

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

March 29, 2007

8:07 a.m.

MEMBERS PRESENT

Representative Bob Lynn, Chair
Representative Bob Roses, Vice Chair
Representative John Coghill
Representative Craig Johnson
Representative Andrea Doll
Representative Max Gruenberg

MEMBERS ABSENT

Representative Kyle Johansen

COMMITTEE CALENDAR

HOUSE BILL NO. 171

"An Act relating to the terms of legislators, the date and time for convening regular legislative sessions, adoption of uniform rules of the legislature and to certain of those rules, the date for organizing the Legislative Budget and Audit Committee, and deadlines for certain matters or reports to be delivered to the legislature or filed; prohibiting bonuses for legislative employees; and providing for an effective date."

- MOVED CSHB 171(STA) OUT OF COMMITTEE

HOUSE BILL NO. 179

"An Act relating to insurance for public employees, teachers, and certain retired public employees and teachers and to supplemental employee benefits; relating to teachers' and public employees' defined benefit retirement plans, to teachers' and public employees' defined contribution retirement plans, to employee and employer contributions to the teachers' retirement system and the public employees' retirement system, and to the administration of the Public Employees' Retirement System of Alaska and the deferred compensation program for state employees; establishing in the Department of Revenue the teachers' retirement system past service cost liability account and the public employees' retirement system past service cost liability account; relating to benefits of, references to federal law in, and investments in the teachers' retirement system and the public employees' retirement system; modifying

the jurisdiction of the independent office of administrative hearings as related to retirement and related personnel benefits; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 171

SHORT TITLE: ACCOMMODATE 90-DAY SESSION

SPONSOR(S): RULES

03/01/07	(H)	READ THE FIRST TIME - REFERRALS
03/01/07	(H)	STA
03/06/07	(H)	STA AT 8:00 AM CAPITOL 106
03/06/07	(H)	Scheduled But Not Heard
03/15/07	(H)	STA AT 8:00 AM CAPITOL 106
03/15/07	(H)	Heard & Held
03/15/07	(H)	MINUTE(STA)
03/22/07	(H)	STA AT 8:00 AM CAPITOL 106
03/22/07	(H)	Heard & Held
03/22/07	(H)	MINUTE(STA)
03/24/07	(H)	STA AT 10:00 AM CAPITOL 106
03/24/07	(H)	Heard & Held
03/24/07	(H)	MINUTE(STA)
03/29/07	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HB 179

SHORT TITLE: PUBLIC EMPLOYEE/TEACHER RETIREM'T SYSTEMS

SPONSOR(S): REPRESENTATIVE(S) KELLY

03/05/07	(H)	READ THE FIRST TIME - REFERRALS
03/05/07	(H)	STA, FIN
03/29/07	(H)	STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

TAMARA COOK, Director
Legislative Legal and Research Services
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 171.

JOHN BOUCHER, Senior Economist
Office of the Director
Office of Management and Budget (OMB)

Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 171.

REPRESENTATIVE MIKE KELLY

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Introduced HB 179 as prime sponsor.

DEREK MILLER, Staff

to Representative Mike Kelly

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Kelly, prime sponsor of HB 179, reviewed the sectional analysis.

ACTION NARRATIVE

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at [8:07:42 AM](#). Representatives Roses, Coghill, Johnson, Gruenberg, Doll, and Lynn were present at the call to order.

HB 171-ACCOMMODATE 90-DAY SESSION

[8:08:51 AM](#)

CHAIR LYNN announced that the first order of business was HOUSE BILL NO. 171, "An Act relating to the terms of legislators, the date and time for convening regular legislative sessions, adoption of uniform rules of the legislature and to certain of those rules, the date for organizing the Legislative Budget and Audit Committee, and deadlines for certain matters or reports to be delivered to the legislature or filed; prohibiting bonuses for legislative employees; and providing for an effective date."

[Before the committee was the committee substitute (CS) for HB 171, Version 25-LS0653\E, Cook, 3/16/07.]

[8:08:54 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt the committee substitute (CS) for HB 171, Version 25-LS0653\M, Cook, 3/26/07, as a work draft. There being no objection, Version M was before the committee.

[8:09:24 AM](#)

REPRESENTATIVE COGHILL, in response to a request from Chair Lynn, explained that Version M incorporated the amendment that moved the start dates of the legislature. He noted that that amendment had been offered by Representative Johnson at the last bill hearing. He said the first year of the two-year legislature would start [on the second Monday] in January, but the second year would begin in February.

[8:10:53 AM](#)

REPRESENTATIVE COGHILL moved to adopt Conceptual Amendment 1, labeled 25-LS0653\M.1, Cook, 3/28/07, which read as follows:

Page 7, line 28:

Delete all material and insert:

*** Sec. 17.** AS 24.05.150(b) is repealed.

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

REINSTATEMENT OF LAWS IN UNAMENDED FORM.
AS 18.65.085(b), 18.65.086(b), AS 24.05.080,
24.05.090, AS 24.08.035(a), 24.08.050,
AS 24.20.171(a), 24.20.206, 24.20.311,
AS 24.45.041(e), AS 37.07.040(7), 37.07.070,
AS 37.10.050(c), AS 38.04.022(b), AS 38.05.027(b), and
AS 39.05.080(1) shall read as they read on
December 31, 2007.

*** Sec. 19.** Sections 1 - 16 of this Act take effect January 1, 2008.

*** Sec. 20.** Sections 17 and 18 of this Act take effect June 1, 2009."

The Legal Services Division is directed to incorporate this amendment into CSHB 171(STA) in the form required by the Manual of Legislative Drafting.

[8:11:07 AM](#)

REPRESENTATIVE JOHNSON objected for discussion purposes.

[8:11:14 AM](#)

REPRESENTATIVE COGHILL spoke to Conceptual Amendment 1. He said it would provide a sunset date, giving the legislature three years to "work the system under this law," at which point the system would be reevaluated. He noted that lines 6-10 [as

numbered on the amendment] list the reinstatement of laws in unamended form.

[8:12:29 AM](#)

REPRESENTATIVE GRUENBERG noted that Tamara Cook, the director of Legislative Legal and Research Services, is available to answer questions. He said the sunset date to which Representative Coghill referred would be June 1, 2009. He remarked that line 3, [as numbered on the amendment], would repeal Section 17, AS 24.05.150(b); however, he said he does not find that in statute or in the bill. He asked Ms. Cook for explanation.

[8:14:38 AM](#)

TAMARA COOK, Director, Legislative Legal and Research Services, Alaska State Legislature, explained as follows:

That is the initiated language that creates the 90-day session ..., and it actually does not appear in statute or even on the electronic database, alas, because the ... election was held so late and then the results certified so late that we were unable to get it printed in the statutes. But ... [AS] 24.05.150(b) is the initiated language that says the legislature shall meet for 90 consecutive days.

[8:15:21 AM](#)

REPRESENTATIVE GRUENBERG directed attention to the initiative in the committee packet, which read as follows:

AN INITIATIVE

Relating to a 90-day regular session of the legislature; and providing for an effective date.

* **Section 1.** AS 24.05.150 is amended by adding a new subsection to read:

(b) The legislature shall adjourn from a regular session within 90 consecutive calendar days, including the day the legislature first convenes in that regular session.

* **Sec. 2.** This Act takes effect on the first day of the Second Regular Session of the Twenty-Fifth Alaska Legislature.

[8:16:14 AM](#)

MS. COOK, in response to a question from Representative Gruenberg, confirmed that the constitution allows the legislature to repeal an initiative no sooner than two years after it becomes effective. She responded to a comment by Representative Gruenberg regarding Conceptual Amendment 1 as follows:

The way it is drafted, it is an outright repeal; but it is an outright repeal that does not take effect for 2.5 years. So, the legislature, of course, could pass legislation to undue that which it has done before it takes effect.

CHAIR LYNN expressed concern that there be nothing in Conceptual Amendment 1 that would "go against the will of the people as expressed in the initiative which established the 90-day session," and he asked Ms. Cook to confirm that there was not.

MS. COOK responded, "Yes, for the period of the two years within which the legislature is restricted from repealing an initiative."

[8:18:09 AM](#)

REPRESENTATIVE JOHNSON removed his objection to Conceptual Amendment 1. There being no further objection, Conceptual Amendment 1 was adopted.

[8:18:21 AM](#)

REPRESENTATIVE COGHILL moved to adopt Amendment 2, labeled 25-LS0653\M.2, Cook, 3/28/07, which read as follows:

Page 6, line 18:

Delete "**fifth** [30TH] legislative day"

Insert "**30th legislative day in odd-numbered years and through the fifth legislative day in even-numbered years**"

Page 6, line 21:

Delete "**15th** [45TH] legislative day"

Insert "**30th legislative day in odd-numbered years and through the 15th** [45TH] legislative day **in even-numbered years** "

Page 7, line 20, following "session,":

Insert "or, following a gubernatorial election year, within the first 30 days after the legislature convenes in regular session,"

Page 7, lines 24 - 25:

Delete "15 [30] days of the convening of the regular session"

Insert "presentment deadline [30 DAYS OF THE CONVENING OF THE REGULAR SESSION]"

[8:18:31 AM](#)

REPRESENTATIVE ROSES objected for discussion purposes.

[8:18:37 AM](#)

REPRESENTATIVE COGHILL spoke to Amendment 2. He said it is an amendment requested by the administration.

[8:19:19 AM](#)

JOHN BOUCHER, Senior Economist, Office of the Director, Office of Management and Budget (OMB), directed attention to [lines 16-18], on page 6 of Version M, which read as follows:

(1) requests by the governor for supplemental appropriations for state agency operating and capital budgets for the current fiscal year may be introduced by the rules committee only through the fifth [30TH] day;

MR. BOUCHER said the administration is concerned that in the odd numbered years - those years in which the legislative session would begin in January - the timelines would be too tight to produce those [requests]. He said Amendment 2 proposes that in the odd numbered years, the requests could be submitted on the thirtieth day.

MR. BOUCHER pointed out page 6, [lines 19-21], which read:

(2) requests by the governor for budget amendments to state agency budgets for the budget fiscal year may be received and reviewed by the finance committees only through the 15th [45TH] legislative day.

MR. BOUCHER said that timeline would also be tight in the odd-numbered years; therefore, Amendment 2 proposes that in those odd-numbered years, those requests be accepted on the thirtieth day.

MR. BOUCHER said the fifth day of session following a gubernatorial election would also be a tight time frame by which the governor would have to have his/her appointments ready; therefore, Amendment 2 would move that deadline to the thirtieth day.

8:21:58 AM

REPRESENTATIVE GRUENBERG directed attention to a memorandum from Mr. Boucher to Representative Coghill, dated March 22, [2007], which he said describes the administration's reasons for requesting Amendment 2.

8:22:56 AM

REPRESENTATIVE ROSES withdrew his [objection] to Amendment 2. There being no further objection, Amendment 2 was adopted.

8:23:10 AM

REPRESENTATIVE GRUENBERG moved to adopt Amendment 3, labeled 25-LS0653\M.1, Cook, 3/28/07, which read as follows:

Page 3, following line 1:

Insert a new bill section to read:

**** Sec. 4.** AS 24.05.180 is amended by adding new subsections to read:

(c) The chair of a standing or special committee that meets during the interim to consider an introduced measure shall give at least 30 days' notice of the meeting. The notice must include the subject and number of the measure that will be heard.

(d) A member of a standing or special committee may attend a meeting held by that committee during the interim telephonically or by teleconference. The member may vote on any question before the committee; however, the vote shall be conducted in such a manner that the public and other committee members may know the vote of the member who attends telephonically or by teleconference.

(e) A standing committee may report a measure from committee during the interim. A committee member who is voting telephonically or by teleconference shall sign a copy of the committee report and indicate on the copy the member's recommendation. The member shall send the signed copy by facsimile or other electronic means to the committee chair. The member shall also mail the original signed copy to the senate secretary or the chief clerk of the house of representatives, as appropriate. The chair of the committee shall deliver the committee report and the facsimile copy to the senate secretary or the chief clerk of the house of representatives to be taken up when the legislature next convenes."

Renumber the following bill sections accordingly.

REPRESENTATIVE GRUENBERG spoke to Amendment 3. He said it would allow the legislature to take its work to the people. He said the legislature should conduct its business during the interim, and he emphasized the importance of allowing legislators to participate remotely, because Alaska is such a big state. He noted that the language of Subsection (c) in Amendment 3 is problematic.

[8:25:59 AM](#)

REPRESENTATIVE DOLL objected to Amendment 3.

[8:26:08 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 1 to Amendment 3, as follows:

On page 1, line 5 [as numbered on Amendment 3]:

Between "at least" and "day's notice"
Delete "30"
Insert "14"

There being no objection, Amendment 1 to Amendment 3 was adopted. Subsequently, Representative Gruenberg mentioned that the amendment was necessary because 30 days is too long.

[8:26:50 AM](#)

REPRESENTATIVE GRUENBERG, regarding [paragraph] (d) in Amendment 3 [as amended], noted that currently, both the Legislative Council and Legislative Budget & Audit vote on questions telephonically. He reviewed [paragraph] (e) of Amendment 3. He noted that a bill would not be able to go to the next committee of referral during interim, because it must first be read across the House floor during session.

[8:31:16 AM](#)

MS. COOK, in response to a remark by Representative Johnson, stated:

I don't believe you need to address the quorum issue in this particular amendment, because no committee can act without a quorum. In addition, in our Uniform Rules, ... the signature requirement on a committee report is that a majority of the full membership must sign that report. That rule is not altered by this amendment. Right now, I would observe that committees of the legislature, including standing and special committees, do conduct business by teleconference during the session, and they establish quorums by teleconference, with the presence of the individual who is attending electronically noted in the record.

MS. COOK reviewed that currently, under the Uniform Rules as they've been interpreted, during the interim a committee member can attend a standing committee meeting via teleconference and vote on the adoption of a CS or the adoption of an amendment, but he/she could not vote to pass a bill out of committee outside of session.

[8:33:03 AM](#)

REPRESENTATIVE JOHNSON asked what changes would need to be made in order to allow [the next committee of referral to possess a bill passed out of the first committee of referral].

[8:33:45 AM](#)

MS. COOK said currently the way [Amendment 3, as amended] is written, the committee report would go back to the full House to be read across the House floor when it is next convened in session, which she said preserves the power of each individual House member to object to the committee report. Once the bill goes into the second committee, she pointed out, the opportunity

to object is lost. She said there may be something to be gained by allowing bills to move on to the next committee of referral during interim without going to the House floor; that would be a policy call, and Amendment 3 could be the vehicle for such a change.

[8:35:05 AM](#)

REPRESENTATIVE JOHNSON asked if a bill can be "read across" during a technical session.

[8:35:22 AM](#)

MS. COOK stated her belief that it is dangerous to introduce a bill during a technical session. She offered her interpretation of a technical session as one in which a quorum has not been established on the record. She continued:

The constitution requires that each bill receive three readings. ... The act of introducing a bill constitutes the first reading. ... As we know, the legislature cannot conduct business without a quorum being present. Even though there is no vote required when the first reading is given, and therefore there is no motion made, and there is ... no record necessarily created of the lack of a quorum, if the issue came up, you would cast a potential doubt on the validity of the first reading of that bill.

REPRESENTATIVE COGHILL recollected that in the past, committee reports have been read in technical session. He asked if there has been a ruling on that before.

[8:36:44 AM](#)

MS. COOK responded:

The direction in the constitution and in Mason's Manual is that the legislature conduct no business without a quorum, and accepting a committee report constitutes the conduct of business. And in that sense it's probably not appropriate. Nonetheless, the reading of a committee report and referring the bill to the next committee is somewhat different in that it ... does not have a constitutional dimension. The reading of the report is not one of the three constitutionally required readings that a bill gets.

You don't go to second reading until ... the bill is returned to the floor from the [House Rules Standing Committee]. So, we don't have the constitutional cloud as a result of the practice of reading a committee report. Now, obviously, if the legislature is in technical session, and by definition or practice there is not a quorum present, that does not mean that a legislator could not attend and be available, and if that person objected to a particular committee report, that individual would have the right at that point to object to that report and, presumably, to place a call on the House. And at that point, technical session or no, the House would be obligated to get a quorum present and resolve the problem with the committee report. And for those reasons, it doesn't strike me as legally as serious a practice to read a committee report across as it does to attempt to introduce a bill.

[8:38:23 AM](#)

REPRESENTATIVE COGHILL said he does not want committee reports read during technical session, but he has seen it done. He concurred that any one individual in the body of the legislature should be able to object to a committee report.

[8:39:04 AM](#)

REPRESENTATIVE JOHNSON stated that if there was some manner in which the right [to object to a committee report] could be preserved, while allowing the bill to move to the next committee of referral, he envisions the first day of the 90-day session commencing with a lot of committee work already completed. He said, "I see this as a way, in that second session, to hit the ground running."

[8:40:12 AM](#)

REPRESENTATIVE GRUENBERG said he would have no objection should the committee wish to take further steps [through Amendment 3, as amended].

CHAIR LYNN recommended that the committee hold off on that issue.

[8:40:35 AM](#)

REPRESENTATIVE ROSES said he would object to [Representative Johnson's] idea, because it would be "skirting on the edge" of declaring a full-time legislature. He indicated that having all legislators together during session allows for a larger variety of views to be aired and considered than the opinions of a seven-member committee during the interim. He stated, "The other part that gives me a little bit of concern about this ... has to do with the amount of pressure that could be put on those seven committee members to try to get a bill pushed through in the interim that they probably would never have a chance to see in the light of day in full session."

[8:42:31 AM](#)

CHAIR LYNN commented on the importance of observing body language and making eye contact, which can only happen when committee members are all sitting in a room together.

[8:43:03 AM](#)

REPRESENTATIVE ROSES, in response to Representative Gruenberg, clarified that he has no objection to "Amendment 3, as amended."

[8:43:40 AM](#)

REPRESENTATIVE GRUENBERG clarified for the record that there is nothing in [Amendment 3, as amended] that would prohibit a committee from meeting "all together" to hear a bill, sign it in person, and transmit it to the clerk. He added, "That would be up to the chair." He stated, "This would simply allow the committee to take up a bill."

[8:44:13 AM](#)

REPRESENTATIVE JOHNSON asked that the committee abandon his idea and move on to discussion of Amendment 3, as amended.

[8:44:28 AM](#)

REPRESENTATIVE COGHILL said although he likes the idea of getting more done during the interim, he thinks it is important that everyone meet in the same room, because he does not want a situation to occur whereby some committee members are passing information to each other that the other committee members participating via teleconference cannot see.

[8:46:29 AM](#)

REPRESENTATIVE ROSES reminded the committee of a recent bill heard that would make it illegal for a legislator to change his/her vote from outside influence. He said, "Without being under the watchful eye of everybody being present, it would be very difficult for somebody to either prove or disprove whether or not that occurred when there was nobody else able to see what was going on because they were doing it over the telephone." He summarized that the concept is not troublesome, but the implementation of it is.

[8:47:53 AM](#)

REPRESENTATIVE GRUENBERG said he does not want to withdraw Amendment 3 [as amended]. He said it would make it possible for constituents come to meetings in the interim in their home town; it would take the legislature to the people. He stated, "This is one of the first real steps we've taken to ease us conducting our hearings in a state that's one-fifth the size of the United States."

[8:49:29 AM](#)

REPRESENTATIVE DOLL said she does not know how the legislature will conduct a 90-day session without this amendment. She removed her objection to Amendment 3 [as amended].

[8:51:26 AM](#)

REPRESENTATIVE JOHNSON moved Conceptual Amendment 2 to Amendment 3 [as amended], to add "or other means" after the words "by mail". There being no objection, Conceptual Amendment 2 to Amendment 3, as amended, was adopted.

[8:51:58 AM](#)

REPRESENTATIVE COGHILL stated his objection to Amendment 3 [as amended].

A roll call vote was taken. Representatives Johnson, Gruenberg, and Doll voted in favor of Amendment 3, as amended. Representatives Coghill, Roses, and Lynn voted against it. Therefore, Amendment 3, as amended, failed by a vote of 3-3.

[8:52:56 AM](#)

REPRESENTATIVE COGHILL moved to report CSHB 171, Version 25-LS0653\M, Cook, 3/26/07, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 171(STA) was reported out of the House State Affairs Standing Committee.

The committee took an at-ease from [8:53:50 AM](#) to [9:01:57 AM](#).

HB 179-PUBLIC EMPLOYEE/TEACHER RETIREMENT SYSTEMS

[9:02:00 AM](#)

CHAIR LYNN announced that the last order of business was HOUSE BILL NO. 179, "An Act relating to insurance for public employees, teachers, and certain retired public employees and teachers and to supplemental employee benefits; relating to teachers' and public employees' defined benefit retirement plans, to teachers' and public employees' defined contribution retirement plans, to employee and employer contributions to the teachers' retirement system and the public employees' retirement system, and to the administration of the Public Employees' Retirement System of Alaska and the deferred compensation program for state employees; establishing in the Department of Revenue the teachers' retirement system past service cost liability account and the public employees' retirement system past service cost liability account; relating to benefits of, references to federal law in, and investments in the teachers' retirement system and the public employees' retirement system; modifying the jurisdiction of the independent office of administrative hearings as related to retirement and related personnel benefits; and providing for an effective date."

[9:02:30 AM](#)

REPRESENTATIVE MIKE KELLY, Alaska State Legislature, introduced HB 179 as prime sponsor. He paraphrased his sponsor statement, which read as follows [original punctuation provided]:

The State of Alaska's retirement system unfunded liability is approaching \$10 billion. PERS is currently 65% funded and TRS is 60% funded.

HB 179 would implement a comprehensive plan to return the State's crippled retirement system to soundness. It establishes a cost-sharing plan to eliminate the unfunded liability in the defined benefit plans. It obligates the state to pay 80% of the unfunded

liability. The other employers would come to the table with 20%. Included in the bill is a plan to raise contribution rates for active legislators, Governors, commissioners, judges, police officers, firefighters, teachers, equipment operators, clerks, accountants, etc ... in the defined benefit plans 5% above current levels. Employee contributions would go towards the cost of providing employee benefits in the current period. This three-way partnership ensures that everyone has skin in the game and actively participates in the sacrifice involved in funding the defined benefit plans and returning them to financial soundness. It also makes required technical changes to the state's defined contribution plan.

The Alaska Retirement Management Board recently adopted employer average contribution rates of 54% of wages for TRS and 39% for PERS for FY '08. These employer contribution rates required to eliminate the unfunded liability are simply unsustainable. Bankruptcies and elimination of critical services in our communities will be averted by implementing HB 179. If the state agrees to pick up 80% of the tab, these rates will level off at a high, but sustainable level. HB 179 sets up the accounts necessary to receive payments to extinguish the unfunded liability. It would also accommodate infusions of cash or lump-sum payments at any time the parties choose to use these methods to take advantage of temporary surpluses or debt instruments.

In wrap up, it is important to understand what this bill does and what it does not pretend to do. It does not look back to how we got in this mess. It does not create a single dollar to pay down the \$10 billion unfunded liability. What it does provide is a cost-sharing mechanism for completing the tough task of restoring health to our defined benefit plans. You may argue it is too high for the state at 80%. You may argue that it will upset the active plan members that are covered. I would argue that when the all-in cost of providing benefits in the old defined benefit plans have tripled since 1999, the legislature would be derelict in our duties if we did not look to all parties to assist us, including the beneficiaries who enjoy the benefits of the old systems which have proven over-rich and unsustainable.

[9:11:36 AM](#)

REPRESENTATIVE KELLY said there are Legislative Legal and Research Services and AG opinions related to this issue. He noted that he wrote a letter to Attorney General Talis Colberg [dated March 28, 2007, included in the committee packet], in which he asks for the AG's feedback. He said the proposed legislation is but one suggestion. If that doesn't work, tougher measures can be taken, for example: wage freezes, wage reductions, an end to contract increases, and potential layoffs. He said no legislator would challenge the statement that the State of Alaska is going into a 10-year deficit. He said the state will stay in that deficit until it gets a gas line. He noted that the governor has a related bill in both the House and Senate. He stated, "This bill includes those components on the technical fix, as well."

[9:15:19 AM](#)

REPRESENTATIVE KELLY said new advancements made in the field of medicine and increased life expectancy have increased the cost of covering benefits to retirees, but the [contribution] rates have not been increased. He continued:

I think that we are derelict if we do not step up to the plate. And I hope we do not hide behind the worry that we can't do this because of the supreme court, because there are other ways than the rate. I hope we don't have to go there; I hope there's a way to do it through the rate. ... This proposal, at 3-4 percent after ... taxes, is ... a bargain

REPRESENTATIVE KELLY mentioned other bills moving through committees. He said HB 179 is an omnibus approach that has "an added component."

[9:16:57 AM](#)

CHAIR LYNN asked if it would have been good for the legislature to have "done" HB 179 before passing Senate Bill 141.

REPRESENTATIVE KELLY said the two bills are virtually unrelated. He explained that Senate Bill 141 was set up to halt further growth of the unfunded liability, while HB 179 would reduce the existing liability.

CHAIR LYNN clarified that he wants to know if it would have been helpful to have passed HB 179 in order to whittle down the unfunded liability, whether or not Senate Bill 141 was passed.

REPRESENTATIVE KELLY replied that that could have been done, but he stated that he doesn't think anyone was ready to support that idea then.

[9:19:12 AM](#)

CHAIR LYNN asked for an example of how much would come out of employees' pockets at three different salary ranges.

[9:19:30 AM](#)

REPRESENTATIVE KELLY said he could get that information to the committee.

CHAIR LYNN remarked that people are concerned about what it will cost out of their own pockets.

[9:20:17 AM](#)

REPRESENTATIVE ROSES directed attention to page 2 of the handout in the committee packet entitled, "HB 179 Walkthrough," which shows [a current Teachers' Retirement System (TRS) employer rate total of] 54.03 percent. He asked if that is the proposed Alaska Retirement Management (ARM) Board rate for fiscal year 2008 (FY 08) to meet the actuarial responsibilities.

REPRESENTATIVE KELLY answered yes and confirmed that that rate has not yet been implemented. In response to a follow-up question from Representative Roses, he said the current FY 07 rate that was passed last year is in the low, 20 percent range.

[9:22:16 AM](#)

REPRESENTATIVE ROSES, regarding an 80/20 percent split, said if the actuaries were to revise their calculation of the unfunded liability a year from now from, for example, \$12 million to \$28 million, [the employers] would still have to pick up 20 percent of the difference in that amount.

[9:22:47 AM](#)

REPRESENTATIVE KELLY confirmed that Representative Roses' example is correct. He said Representative Roses is referring to the volatility of system.

[9:23:40 AM](#)

REPRESENTATIVE ROSES observed that the 5 percent employee contribution rate would be deducted from the wages of everybody currently employed under any Public Employees' Retirement System (PERS) or TRS tier.

REPRESENTATIVE KELLY confirmed that is correct for those currently under the defined benefit plan.

REPRESENTATIVE ROSES asked Representative Kelly for the number of people currently collecting retirement benefits versus the number of active employees.

REPRESENTATIVE KELLY said he can make that information available to the committee.

REPRESENTATIVE ROSES remarked that it sounds as though the state is asking those currently working to support those already in retirement.

[9:25:14 AM](#)

REPRESENTATIVE DOLL asked if the 5 percent would increase with medical costs or is set.

REPRESENTATIVE KELLY answered that HB 179 would make that 5 percent a set amount. He explained, "If you were 7 percent now, that would go to 12 [percent]; and although the volatility in the system could move it up and down for the employer for the beneficiary, that would be set."

[9:25:40 AM](#)

REPRESENTATIVE ROSES expressed concern regarding looking at adjustments solely to the contribution rate when so much of the unfunded liability is created because of the unpredictability of medical costs. He reviewed that in the past, the state tried to adjust retirees' benefits, a law suit ensued, and a decision was made by the court that that could not be done. He recalled the court's decision was that the state cannot diminish the quality of the benefits it has provided, but he said he does not know of any language forbidding cost containment measures, such as

setting up a system of preferred providers or contractual obligations. He said other states have established strict protocols as to when a procedure would be necessary or when a further test would be recommended, and those protocols have shown considerable medical cost savings for those states.

REPRESENTATIVE ROSES said he appreciates Representative Kelly's plan to create a level playing field; however, he said addressing the money and not the cause is like going to a doctor who treats the symptoms without addressing the cause. He said he thinks there is more work to do than just adjusting the rates. He recollected that when PERS and TRS were established, there were three contribution levels: the state's, the employers', and the employees'. At some point in time, he said, the actuaries reported that the state was over 100 percent funded and oil was at \$8 a barrel, and the administration quit paying into PERS and TRS and made no more contributions until money was added to the foundation formula. That gap in payments by the state, he said, is part of the cause of the unfunded liability. He relayed that he appreciates that under HB 179, the state would "pick up 80 percent"; however, he questioned whether that would be enough. He stated, "At some point in time, if the municipalities and small school districts become insolvent, the state's going to eat 100 percent of it, not just 81 percent. And so, I think we need to look for something that's going to hold everybody harmless, [and] let's ... move this to where we need to be. And if I knew what the magic numbers were I'd have helped you write the bill."

[9:29:37 AM](#)

REPRESENTATIVE KELLY said he would cosponsor [legislation related to] each of the cost containment ideas mentioned by Representative Roses. He talked about converting some defined benefits to defined contributions, using employee parking as an example. He talked about the ease of adding benefits versus the constraints in taking them away, because they effect so many groups. He stated that HB 179 is a step [toward improvement]. He added that Representative Rose's points are well taken.

[9:33:13 AM](#)

REPRESENTATIVE ROSES shared an anecdote illustrating the difficulty he once experienced in attempting to opt out of some of his own coverage. He said it is an absurdity that needs to be fixed.

REPRESENTATIVE KELLY said he does not disagree.

[9:35:18 AM](#)

REPRESENTATIVE KELLY, in response to a question from Representative Johnson, confirmed that the legislature can choose to raise contribution levels, because it controls benefits.

[9:36:12 AM](#)

DEREK MILLER, Staff to Representative Mike Kelly, Alaska State Legislature, on behalf of Representative Kelly, prime sponsor of HB 179, reviewed the sectional analysis [included in the committee packet]. Regarding Section 4, he explained, "If you were a Tier II employee, and you retire tomorrow, and you cash out all of your contributions, if you rehire after July 1, 2010, you're in the defined contribution (DC) plan." Regarding Section 6, he explained that "hybrid plan" means there are defined benefit components in the TRS DC plan, including medical benefits, death and disability components, and survivor's pension. Regarding Section 9, Mr. Miller offered his understanding that currently there are 10 separate investment options for an employee to make.

[9:39:04 AM](#)

MR. MILLER noted that Section 14 can be found on page 7 of the bill. Regarding Section 20, he indicated that because the fixed benefits under the DC plan of TRS are defined by statute, they would not be "encumbered under the nonguarantee clause." Mr. Miller suggested that representatives from the Department of Administration could further explain Section 21. He noted that Section 25 is a cost-sharing component of the bill that is divided into three sections. He said "This is getting into the 80/20 cost-sharing that we had mentioned before." He pointed out that Section 34, which relates to PERS, is similar to Section 1, which relates to TRS.

MR. MILLER related that Sections 35 and 36 "team up." He explained:

This is where we ... try to get the PERS employer rates to be one consolidated, cost-sharing rate as the TRS employer rate is currently set. Right now [there are] 160 different employers in the PERS system and

they all each pay a different rate, and ... both Sections 35 and 36 change that to a cost-sharing rate.

MR. MILLER said Section 37 is similar to Section 4, and he said there are people available who are better suited to explain the differences between Sections 37 and 38. Regarding Section 40, he noted that the administrator of the plan also is responsible for adopting regulations. During his review of Section 44 in the sectional analysis, he reiterated that some of the technical fixes are "replicated across both PERS and TRS." For example, he said Section 49 is similar to Section 13.

[9:48:18 AM](#)

MR. MILLER also noted that Section 54 is similar to Section 18.

[9:53:04 AM](#)

REPRESENTATIVE ROSES said he would like to know what percentage of schools are not under a unified borough or municipality "where they contribute to the system and there [are] just straight funds coming from the state." He said he would also like to know the percentage of retirees receiving benefits as compared to the percentage of people currently employed in Tiers I, II, and III. Finally, he said he would like to know how many of the employers under the PERS umbrella are state government employees. He asked, "Have you broken them out by departments or is the state just considered one of the 160? Because it doesn't matter what you do with the 5 percent there, the state picks up the whole tab anyway." He said having those numbers would help in perpetuating the discussion.

[HB 179 was heard and held.]

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [9:54:13 AM](#).