

HOUSE BILL NO. 153

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KAWASAKI

Introduced: 2/26/07

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to pension forfeiture if certain public officials are convicted of certain
2 federal or state felony offenses in connection with official duties; and providing for an
3 effective date."

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

5 * **Section 1.** AS 14.25 is amended by adding a new section to read:

6 **Sec. 14.25.212. Pension forfeiture.** The provisions of AS 37.10.350 apply to
7 pension benefits under AS 14.25.009 - 14.25.220.

8 * **Sec. 2.** AS 14.25 is amended by adding a new section to read:

9 **Sec. 14.25.532. Pension forfeiture.** The provisions of AS 37.10.350 apply to
10 pension benefits under AS 14.25.310 - 14.25.590.

11 * **Sec. 3.** AS 22.25 is amended by adding a new section to read:

12 **Sec. 22.25.800. Pension forfeiture.** The provisions of AS 37.10.350 apply to
13 pension benefits under this chapter.

14 * **Sec. 4.** AS 37.10.220(a) is amended to read:

1 (a) The board shall

2 (1) hold regular and special meetings at the call of the chair or of at
3 least five members; meetings are open to the public, and the board shall keep a full
4 record of all its proceedings;

5 (2) after reviewing recommendations from the Department of
6 Revenue, adopt investment policies for each of the funds entrusted to the board;

7 (3) determine the appropriate investment objectives for the defined
8 benefit plans established under the teachers' retirement system under AS 14.25 and the
9 public employees' retirement system under AS 39.35;

10 (4) assist in prescribing the policies for the proper operation of the
11 systems and take other actions necessary to carry out the intent and purpose of the
12 systems in accordance with AS 37.10.210 - 37.10.390;

13 (5) provide a range of investment options and establish the rules by
14 which participants can direct their investments among those options with respect to
15 accounts established under

16 (A) AS 14.25.340 - 14.25.350 (teachers' retirement system
17 defined contribution individual accounts);

18 (B) AS 39.30.150 - 39.30.180 (State of Alaska Supplementary
19 Annuity Plan);

20 (C) AS 39.35.730 - 39.35.750 (public employees' retirement
21 system defined contribution individual accounts); and

22 (D) AS 39.45.010 - 39.45.060 (public employees' deferred
23 compensation program);

24 (6) establish the rate of interest that shall be annually credited to each
25 member's individual contribution account in accordance with AS 14.25.145 and
26 AS 39.35.100 and the rate of interest that shall be annually credited to each member's
27 account in the health reimbursement arrangement plan under AS 39.30.300 -
28 39.30.495; the rate of interest shall be adopted on the basis of the probable effective
29 rate of interest on a long-term basis, and the rate may be changed from time to time;

30 (7) adopt a contribution surcharge as necessary under AS 39.35.160(c);

31 (8) coordinate with the retirement system administrator to have an

1 annual actuarial valuation of each retirement system prepared to determine system
 2 assets, accrued liabilities, and funding ratios and to certify to the appropriate
 3 budgetary authority of each employer in the system

4 (A) an appropriate contribution rate for normal costs; and

5 (B) an appropriate contribution rate for liquidating any past
 6 service liability;

7 (9) review actuarial assumptions prepared and certified by a member
 8 of the American Academy of Actuaries and conduct experience analyses of the
 9 retirement systems not less than once every four years, except for health cost
 10 assumptions, which shall be reviewed annually; the results of all actuarial assumptions
 11 prepared under this paragraph shall be reviewed and certified by a second member of
 12 the American Academy of Actuaries before presentation to the board;

13 (10) contract for an independent audit of the state's actuary not less
 14 than once every four years;

15 (11) contract for an independent audit of the state's performance
 16 consultant not less than once every four years;

17 (12) obtain an external performance review to evaluate the investment
 18 policies of each fund entrusted to the board and report the results of the review to the
 19 appropriate fund fiduciary;

20 (13) by the first day of each regular legislative session, report to the
 21 governor, the legislature, and the individual employers participating in the state's
 22 retirement systems on the financial condition of the systems in regard to

23 (A) the valuation of trust fund assets and liabilities;

24 (B) current investment policies adopted by the board;

25 (C) a summary of assets held in trust listed by the categories of
 26 investment;

27 (D) the income and expenditures for the previous fiscal year;

28 (E) the return projections for the next calendar year;

29 (F) one-year, three-year, five-year, and 10-year investment
 30 performance for each of the funds entrusted to the board; and

31 (G) other statistical data necessary for a proper understanding

1 of the financial status of the systems;

2 (14) submit quarterly updates of the investment performance reports to
3 the Legislative Budget and Audit Committee; [AND]

4 (15) develop an annual operating budget; **and**

5 **(16) administer pension forfeitures required under AS 37.10.350**
6 **using the procedures of AS 44.62 (Administrative Procedure Act).**

7 * **Sec. 5.** AS 37.10 is amended by adding a new section to read:

8 **Sec. 37.10.350. Pension forfeiture to preserve public trust.** (a) A public
9 official, a legislator, or a legislative director, who has been convicted of a federal or
10 state felony offense of bribery, receiving a bribe, perjury, subornation of perjury,
11 scheme to defraud, or fraud may not receive a state pension benefit if the offense was
12 committed on or after the effective date of this section and was in connection with the
13 person's official duties.

14 (b) A state pension benefit under (a) of this section does not include

15 (1) insurance, voluntary wage reductions, involuntary wage reductions,
16 or supplemental or health benefits under AS 39.30.090 - 39.30.495 or former
17 AS 39.37.145;

18 (2) member or employee contributions under AS 14.25.050, 14.25.055,
19 14.25.340, 14.25.360(a), AS 22.25.011, AS 39.35.160, 39.35.165(f), 39.35.180,
20 39.35.730, 39.35.760(a), or former AS 39.37.070.

21 (c) In a pension forfeiture matter under this section, the board may award to
22 the spouse, domestic partner, child, or former spouse of the person governed by the
23 limitations in (a) of this section some or all of the amount that, but for the forfeiture
24 under (a) of this section, may otherwise be payable. In determining whether or not to
25 make an award under this subsection, the board shall consider the totality of
26 circumstances, including

27 (1) the role, if any, of the person's spouse, domestic partner, child, or
28 former spouse in connection with the illegal conduct for which the person was
29 criminally charged;

30 (2) the degree, if any, to which the person's spouse, domestic partner,
31 child, or former spouse profited financially from the person's illegal conduct;

1 (3) any restitution ordered by the court in the criminal case and the
2 amount, if any, still owing.

3 (d) In this section,

4 (1) "child" has the meaning given in AS 39.50.200(a);

5 (2) "domestic partner" has the meaning given in AS 39.50.200(a);

6 (3) "public official" has the meaning given in AS 39.50.200(a), except
7 that it does not include a judicial officer or an appointed or elected municipal officer.

8 * **Sec. 6.** AS 39.35 is amended by adding a new section to read:

9 **Sec. 39.35.672. Pension forfeiture.** The provisions of AS 37.10.350 apply to
10 pension benefits under AS 39.35.095 - 39.35.680.

11 * **Sec. 7.** AS 39.35 is amended by adding a new section to read:

12 **Sec. 39.35.932. Pension forfeiture.** The provisions of AS 37.10.350 apply to
13 pension benefits under AS 39.35.700 - 39.35.990.

14 * **Sec. 8.** AS 44.62.330(a) is amended by adding a new paragraph to read:

15 (47) the Alaska Retirement Management Board for administration of
16 pension forfeitures under AS 37.10.350.

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

19 **APPLICABILITY TO ELECTED PUBLIC OFFICERS' RETIREMENT SYSTEM.**

20 The provisions of AS 37.10.350, added by sec. 5 of this Act, apply to benefits under former
21 AS 39.37 (elected public officers' retirement system).

22 * **Sec. 10.** This Act takes effect January 1, 2009.