

MINUTES
SENATE FINANCE COMMITTEE
March 20, 2007
9:02 a.m.

CALL TO ORDER

Co-Chair Bert Stedman convened the meeting at approximately [9:02:02 AM](#).

PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Bert Stedman, Co-Chair
Senator Charlie Huggins, Vice Chair
Senator Fred Dyson
Senator Kim Elton
Senator Joe Thomas
Senator Donny Olson

Also Attending: ANNETTE KREITZER, Commissioner, Department of Administration; KATHY LEA, Retirement Manager, Division of Retirement & Benefits, Department of Administration; CHARLENE MORRISON, Chief Financial Officer, Division of Retirement & Benefits, Department of Administration

Attending via Teleconference: There were no teleconference participants

SUMMARY INFORMATION

SB 123-PUBLIC EMP./TEACHERS/JUDGES EMP. BENEFITS

The Committee heard from the Department of Administration. The bill was held in Committee.

#sb123

SENATE BILL NO. 123

"An Act relating to the public employees' and teachers' defined benefit retirement plans; relating to the public employees' and teachers' defined contribution retirement plans; relating to the judicial retirement system; relating to the health reimbursement arrangement plan for certain

teachers and public employees; relating to the supplemental employee benefit program; relating to the public employees' deferred compensation program; relating to group insurance for public employees and retirees; making conforming amendments; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

9:02:31 AM

Co-Chair Stedman explained that this legislation would address technical issues and clarifying language relative to SB 141, the Public Employees Retirement System (PERS) reform legislation which had been enacted into law a few years prior.

9:03:09 AM

Co-Chair Stedman informed the Committee that their bill packets contained two pieces of material provided by the Department of Administration: a "Technical Clarification Bill Overview" handout and a sectional analysis of the bill [copies on file]. A review of the bill would be conducted today and public testimony would be scheduled for a later date.

9:04:12 AM

ANNETTER KREITZER, Commissioner, Department of Administration informed the Committee that this legislation expanded beyond HB 475, a "clean up" bill to SB 141 which had been considered but not enacted the previous year, in that it also addressed issues pertaining to the Federal Pension Protection Act and the Internal Revenue Code [IRC], which had been identified by the Department's tax counsel. In order to capture Legislative intent, this bill also includes "technical corrections... clarifying death and disability benefits for peace officers and firefighters and other members" under the DCR Plan.

9:05:39 AM

KATHY LEA, Retirement Manager, Division of Retirement & Benefits, Department of Administration addressed the material in the aforementioned handout titled "Technical Clarification Bill Overview" as follows.

9:06:18 AM

Page 2

Extensive Review

- Department of Law
- Independent tax counsel, Ice Miller LLP
- Division of Retirement and Benefits

Ms. Lea:

Good morning. For the record my name is Kathy Lea, I am the Retirement Manager for the Division of Retirement and Benefits.

Thank you for the opportunity to provide this overview of the technical correction bill. This overview is intended to cover the highlights of the bill with a more in depth explanation contained within the sectional analysis.

Senate Bill 123 is being introduced by Governor Palin and contains many of the provisions in last sessions' HB 475 with some additions. Through the adoption of emergency regulations, the PERS and TRS [Teachers Retirement System] defined contribution retirement plans received favorable plan determination letters from the Internal Revenue Service for the individual accounts and occupational death and disability benefits. After incorporating the plan determination and new federal requirements for government pension plans, SB 123 was created.

This bill has been extensively reviewed for legal, tax and administrative compliance by the Department of Law, the division's independent tax counsel, Ice Miller, and the division of retirement and benefits.

9:07:01 AM

Page 3

Reasons for Legislation

- Ensure Defined Contribution Retirement (DCR) Plan benefits provided as intended
- Update Defined Benefit (DB) plans for qualification in 2008 per the Pension Protection Act of 2006
- Administrative Changes

Ms. Lea:

The purpose of this legislation is to ensure the benefits of the defined contribution retirement plans are provided as intended by the legislature.

It updates the provisions of the defined benefit plans for compliance with the federal Pension Protection Act of 2006. One of the provisions of this Act requires previously qualified government plans to apply for requalification every five years. The division will submit applications for requalification of the defined benefit plans in 2008.

The bill also amends or adds sections to provide for the appropriate administration of the plans.

[9:07:40 AM](#)

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Defined Contribution Plans

Page 5

DCR Plan Changes

- Occupational Death and Disability (D&D) benefit administration and funding
- Employer participation
- Member participation
- IRC Contribution limits

Ms. Lea:

I have grouped the changes into three major areas, the first of which are changes to the PERS and TRS Defined Contribution or DCR Plans.

In summary, the changes include the administration and funding of occupational death and disability benefits; how employers participate or terminate participation in the plans; clarification of who is a member of the DCR plan; and changes to provide intended benefits while meeting the Internal Revenue Code contribution limits.

[9:08:20 AM](#)

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Occupational Death & Disability

- Funding the benefits
 - TRS Occ D&D fund
 - PERS Occ D&D clarification for disabled Peace Officer/Firefighter at normal retirement
- Annual inflation-proofing
 - Provides the lesser of:
 - Disability-75% of increase in CPI or 9%
 - Survivor-50% of increase in CPI or 6%

Ms. Lea:

SB 141 provided occupational death and disability benefits for both the PERS and TRS DCR plans. However, funding of the TRS occupational death and disability benefits was omitted. This bill provides that funding.

Senate Bill 123 also clarifies benefits provided to disabled peace officers and firefighters when they reach normal retirement and

Adds a yearly cost of living adjustment to the DCR disability and survivor benefits similar to Tier III PERS and Tier II TRS to meet the legislature's intent. Disability recipients would receive 75% of the increase in the consumer price index in the Anchorage area or 9%, whichever is less. Survivor benefit recipients would receive 50% of that increase or 6%, whichever is less.

Page 7

Occupational Death & Disability

- Periods of disability and survivor benefits constitute membership service for retirement/medical eligibility
- Member or Survivor not entitled to individual account until retirement
- Provides medical cost share at normal retirement, regardless of age

Ms. Lea:

SB 141 is ambiguous regarding how the service accruals during a period of disability or receipt of monthly survivor benefits are to be treated. This bill clarifies that these periods can be used to meet service requirements for retirement, medical eligibility and the medical premium cost share at normal retirement.

Both disability and survivor benefits cease when the member reaches, or would have reached normal retirement eligibility. The legislature intended to provide retirement benefits to the disabled member or to the survivor at that time. To meet that intent, SB 141 required continued contributions to be made to the individual account while disability or survivor benefits were paid. This bill clarifies that while the member is receiving disability benefits, or the survivor is receiving monthly survivor benefits, they are not entitled to withdraw the individual account balance.

Also clarified is that a disabled member who reaches normal retirement eligibility by service is eligible to have a percentage of their medical premiums paid by the plan based on their total service under the plans medical cost share provisions.

Other technical corrections include clarification that a member will not be considered disabled if they can perform the duties of a comparable job for any employer.

9:10:53 AM

Page 8

Employer Participation

- Provides participation and termination authority for new PERS employers.
- Establishes a time limit on conversion election period for employees
- Assigns employer retiree health contributions to the Alaska Retiree Health Trust

Ms. Lea:

The bill adds provisions for new employers to join or existing employers to terminate from the DCR Plan.

SB 141 provided employers with an opportunity to allow their nonvested employees to elect to convert from the defined benefit plan to the DCR plan. This bill limits the employee election period to 12 months from the date the administrator approves the employer resolution to participation in the conversion program. Placing a time limit on the employee election helps employers estimate and budget for the required matching employer contributions.

A new health trust is established in this bill. DCR statutes are being amended to direct retiree health contributions to the new trust. The bill also establishes uniform contributions amounts for all employers participating in the Health Reimbursement Arrangement.

9:11:51 AM

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Member Participation

- Adds Governor, Lieutenant Governor, and Legislators as members of the DCR Plan.
- Clarifies that a DB member hiring with a new DCR Plan-only employer participates in the DCR Plan.

Ms. Lea:

The definition of member in the PERS DCR plan includes employees but not elected officials. The bill adds elected state officials as members of the DCR Plan.

New employers joining after July 1, 2006 only join DCR as the DB [Defined Benefit] plan is closed. Because a member of the DCR plan is defined as an employee who first enters the PERS on or after July 1, 2006 or a nonvested DB employee who has elected to convert, this called into question the status of a defined benefit employee hiring with a DCR-only employer. The bill clarifies that the DB member participates in the DCR plan. Without this change, the employee could not participate in either plan.

[9:12:57 AM](#)

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Member Participation

- Clarifies that a former DB member who does not reinstate service before July 1, 2010, will be a DCR Plan member if re-employed after that date.
- Specifies how the IRC § 415(c) limits affect payment of the employer conversion match for DB to DC conversions.

Ms. Lea:

Senate bill 141 repealed the statutes allowing member's to reinstate refunded service in order to become eligible for retirement benefits. The status of former DB members who do not reinstate their refunded service and contributions to the DB plan prior to July 1, 2010 was left in question. Senate Bill 123 clarifies that former members will be DCR plan members upon reemployment after the July 1, 2010 deadline.

SB 141 specifies that employers of nonvested DB members who elect to convert to the DCR plan match the employee contribution account 100%. However, limitations are placed on the amount of pre-tax contributions that can be deposited into an individual's account during a tax year. That limit is the amount of total compensation or \$45,000,

whichever is lower, for 2007 and includes all pre-tax contributions from any qualified plan the member participates in. In order to meet the legislature's intent for 100% employer match and comply with the IRC, this bill allows the remainder of account match to be paid in the following tax year, subject to the 415(c) limits. The legislation also clarifies that the service time converted from the defined benefit plan to the defined contribution plan can be used towards vesting and eligibility for retiree medical benefits.

[9:14:46 AM](#)

Page 11

IRC Compliance

- Disabled member 100% vested in employer contributions
- Survivor retirement benefit funded from Occupational D&D fund
- USERRA Compliance
- § 415(c)–Contribution Limits
 - contributions on behalf of survivors
 - voluntary employee contributions

Ms. Lea:

SB 141 stipulated that the employer (ER) continue to deposit ER and employee (EE) contributions to disabled member's individual account while the member is receiving OCC disability benefits. This provision is permissible by the IRC only if the contributions are nonforfeitable. The bill adds this change to comply with this requirement.

SB 141 required the employer to continue to make both ER and EE contributions to the deceased member individual account in order to provide a DCR benefit to the survivor at the time the monthly survivor benefit ceases. The IRC does not allow for pre-tax contributions to be made to the deceased member's account past December 31st of the year in which the member dies. This bill provides a tax-qualified mechanism to provide the benefit as the legislature intended. Required contributions will be paid to the Occupational Death & Disability [ODD] fund. Benefits paid

from the account to the survivor at the time the member would have reached normal retirement had the member lived will equal the amount the member and employer would have contributed plus earnings experienced by the ODD fund.

Ms. Lea also noted that in order to comply with the Uniformed Services Employment and Reemployment Rights Act [USERRA], provisions were included in SB 123 to "ensure[s] that members called to active military duty maintain their level of retirement benefits as though they had not been called".

Ms. Lea continued:

The sections referring to contributions to a deceased member's individual account are removed as well as the sections allowing voluntary employee pre-tax contributions to the plan based on advice from the division's tax counsel. Because the IRC restrictions on contributions of this type make the election and the amount of the contribution irrevocable as long as an individual works for any employer covered by the plan, this provision is unappealing when compared with the flexibility afforded by other retirement savings options, such as employer sponsored deferred compensation programs. For this reason, Senate Bill 123 removes this provision.

[9:17:38 AM](#)

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Defined Benefit Plans

Ms. Lea:

The second major focus area of the bill are changes to the defined benefit or DB plans. This includes the Public Employees, Teachers' and Judicial Retirement Plan.

[9:17:57 AM](#)

Page 13

Pension Protection Act

- Updates rollover provisions and includes a Roth IRA as of January 1, 2008

- Allows an alternate payee to rollover contributions
- Requires a rollover of pre/post-tax contributions to be accounted for separately by receiving plan

Ms. Lea:

The pension protection act which became effective in August of 2006, expanded the types of plans eligible for rollover into the defined benefit plans for purchasing service or for rollovers out of the plan. Any IRA described in chapter 26 of the United States Code is eligible for rollover. On January 1, 2008, this will include a Roth IRA. Members electing to rollover pre-tax dollars to a Roth IRA, however, will be subject to taxation at that time.

In the event of a divorce and a request to refund the member's defined benefit account balance, a former spouse (or alternate payee) who has had a qualified domestic relations order accepted by the division that provides the alternate payee with a portion of the account, may now rollover contributions to a qualified plan.

Codifies requirement for a plan accepting a rollover containing pre and post tax contributions to separately account for them.

The bill also clarifies that 415(c) limits apply to employee post-tax contributions and benefit payments.

[9:19:23 AM](#)

Page 14

Employer Participation

- Normal cost and past service rate applied to total payroll dollars
- Establishes a deadline for terminated employers to pay termination costs

Ms. Lea:

Changes to employer participation in the DB plan include redefining normal cost and past service rate so the rate can be applied to total employer payroll, DB and DC. This

does not change the amount the employer will have to pay to the defined benefit plans for current and past service costs. It simply reduces the rate and increases the salary base the rate applies to. It also provides a salary base to apply the past service rate to for employers who no longer have active DB employees.

Requires that employers terminating participation in the plan must pay for the actuarial study to determine their termination costs and to pay the termination cost in a lump sum or enter into a payment plan within 60 days of the termination date.

[9:20:30 AM](#)

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Employer Participation

- Allows the plan to intercept other state funds for payment of delinquent contributions.
- Codifies use of forfeitures to be applied to future employer contributions.

Ms. Lea:

The PERS or TRS will be allowed to intercept other state funds held for an employer by state agencies or other political subdivisions when contributions are not paid as long as those funds are not restricted by statute or appropriated for a specific purpose.

Forfeitures occur when a defined benefit member terminates employment and elects to refund their own contributions. The employer contributions made on behalf of the employee remain in the employer's assets and are used to pay benefits for the members who remain in the plan.

[9:21:11 AM](#)

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Member Participation

- Repeals the ability to reinstate service for Conditional or Public Service benefits as of July 1, 2010
- DB members who hire with a DCR Plan-only employer participate in the DCR Plan
- Former DB members who do not reinstate by July 1, 2010, are DCR Plan members upon rehire

Ms. Lea:

SB 141 removed the member's ability to reinstate forfeited service effective July 1, 2010. However, similar changes to the reinstatement provisions for conditional service or public service benefits were omitted. This bill conforms Conditional and Public Service benefits in the PERS/TRS DB plans to the repeal of the reinstatement statutes.

Clarifies that DB members who hire with a DCR only employer or former DB members who did not reinstate before July 1, 2010 will participate as DCR members. Without these amendments these members would not be able to participate in either plan.

[9:22:05 AM](#)

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Administrative

Page 18

New Trust

- Alaska Retiree Health Trusts
 - ARMB Trustees
 - Receive employer health contributions
 - Pay retiree medical premiums

Ms. Lea:

In order to separately account for retiree medical benefits a new retiree health trust separate from the pension trusts is created. This trust will be an IRC irrevocable section 115 trust with the Alaska Retirement Management board as trustees and the Commissioner of Administration or the Commissioner's designee as the administrator.

[9:22:40 AM](#)

Page 19

Administrative

- Removes NEA as an eligible employer
- Removes Social Security tax wage base cap from employee/employer contributions
- Conforms Administrator's duties across plans

Ms. Lea:

Although The National Education Association was included in both the PERS and TRS as an eligible employer, NEA is a private non-profit and is not eligible to participate in a government retirement plan. The Division, the Department of Law and NEA came to an agreement in the early 1990s that NEA would not enroll any new employees into either the PERS or the TRS. Members participating at the time were grandfathered in. Currently, NEA has no active members in either plan.

The Social Security tax wage base cap for 2007 is \$97,500 which means no employee or employer contributions for the DCR plan members can be accepted for the remainder of the year once the wage cap is reached. The wage limit is not required for qualification of the plans. This bill eliminates the cap.

Conforms administrator's duties as changed by SB 141 across PERS/TRS DB and DC, Supplemental Benefits System, Deferred Compensation Plan and the Health Reimbursement Arrangement.

[9:24:09 AM](#)

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Administrative

- Returns authority to the Commissioner of Administration to adopt regulations for the SBS, DCP and HRA plans.
- Provides OAH authority to hear appeals for the SBS, DCP and HRA plans.

- Provides OAH authority to hear PERS/TRS requests for waivers of timeliness and adjustment.

Ms. Lea:

The last set of administrative changes are to correct omissions or drafting errors to SB 141 regarding regulations and appeals.

Part of the reform to the retirement systems was a change in the regulation authority from the prior Public Employees' Retirement Board (PERB) and the Teachers Retirement Board. The reference to the PERS Board in the Supplemental Benefits System (SBS) statutes pertaining to authority for adoption of regulations was inadvertently changed to the ARMB along with the many other reference changes. SBS regulations, like PERS regulations, relate to administrative matters and should be adopted by the Commissioner. This change returns the regulation adoption authority to the commissioner of administration.

SB 141 changed the appeal authority from the former PERS and TRS boards to the Office of Administrative Hearings for PERS and TRS but inadvertently omitted transfer of appeal authority for SBS, DCP or to provide for appeal authority for the Health Reimbursement Arrangement (HRA). Without this change, appeals of decisions of the administrator would have to go directly to superior court.

Members of both the PERS and TRS may appeal an adjustment to benefits to the Commissioner of Administration. TRS DCR statutes allow an appeal of the commissioner's decision to the Office of Administrative Hearings (OAH), however the PERS statutes do not. This section of the bill corrects that drafting error.

[9:25:50 AM](#)

Page 21

Technical Clarification Bill Overview

- Allows State to administer benefits intended by the legislature
- Provides funding mechanisms for all benefits

- Addresses IRC requirements
- Removes administrative ambiguities

Ms. Lea restated the targeted objectives of SB 123 and concluded the presentation.

[9:26:20 AM](#)

Co-Chair Stedman sought further clarification as to how the July 1, 2010 reinstatement deadline date of July 1 2010 would affect the health care benefits of an individual with previous PERS service in the DB Plan who rehired on or after that date and, as a result, is enrolled in the new DCR Plan.

Co-Chair Stedman pointed out that transitioning to the DCR Plan was deemed "the major cost-saving issue" in the retirement system reform effort.

Ms. Lea explained that a prior service PERS individual who rehired prior to July 1, 2010 could "vest and become eligible for a health benefit". However, that individual would "lose their Tier and they lose that health plan" if they rehired on or after that date. They would be enrolled in the DCR Plan and their health benefits would be based as such. "Lower health costs for that employee" would be experienced since the health benefits of the DCR Plan were "designed as a cost savings measure".

[9:28:16 AM](#)

Co-Chair Stedman identified another of the DCR Plan's primary cost savings measures as its approach to health benefits for the time between when a DCR Plan employee separates from service and they reach 65 years of age.

In response to a question from Co-Chair Stedman, Ms. Lea elaborated on this matter. Under the DB Plan, a Tier 1 PERS member could be eligible for system paid medical benefits at age 50. A PERS Tier 111 member could be eligible at age 60 provided they had ten years of service. The issue addressed in the DCR Plan is that the health benefits paid between retirement and when the member becomes Medicare eligible incur the most expense to the DB system.

Ms. Lea advised that the DCR Plan requires that the member "be Medicare eligible before" he or she could qualify for the medical benefits, thereby "eliminating that high cost period of time" being experienced by the DB Plan.

Co-Chair Hoffman understood the reinstatement timeframe to be between July 1 2006 and July 1 2010.

Ms. Lea affirmed.

[9:29:41 AM](#)

Senator Elton specified that a former PERS Tier 1 or 11 employee who left State employment and cashed out their retirement account, would, after being rehired, be required to repay their retirement account in order to re-establish their participation in the DB Plan.

Ms. Lea affirmed.

Senator Elton inquired to the pay-back responsibilities of such an employee who was rehired in 2011; specifically whether they would be subject to the obligations of the DB or the DCR Plan.

Ms. Lea clarified that a former PERS Tier 1 or II individual who rehired after the July 1, 2010 date would not be required to pay back anything as their previous Tier status would be forfeited. They would "start fresh in the DCR Plan".

Senator Elton deduced therefore that the previous time accrued by that individual would not count toward that person's vesting in the DCR Plan.

Ms. Lea affirmed. Since that person "did not reinstate their DB rights before July 1, 2010, they forfeit their Tier and they forfeit the accumulated service".

[9:31:45 AM](#)

Senator Huggins asked for further information about the DCR Plan's new Alaska Retiree Health Trust (ARHT).

Ms. Lea explained that ARHT would be established as a Section 115 health trust, and as such would allow "pre-tax contributions and benefits for the medical plans" similar to what is currently

available to employees. It would also provide additional flexibility beyond what is currently available to employers in other types of qualified plans. In light of some of the accounting challenges experienced in the past year, the Division "felt it prudent to establish a health trust account separate from the pension trusts".

[9:32:39 AM](#)

Senator Huggins asked whether provisions regarding Roth IRAs rollovers would also apply to regular IRAs.

Ms. Lea affirmed. The provision would expand PERS members' options by allowing them to establish a Roth IRA after July 1, 2008.

Senator Huggins inquired to NEAs' position regarding its employees being excluded from either PERS or TRS.

Ms. Lea responded that NEA accepts "the distinction" of being an ineligible employer. An agreement on this matter was established in the 1990s.

[9:33:34 AM](#)

Senator Huggins asked for further information regarding PERS employees who had opted out of the federal social security (SS) tax system.

Ms. Lea communicated that all State employees and 14 other political subdivisions had opted out of SS and instead participate in the State's supplemental annuity benefits annuity program, referred to as SBS. Other PERS employers either participate in SS or utilize PERS as their social security substitute. She also noted that no teachers in the State participate in SS at this time.

[9:34:27 AM](#)

Senator Huggins asked whether employees have expressed any concerns regarding their non-SS status.

Ms. Lea communicated that no concerns have been reported.

[9:34:42 AM](#)

Senator Elton referred to the "Member Participation" information on page 9 and hypothesized about a future situation in which a PERS employer, specifically a small community, with the minimum required PERS normal cost rate obligation of 14.48 percent, decides to terminate from PERS. The question is whether that employer, after terminating from the PERS system could rejoin it, and thereby "force" their employees into either the DCR plan or into a situation in which the employee would be required to make a decision regarding their retirement plan.

[9:36:15 AM](#)

Ms. Lea advised that such a scenario could occur. An employer terminating their participation in PERS would be required to pay "termination costs and close out their account before they can rejoin. If they rejoin they are a DCR member", as would be their employees, even those who were DB members. She clarified that, at the time of the employer termination from PERS, its "non-vested Defined Benefit members" would have "the option to become vested in the Defined Benefit plan".

Co-Chair Stedman asked that the focus of the discussion be to health insurance cost issues.

Ms. Lea qualified that a Tier 1 or 11 DB member "who becomes vested at the time the employer terminates... would become vested in the ... DB health plan at that time". A Tier 111 member would be required "to have ten years of service in order to be eligible for the Defined Benefit medical plan". Some of the vested DB employees "would earn a medical entitlement from the DCR Plan as well as the Defined Benefit plan", were their employer to participate as a DCR Plan member.

[9:38:01 AM](#)

Senator Elton asked the termination costs a small community employer with only three employees might experience.

[9:38:32 AM](#)

Ms. Lea explained that the termination costs for each employer would differ depending on such things as "the number of retirees they have, the number of active members they have, the age of

those members, the amount of service they have". Sample cost scenarios would be developed.

[9:39:07 AM](#)

Senator Elton assumed there would be costs associated with terminating participation, however, wondered if there might be a situation in which a terminating employer might receive a payment from the State.

Ms. Lea was not sure, but would investigate.

[9:39:33 AM](#)

Co-Chair Stedman identified the State, the University of Alaska, and municipalities and cities as being PERS system employers. A few "very small" participating communities have a surplus rather than a deficit in the system. While this might be an issue, one must recognize that the benefit obligation to employees extends into "perpetuity". In contrast to large private corporations with "very rich" pension plans, the State "is running substantial deficits".

Co-Chair Stedman pointed out that a community could elect to opt out of the PERS system and start their own DB Plan. While a community could rejoin the PERS system as a DCR member, the bill would likely contain provisions "blocking" that community's employees' former TIER status from being recognized, as that would not be "fair play".

Senator Elton agreed. The bill should contain language clearly prohibiting such action.

[9:41:32 AM](#)

Senator Huggins asked which employers have provided their employees the option to transition from the DB Plan to the DCR Plan.

Ms. Lea responded that the State and the Bering Straits School District have provided this option to their employees. One other entity was considering doing so.

[9:42:15 AM](#)

Senator Huggins asked whether employees of other entities have complained about not being provided this option.

Ms. Lea replied that the Division has not received any employee complaints in this regard.

Senator Huggins asked whether a State employee, for example, who opted to change to the DCR Plan, would be subject to any associated expenses.

Ms. Lea responded in the negative. Were an employee to elect to transition to the DCR Plan, the balance of their employee contribution account in the DB Plan would be rolled over to the DCR Plan. Their employer would provide a 100 percent match to that balance. An employee electing to transition to the DCR Plan would forfeit all their rights to the DB Plan.

Co-Chair Stedman sought for further discussion on the 100 percent employer match; specifically the issue of accessing retirement system trust funds.

[9:43:35 AM](#)

Ms. Lea qualified that the employer match to the employee account balance must be "new money"; utilizing assets previously contributed to the DB Plan by the employer on behalf of the employee was prohibited as those contributions were required to remain in the DB account. A 12-month deadline by which an employee must decide whether or not to transition to the DCR Plan was included in the bill in an effort to help employers with budgeting and estimating for that new cost.

Co-Chair Stedman asked which employees were eligible to convert.

Ms. Lea informed the Committee that any non-vested employee was eligible: "they have up until either they vest or one year from the date the option is allowed by their employer to convert."

Co-Chair Stedman identified "the targeted group here as Tier 111".

Ms. Lea concurred, but advised there were still some non-vested Tier 11 employees.

[9:45:06 AM](#)

Senator Elton hypothesized a situation in which the City & Borough of Juneau, for example, terminated its status as a PERS employer, and later made the decision to rejoin the system and thereby convert its employees to the DCR Plan. The question was "how do you assess how much Juneau owes given the fact we don't identify by PERS employer what their individual liabilities are."

[9:45:59 AM](#)

Ms. Lea deferred to Charlene Morrison, the Division's Chief Financial Officer.

[9:46:11 AM](#)

Commissioner Kreitzer interjected to remind Members of the accounting issues that were discussed by Ms. Morrison during a separate hearing on SB 125-PERS CONTRIBUTIONS; UNFUNDED LIABILITY on March 19, 2007. That discussion included specifics regarding how the liability would be assessed.

[9:46:34 AM](#)

CHARLENE MORRISON, Chief Financial Officer, Division of Retirement & Benefits, Department of Administration reviewed the process accompanying an employer's decision to terminate from the PERS system. After receiving written correspondence from the employer affirming their decision to terminate, the Division would mail all that employer's non-vested employees a letter detailing their option to either vest or refund. This information is necessary in order for the actuary to calculate a termination liability for that employer. In this case, a person with only "one year of service could choose to vest and if they are a Tier 1 individual, they actually vest in the health care, which is a very expensive benefit, as well as in their pension".

Ms. Morrison continued that after the actuary determined the termination liability, that information is compared to the assets the terminating employer has in the system. The difference between the two is the termination cost to the employer. She allowed that some accounting concerns have been raised in regards to the assets. This issue should be further reviewed.

9:48:04 AM

Co-Chair Stedman acknowledged Senator Elton's concern about the possibility of an entity "gaming" or "manipulating" the system by terminating a plan and forcing its employees to go into the new DCR Plan. An effort to prevent this is paramount.

Co-Chair Stedman pointed out that in addition to this bill, the Legislature is considering separate legislation about how to address the immense retirement systems' unfunded liability facing municipalities. The Legislative effort to date includes "some kind of a sharing mechanism" through which the State could "help municipalities pay that liability".

Co-Chair Stedman continued. Were a community such as the City and Borough of Sitka, which has a retirement system deficit, to terminate their PERS participation, they would be required "to deal with that unfunded liability with no help from the State". This would be a "financial obstacle". Practically any community in the State which chose to terminate from the plan would be obligated to pay "tens of millions of dollars".

9:50:18 AM

Co-Chair Stedman appreciated Senator Elton's concern and assured him that the process pertaining to employers opting out of and then back into the system would be further reviewed.

Senator Elton acknowledged. "The sticking point" might be the inability "to allocate liabilities by PERS employer". This could result in there being different opinions "over what the terminating PERS employer liability actually may be. The State might have a difficult time countering those arguments."

9:51:03 AM

Senator Thomas asked for further information about the removal "of the social security tax wage base cap from employer/employee contributions" as depicted on page 19.

Ms. Morrison explained that in the "definition of compensation" contained in SB 141, it was indicated "that the compensation for members in this plan is subject to just their wages up to the social security wage base". Language in this bill would "remove that limitation so that contributions can be made into this plan

by both the employer and the employee on all of the wages made by that employee and not limit them by the social security wage base". This would allow more contributions to go into the employee's account.

Co-Chair Stedman appreciated Senator Thomas' question as he had also wondered about that provision.

Senator Huggins asked whether the Department was concerned about the prospect of employers terminating from the plan.

Commissioner Kreitzer did not feel qualified to speak to the question as she had only been with the Department a short while. She deferred to Ms. Morrison.

Ms. Morrison believed it important that an employer have the right to terminate if they so choose. However, any employer choosing to terminate from the plan should devise their own benefit plan.

Senator Huggins clarified his question to be whether the Department had any concerns regarding the number of employers who might choose to terminate from the plan.

Ms. Morrison expressed that terminating from the PERS plan might not be a financial obstacle for shorter-term smaller participants; however, it might prove too much of a financial hardship for long-term PERS employers. She could not commit to being concerned "one way or the other".

Senator Huggins asked whether there was concern that the level of the employers' unfunded liability exceeded the ability of the State to fix.

Commissioner Kreitzer responded that the State must continue to move forward. It had the benefit of the historical experience of the system, as well as people, such as her, who were willing to address the issue.

[9:54:59 AM](#)

Senator Elton directed attention to DB Plan employees who have left State service and cashed out their SBS account. He asked whether that person would be required to repay their SBS account were they rehired into the DCR Plan.

Ms. Morrison advised that a DB Plan member, who withdrew their SBS but not their DB Plan contributions, would continue to be classified as a DB Plan member. Their employment would only change to the DCR Plan status were they to have withdrawn their defined benefit contributions and "not reinstate[d] their employment with a covered employer by July 1, 2010".

Senator Elton asked whether the option to cash out their SBS account would be available to a DB member after 2010.

Ms. Morrison communicated that only the option to buy back one's defined benefit service would terminate by July 1, 2010; the option to withdraw one's SBS would not change.

[9:56:50 AM](#)

Co-Chair Stedman asked to the plan's obligation in the case of a domestic order pertaining to the separation of a husband and wife, one of which might be either "an employee or a beneficiary of the plan".

Ms. Morrison deferred to Ms. Lea.

Ms. Lea explained that in a qualified domestic order, the member is not required to terminate. Essentially, the order would serve to assign a portion of the employee's accounts, "whether it be the SBS account, a defined benefit account, or the new DCR account, to their former spouse". Since SBS and DCR Plan accounts are individual monetary accounts, "a separate account would be created for the former spouse" and the monies determined to be the property of the former spouse would be moved into that account.

Ms. Lea continued that a domestic order that splits the DBR contribution account is uncommon. The experience has been that the order "splits the retirement benefit and any future medical benefits depending on whether the divorce is before or after retirement".

[9:58:54 AM](#)

Senator Thomas revisited the issue of the social security cap, by asking whether allowing the contribution to increase beyond

the social security contribution salary limit "might create a further disparity between the participating employers".

Ms. Lea expressed the belief that eliminating the limit did not create "any disparity. The provision basically applied to the SBS annuity program which is the State's replacement program for social security and that's why the social security wage cap was included in that language. It should not have been included in the DCR Plan because there was no need for it".

[10:00:11 AM](#)

There being no further discussion, Co-Chair Stedman ordered the bill HELD in Committee.

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AT EASE [10:00:21 AM](#) / [10:00:35 AM](#)

Co-Chair Stedman reviewed the Committee's schedule for the remainder of the week.

ADJOURNMENT

Co-Chair Bert Stedman adjourned the meeting at [10:01:25 AM](#)