

**FREE CONFERENCE CS FOR SENATE BILL NO. 125**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE FREE CONFERENCE COMMITTEE

Offered: 3/12/08

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the accounting and payment of contributions under the retirement  
2 plans of the Public Employees' Retirement System of Alaska and the Teachers'  
3 Retirement System, to calculations of contributions under those retirement plans, and to  
4 participation in, and termination of and amendments to participation in, the defined  
5 benefit plans of those systems; relating to recovery of an award of damages or other  
6 recovery by those systems; relating to employer contributions to the health  
7 reimbursement arrangement plan; relating to participation in the public employees'  
8 defined contribution plan by certain elected officials; making conforming amendments;  
9 and providing for an effective date."

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

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

1 INTENT. It is the intent of this Act to change the public employees' retirement system  
 2 to a cost-sharing plan and provide for one integrated system of accounting for all employers.  
 3 Under the integrated system, the public employees' retirement system defined benefit plan's  
 4 unfunded liability will be shared among all employers, and each employer will pay a single,  
 5 uniform contribution rate of 22 percent. Because the contribution rate determined by the  
 6 Alaska Retirement Management Board for fiscal year 2009 is less than 22 percent for some  
 7 employers, and because, during fiscal years 2005, 2006, and 2007, several employers made  
 8 contributions to the system in excess of what was required by the Alaska Retirement  
 9 Management Board, the legislature intends to adopt legislation, apart from this Act, that  
 10 provides one-time grants to employers who are adversely affected by these imbalances, in  
 11 order to assist those employers financially as they make a transition to the cost-sharing plan  
 12 established by this Act.

13 \* **Sec. 2.** AS 09.17.070 is amended by adding a new subsection to read:

14 (f) Notwithstanding any other provision of this section, if the teachers'  
 15 retirement system (AS 14.25) or the public employees' retirement system (AS 39.35)  
 16 obtains an award of damages or other recovery in compensation for harms caused by  
 17 the wrongful or negligent conduct of a third party, the award of damages or other  
 18 recovery is not subject to reduction under this section on account of additional state  
 19 contributions under AS 14.25.085 or AS 39.35.280.

20 \* **Sec. 3.** AS 14.25.070 is repealed and reenacted to read:

21 **Sec. 14.25.070. Contributions by employers.** (a) Each employer shall  
 22 contribute to the system every payroll period an amount calculated by applying a rate  
 23 of 12.56 percent to the total of all base salaries paid by the employer to active  
 24 members of the system, including any adjustments to contributions required by  
 25 AS 14.25.173(a).

26 (b) The employer shall transmit the contributions calculated in (a) of this  
 27 section to the administrator in accordance with AS 14.25.065. The administrator shall  
 28 allocate contributions received for full payment of

29 (1) the actuarially determined employer normal cost for the plan; and

30 (2) all contributions required by AS 14.25.350 and AS 39.30.370 for  
 31 the fiscal year.

1 (c) If, after allocation of contributions under (b) of this section, a portion of  
 2 the employer contributions remains, the administrator shall apply that remaining  
 3 portion toward payment of the past service liability of the plan.

4 (d) Notwithstanding (a) of this section, the annual employer contribution rate  
 5 may not be less than the rate sufficient to allow payment of the employer normal cost  
 6 and the employer contributions required under AS 14.25.350 and AS 39.30.370.

7 (e) An employer of a retired member rehired under AS 14.20.135 shall include  
 8 that member's base salary when calculating the contribution amount established in (a)  
 9 of this section.

10 (f) In this section, "normal cost" means the cost of providing the benefits  
 11 expected to be credited, with respect to service, to all active members of the plan  
 12 during the year beginning after the last valuation date.

13 \* **Sec. 4.** AS 14.25 is amended by adding a new section to read:

14 **Sec. 14.25.085. Additional state contributions.** In addition to the  
 15 contributions that the state is required to make under AS 14.25.070 as an employer,  
 16 the state shall contribute to the plan each July 1 or, if funds are not available on July 1,  
 17 as soon after July 1 as funds become available, an amount for the ensuing fiscal year  
 18 that, when combined with the total employer contributions that the administrator  
 19 estimates will be allocated under AS 14.25.070(c), is sufficient to pay the plan's past  
 20 service liability at the contribution rate adopted by the board under AS 37.10.220 for  
 21 that fiscal year.

22 \* **Sec. 5.** AS 14.25 is amended by adding a new section to read:

23 **Sec. 14.25.087. Contributions for medical benefits.** Contributions made by  
 24 an employer under AS 14.25.070 and 14.25.085 shall be separately computed for  
 25 benefits provided by AS 14.25.168 and shall be deposited in the Alaska retiree health  
 26 care trust established under AS 39.30.097(a).

27 \* **Sec. 6.** AS 14.25.220 is amended by adding new paragraphs to read:

28 (46) "past service liability" means the actuarially determined excess of  
 29 the accrued liability of the plan over the value of the plan's assets, as of the date of the  
 30 last actuarial valuation;

31 (47) "system" means all retirement plans established under the

1 teachers' retirement system.

2 \* **Sec. 7.** AS 14.25.350(d) is amended to read:

3 (d) An employer shall also make contributions to the health reimbursement  
4 arrangement plan under AS 39.30.370 [AS 39.30.300].

5 \* **Sec. 8.** AS 39.35.100 is repealed and reenacted to read:

6 **Sec. 39.35.100. Accounting.** (a) The commissioner shall establish and  
7 maintain an adequate system of accounts and records for the plan. The accounts and  
8 records shall be integrated with the accounts, records, and procedures of the employers  
9 to the end that they operate most effectively and at minimum expense, and that  
10 duplication of records and accounts is avoided.

11 (b) An individual account shall be maintained for each employee to record the  
12 amount of the employee's mandatory contributions collected under AS 39.35.160(a).  
13 As of the last day of each calendar year and of each fiscal year, this account shall be  
14 credited with interest by applying the prescribed rate of interest, as determined by the  
15 board, to the balance in the account as of that date. When the employee is appointed to  
16 retirement, the amount held in the individual account shall be used first to fully  
17 finance the benefits paid. Once this account has been exhausted, the plan shall fully  
18 finance the benefits paid that were not financed by the employee's individual account.

19 (c) An individual account shall be maintained for each employee to record the  
20 amount of the employee's voluntary contributions to an employee savings account  
21 under AS 39.35.180. As of the last day of each calendar year and of each fiscal year,  
22 this account shall be credited with interest by applying the prescribed rate of interest,  
23 as determined by the board, to the balance in the account as of that date. Amounts that,  
24 before termination of employment, are withdrawn by an employee from the  
25 employee's savings account shall be charged to that account. When an employee is  
26 appointed to retirement, the amount held in the employee's savings account shall be  
27 paid in accordance with AS 39.35.395.

28 \* **Sec. 9.** AS 39.35.125(a) is amended to read:

29 (a) An elected official of the state or of a political subdivision of the state if  
30 the political subdivision has elected under AS 39.35.600 - 39.35.650 [AS 39.35.550 -  
31 39.35.650] to designate elected officials in the classifications of employees entitled to

1 participate in the plan is included in the plan unless the official files a written waiver  
 2 of coverage with the administrator. A waiver under this subsection waives coverage of  
 3 future employment as an elected official, regardless of any change of employer. An  
 4 elected official may file a waiver under this subsection at any time after election to  
 5 office, including the period before taking the oath of office. An elected official may  
 6 revoke a waiver under this subsection by filing a written revocation with the  
 7 administrator. A revocation under this subsection operates prospectively only, and the  
 8 elected official may not receive credited service for service as an elected official while  
 9 the waiver was in effect. There is no limit on the number of times an elected official  
 10 may file a waiver or revocation under this subsection.

11 \* **Sec. 10.** AS 39.35.160(c) is amended to read:

12 (c) An employee who has made an election under AS 39.35.300(c) or  
 13 39.35.310(c) to have the employee's years of service as a noncertificated employee of  
 14 a state boarding school, of a school district or regional educational attendance area, of  
 15 the special education service agency, or of the Alaska Vocational Technical Center  
 16 determined by reference to AS 14.25.220 shall pay a contribution surcharge for that  
 17 service. The amount of the surcharge is the difference between the amount the  
 18 employer would have had to contribute under AS 39.35.255 - 39.35.290  
 19 [AS 39.35.250 - 39.35.290] for the employee when treating the employee's credited  
 20 service as service earned under AS 39.35.300(c) or 39.35.310(c) less the amount the  
 21 employer would have had to contribute under AS 39.35.255 - 39.35.290  
 22 [AS 39.35.250 - 39.35.290] without treating the employee's credited service as service  
 23 earned under AS 39.35.300(c) or 39.35.310(c).

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

25 **Sec. 39.35.255. Contributions by employers.** (a) Each employer shall  
 26 contribute to the system every payroll period an amount calculated by applying a rate  
 27 of 22 percent of the greater of the total of all base salaries

28 (1) paid by the employer to employees who are active members of the  
 29 system, including any adjustments to contributions required by AS 39.35.520; or

30 (2) paid by the employer to employees who were active members of  
 31 the system during the corresponding payroll period for the fiscal year ending June 30,

1 2008.

2 (b) The administrator shall allocate contributions received for full payment of

3 (1) the actuarially determined employer normal cost for the plan; and

4 (2) all contributions required by AS 39.30.370 and AS 39.35.750 for  
5 the fiscal year.

6 (c) If, after allocation of contributions under (b) of this section, a portion of  
7 the employer contributions remains, the administrator shall apply that remaining  
8 portion toward payment of the past service liability of the plan.

9 (d) Notwithstanding (a) of this section, the annual employer contribution rate  
10 may not be less than the rate sufficient to allow payment of the employer normal cost  
11 and the employer contributions required under AS 39.30.370 and AS 39.35.750.

12 (e) An employer of a retired member rehired under AS 39.35.150 shall include  
13 that member's base salary when calculating the contribution amount established in (a)  
14 of this section.

15 (f) In this section, "normal cost" means the cost of providing the benefits  
16 expected to be credited, with respect to service, to all active members of the plan  
17 during the year beginning after the last valuation date.

18 \* **Sec. 12.** AS 39.35.280 is repealed and reenacted to read:

19 **Sec. 39.35.280. Additional state contributions.** In addition to the  
20 contributions that the state is required to make under AS 39.35.255 as an employer,  
21 the state shall contribute to the plan each July 1 or, if funds are not available on July 1,  
22 as soon after July 1 as funds become available, an amount for the ensuing fiscal year  
23 that, when combined with the total employer contributions that the administrator  
24 estimates will be allocated under AS 39.35.255(c), is sufficient to pay the plan's past  
25 service liability at the contribution rate adopted by the board under AS 37.10.220 for  
26 that fiscal year.

27 \* **Sec. 13.** AS 39.35 is amended by adding a new section to read:

28 **Sec. 39.35.282. Contributions for medical benefits.** Contributions made by  
29 an employer under AS 39.35.255 and 39.35.280 shall be separately computed for  
30 benefits provided by AS 39.35.535 and shall be deposited in the Alaska retiree health  
31 care trust established under AS 39.30.097(a).

1 \* **Sec. 14.** AS 39.35.520(a) is amended to read:

2 (a) When a change or error is made in the records maintained by the plan or in  
3 the contributions made on behalf of an employee or an error is made in computing a  
4 benefit, and, as a result, an employee or beneficiary is entitled to receive from the plan  
5 more or less than the employee would have been entitled to receive had the records or  
6 contributions been correct or had the error not been made, (1) the records,  
7 contributions, or error shall be corrected, and (2) as far as practicable, future payments  
8 or benefit entitlement shall be adjusted so that the actuarial equivalent of the pension  
9 or benefit to which the employee or beneficiary was correctly entitled shall be paid.  
10 An adjustment to contributions shall be picked up by the employer under  
11 AS 39.35.160 or treated as an adjustment to the employer's contributions under  
12 **AS 39.35.255** [AS 39.35.270], depending upon the nature of the adjustment. If no  
13 future payment is due, a person who was paid any amount to which the person was not  
14 entitled is liable for repayment of that amount, and a person who was not paid the full  
15 amount to which the person was entitled shall be paid the balance of that amount.

16 \* **Sec. 15.** AS 39.35.610(b) is amended to read:

17 (b) If contributions are not submitted within the prescribed time limit, the  
18 amount of contributions and interest due may be claimed by the administrator from  
19 any agency of the state or political subdivision that has in its possession funds of the  
20 employer or that is authorized to disburse funds to the employer that are not restricted  
21 by statute or appropriation to a specific purpose. The amount claimed shall be certified  
22 by the administrator as sufficient to pay the contributions and interest due from the  
23 employer. The **agency shall submit the amount claimed, or the amount of funds of**  
24 **the employer subject to the administrator's claim that are in the agency's**  
25 **possession, whichever is less,** [AMOUNT CLAIMED SHALL BE SUBMITTED] to  
26 the administrator for deposit in the retirement fund and the Alaska retiree health care  
27 trust.

28 \* **Sec. 16.** AS 39.35.615(a) is amended to read:

29 (a) A political subdivision or public organization may request that its  
30 participation agreement be amended. The request may be made only after adoption of  
31 a resolution by the legislative body of the political subdivision and approval of the

1 resolution by the person required by law to approve the resolution, or, in the case of a  
 2 public organization, after adoption of a resolution by the governing body of that public  
 3 organization. A certified copy of the resolution shall be filed with the administrator.  
 4 **An employer may not award past service to employees added to its participation**  
 5 **agreement. When an employer requests to amend its participation agreement to**  
 6 **add an elected official, the plan may cover that elected official only if the**  
 7 **employer pays compensation to the elected official, for services as an elected**  
 8 **official, in the amount of at least \$2,001 a month.** If a political subdivision or public  
 9 organization amends its participation agreement so as to terminate coverage of a  
 10 department, group, or other classification of employees, each employee whose  
 11 coverage is so terminated, regardless of the employee's employment status at the date  
 12 of termination, shall be considered fully vested in actuarially adjusted accrued  
 13 retirement benefits as of the date of termination, unless

14 (1) the employee's contributions have been refunded; or

15 (2) the political subdivision or public organization amended its  
 16 participation agreement to exclude coverage for the affected department, group, or  
 17 other classification of employees at the written request of a majority of the employees  
 18 employed in that department, group, or other classification at the time the request was  
 19 made.

20 \* **Sec. 17.** AS 39.35.615 is amended by adding a new subsection to read:

21 (i) Termination of coverage of a department, group, or other classification of  
 22 employees does not bar future coverage of that department, group, or classification if  
 23 the employer is current with payments on amounts due under AS 39.35.625. If  
 24 coverage of a department, group, or classification is terminated under (a) of this  
 25 section and the employer later amends its participation agreement to provide renewed  
 26 coverage of that department, group, or classification, an affected employee may be  
 27 credited only with future service.

28 \* **Sec. 18.** AS 39.35.620 is amended by adding a new subsection to read:

29 (k) Termination of an employer's participation in the plan does not bar future  
 30 participation in the system by that employer if the employer is current with payments  
 31 on amounts due under AS 39.35.625. If a previously terminated employer returns to

1 the system, the employer may only participate in the plan established under  
 2 AS 39.35.700 - 39.35.990. Employees may be credited under AS 39.35.700 -  
 3 39.35.990 only with service subsequent to the date of return.

4 \* **Sec. 19.** AS 39.35 is amended by adding a new section to read:

5 **Sec. 39.35.625. Termination costs.** (a) Notwithstanding AS 39.35.255, an  
 6 employer that terminates participation of a department, group, or other classification  
 7 of employees in the plan under AS 39.35.615 or that terminates participation in the  
 8 plan under AS 39.35.620 shall pay to the plan each payroll period until the past service  
 9 liability of the plan is extinguished an amount calculated by applying the current past  
 10 service contribution rate adopted by the board to the greater of total base salaries paid

11 (1) during the payroll period to employees in positions for which  
 12 coverage has been terminated;

13 (2) at the time of termination to employees in positions for which  
 14 coverage has been terminated; or

15 (3) during the corresponding payroll period for the fiscal year ending  
 16 June 30, 2008, to employees in positions for which coverage has been terminated.

17 (b) Notwithstanding (a) of this section, the administrator may enter into a  
 18 payment plan acceptable to the administrator for payment of an employer's liability for  
 19 termination costs. Termination costs not paid as prescribed by (a) of this section or in  
 20 accordance with an approved payment plan may be collected by the administrator in  
 21 accordance with AS 39.35.610(b).

22 (c) An employer requesting termination of all participation in the plan,  
 23 termination of participation in the plan of a department, group, or other classification  
 24 of employees, or a payment plan for payment of termination costs shall pay the cost  
 25 associated with obtaining a termination cost study associated with the employer's  
 26 termination.

27 \* **Sec. 20.** AS 39.35.650 is amended to read:

28 **Sec. 39.35.650. Refunds to employers.** An employer may not receive an  
 29 amount from the plan, except as provided under AS 39.35.115(e) [, 39.35.615(e), OR  
 30 39.35.620(g)].

31 \* **Sec. 21.** AS 39.35.680 is amended by adding a new paragraph to read:

1 (43) "past service liability" means the actuarially determined excess of  
 2 the accrued liability of the plan over the value of the plan's assets, as of the date of the  
 3 last actuarial valuation.

4 \* **Sec. 22.** AS 39.35.725(a) is amended to read:

5 (a) An elected official of a political subdivision of the state that participates in  
 6 both the plan and the defined benefit plan of AS 39.35.095 - 39.35.680 is a member of  
 7 the plan if

8 (1) the political subdivision covers elected officials under  
 9 AS 39.35.600 - 39.35.650 [AS 39.35.550 - 39.35.650] and has designated elected  
 10 officials under AS 39.35.957 as a classification of employees entitled to participate in  
 11 the plan; and

12 (2) the elected official receives compensation from the political  
 13 subdivision for services as an elected official in the amount of at least \$2,001 a month.

14 \* **Sec. 23.** AS 39.35.750(d) is amended to read:

15 (d) An employer shall also make contributions to the health reimbursement  
 16 arrangement plan under AS 39.30.370 [AS 39.30.300].

17 \* **Sec. 24.** AS 39.35.250, 39.35.260, 39.35.270, 39.35.550, 39.35.560, 39.35.570, 39.35.580,  
 18 39.35.590, 39.35.615(e), 39.35.615(g), 39.35.615(h), 39.35.620(g), 39.35.620(i), and  
 19 39.35.620(j) are repealed.

20 \* **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to  
 21 read:

22 TRANSITION: REGULATIONS. The Department of Administration and the  
 23 Department of Revenue may proceed to adopt regulations to implement their respective  
 24 provisions of this Act.

25 \* **Sec. 26.** Sections 2 and 25 of this Act take effect immediately under AS 01.10.070(c).

26 \* **Sec. 27.** Except as provided in sec. 26 of this Act, this Act takes effect July 1, 2008.