allows those parties who are currently enrolled to continue that benefit - it would cease as of that date. They could work another three years of service and they would get a second benefit that would be calculated separately and added to their first retirement benefit.

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SENATOR CHARLIE HUGGINS questioned whether PERS/TRS employers could hire PERS/TRS retirees after the sunset date.

MS. MILLHORN replied there would be no new entrants and the existing enrollees would no longer have a program to participate in if the Legislature takes no action to continue the program and/or to allow the existing parties to continue receiving the benefit.

CHAIR THERRIAULT asked about the fiscal note for House Bill 242.

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MS. MILLHORN explained there were two parts to the fiscal note: the retiree return provision allows retirees to enroll in the program through the waiver; and enhanced medical benefits reflect a .17 percent of payroll cost for the medical enhancement

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CHAIR THERRIAULT said legislators are concerned that if the program were continued or allowed to expand more and more of the employee base wouldn't be contributing to a system that's already in trouble.

What difference would it have made if those employees and their employers had been making contributions into the system, he questioned.

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MS. MILLHORN said they hadn't calculated that, but could do so.

CHAIR THERRIAULT asked her to make the calculation because the Finance Committee would want the information.

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MS. MILLHORN said that after they received the AG opinion, they noticed all PERS/TRS employers and members who were currently enrolled so that they would be properly prepared to deal with the issue.

The report information includes: how employers have used the program; percentages by job classification for who has participated - PERS parties who have come back including the difficult to recruit and retain categories of biologists and engineers, and that 87 teachers in 23 school districts that returned under the program; and the successful mentoring program.

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CHAIR THERRIAULT asked whether House Bill 242 had been abused.

MS. MILLHORN said she was unaware of any abuses. The TRS statute says the school board must issue a resolution stating they have retention issues before rehiring a teacher under the program. PERS employers don't have that requirement.

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In September, a fiscal analysis tiered the participation level at 100 members, 500 members and 1,000 members to determine what happens to the system at the various participation levels.

For PERS they determined the costs to the system have been negligible. TRS has a higher level of unfunded liability so when 124 members participate the fiscal impact has been about \$100,000.

MS. MILLHORN said, "If the Legislature enacts legislation going forward to continue that program, our recommendation would be.... to hold the system harmless by taking the payroll dollars and incorporating those payroll dollars for purposes of reducing past service costs."

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CHAIR THERRIAULT asked whether the bills were in the system.

MS. MILLHORN replied Senator Gary Stevens and Senator Kim Elton both introduced legislation.

CHAIR THERRIAULT asked whether the suggested language was included in either bill.

MS. MILLHORN said they discussed language to hold the systems harmless with both Senators.

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SENATOR HUGGINS asked whether she was supporting this as a cost saving mechanism with merit.

MS. MILLHORN replied it has been a good management tool and the primary concern is to see that no additional costs are added to the system.

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SENATOR HUGGINS asked if young people entering the work force have difficulty finding a position because a retiree was rehired for the position.

MS. MILLHORN replied you have to look at that on a case-by-case basis, but it would be less an issue in the senior or journey level positions.

CHAIR THERRIAULT questioned whether there might be a brain drain at some point in the future when returning workers retire a second time and don't return.

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MS. MILLHORN replied a healthy system has all levels of employees and as a management tool its important to be able to evaluate programmatic needs and have the ability to bring a retired person back.

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SENATOR HUGGINS asked whether there are ever any constraints on rehiring.

MS. MILLHORN said those decisions are made by individual agencies.

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CHAIR THERRIAULT referenced page 4 and asked whether there's been much thought about limiting the application base to address specific levels of expertise.

KEVIN BROOKS, deputy commissioner, Department of Administration, said there are no hard and fast rules.

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CHAIR THERRIAULT questioned whether there was any difference of opinion on the AG conclusion of what would happen if the program sunsets.

MR. BROOKS said they defer to the advice they receive from the Department of Law.

CHAIR THERRIAULT asked how many retirees that have returned to work might not meet recruitment criteria if parameters were placed on the program and questioned how those people might be impacted.

MR. BROOKS suggested recruitment criteria would impact new rehires. They discussed the fact that rehires have already qualified to retire and would do so again at some point. With some exceptions, these people aren't likely to be long tenured, he said.

CHAIR THERRIAULT asked whether he could supply some of that demographic information.

MR. BROOKS replied they could supply group rather than individual information.

CHAIR THERRIAULT said the information would be useful to determine whether any particular age group took advantage of the program.

MR. BROOKS said they would gather the information.

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CHAIR THERRIAULT remarked if the Legislature is seriously interested in adding another tier, the faster the base moves into the new tier the better. If existing employees can bridge the gap between now and when a new tier is established, then new employees will be in the new tier and that would be beneficial.

MR. BROOKS agreed and said the sunset provision provides that. If the program were extended, it would provide opportunity to clarify the issues.

CHAIR THERRIAULT questioned whether any bargaining units disagreed with the AG opinion.

MR. BROOKS replied not with the opinion itself, but there is a diverse set of opinions out there.

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SENATOR CHARLIE HUGGINS asked whether the average employee might be characterized as bitter.

MS. MILLHORN explained the division interpreted the program differently after the AG opinion and that has caused some to become disgruntled.

CHAIR THERRIAULT asked whether communication with employees was verbal or written.

MS. MILLHORN replied they provided the information in seminars, verbally and via e-mail. The division admits that the information it gave in 2002 is contrary to that it gives as of September 2004.

CHAIR THERRIAULT questioned the potential liability.

MR. BROOKS said there's been no attempt to quantify liability.

CHAIR THERRIAULT remarked any litigation would probably be class action.

[4:16:03 PM](#)

MR. BROOKS said Ms. Millhorn had written records.

MS. MILLHORN said they acknowledge they have changed their interpretation.

MR. BROOKS added the total population is probably about 400.

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SENATOR HUGGINS suggested they had some flexibility and could grandfather current participants.

[4:18:40 PM](#)

MR. BROOKS spoke of succession training and knowledge transfers.

SENATOR BETTYE DAVIS recapped the issue and asked when the department decided to get an AG opinion

MS. MILLHORN said they asked the question in September 2004 and that's when they received the opinion.

SENATOR DAVIS questioned what triggered the decision to ask for an opinion.

MS. MILLHORN replied the director of the Division of Personnel contacted the Department of Law and asked the question. "If she hadn't asked that question, the division [Division of Retirement and Benefits] would have continued on with its interpretation and its understanding."

CHAIR THERRIAULT remarked that some members retired and might not have cleaned out their desk before returning to work, which causes you to wonder whether it's because they are difficult to replace or because they are simply taking advantage of the system.

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MR. BROOKS said they would provide the committee information on: forgone contributions of rehires and the impact on the retirement system; age demographics; and who was advised and in what manner.

CHAIR THERRIAULT asked whether they could also be prepared to suggest categories that need a heightened showing of need.

MR. BROOKS said they could provide a list of government job classifications that have recruitment difficulties.

[4:26:17 PM](#)

MR. BROOKS stressed that the department would like to provide a remedy rather than find out what the potential exposure might be.

There were no further questions.

CHAIR THERRIault announced the committee would meet on Tuesday and Thursday next week. There being no further business to come before the committee, Chair Therriault adjourned the meeting at [4:29:01 PM](#).