

CS FOR SENATE BILL NO. 23(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 2/27/09

Referred: State Affairs, Finance

Sponsor(s): SENATORS ELTON, Ellis, French, Wielechowski, Menard, Paskvan, McGuire, Thomas, Davis, Egan

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the public employees' retirement system and the teachers'
2 retirement system; and providing for an effective date."

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

4 * **Section 1.** AS 14.25.009 is repealed and reenacted to read:

5 **Sec. 14.25.009. Applicability of AS 14.25.009 - 14.25.220.** The provisions of
6 AS 14.25.009 - 14.25.220 apply to teachers who are eligible to be members of the
7 teachers' retirement system under 14.25.009 - 14.25.220 and are not members of the
8 defined contribution retirement plan under AS 14.25.310 - 14.25.590.

9 * **Sec. 2.** AS 14.25.040(a) is amended to read:

10 (a) Unless a teacher or member participates in a university retirement program
11 under AS 14.40.661 - 14.40.799, has filed an election under AS 14.25.043(b), or has
12 elected under AS 14.25.330 or former AS 14.25.540 to participate in the plan
13 established in AS 14.25.310 - 14.25.590, a teacher or member contracting for service
14 with a participating employer is subject to AS 14.25.009 - 14.25.220.

1 * **Sec. 3.** AS 14.25.143(a), as that subsection read following amendment by sec. 3, ch. 146,
 2 SLA 1980, until amended by sec. 12, ch. 106, SLA 1988, as amended by sec. 18, ch. 9,
 3 FSSLA 2005, is amended to read:

4 (a) When the **board** [ADMINISTRATOR] determines that the cost of living
 5 has increased and that the financial condition of the retirement fund permits, the
 6 administrator shall increase benefit payments to persons receiving benefits under this
 7 plan. [FOR PURPOSES OF THIS SUBSECTION, THE FINANCIAL CONDITION
 8 OF THE FUND WOULD ONLY PERMIT AN INCREASE IN BENEFITS WHEN
 9 THE RATIO OF TOTAL FUND ASSETS TO THE ACCRUED LIABILITY MEETS
 10 OR EXCEEDS 105 PERCENT. IN THIS SUBSECTION, "ACCRUED LIABILITY"
 11 MEANS THE PRESENT VALUE OF ALL MEMBER BENEFITS ACCRUED BY
 12 MEMBER SERVICE IN THIS PLAN.]

13 * **Sec. 4.** AS 14.25.143(a), as that subsection read following amendment by sec. 12, ch. 106,
 14 SLA 1988, until amended by sec. 12, ch. 97, SLA 1990, as amended by sec. 19, ch. 9, FSSLA
 15 2005, is amended to read:

16 (a) When the **board** [ADMINISTRATOR] determines that the cost of living
 17 has increased and that the financial condition of the retirement fund permits, the
 18 administrator shall increase benefit payments to persons receiving benefits under this
 19 plan. [FOR PURPOSES OF THIS SUBSECTION, THE FINANCIAL CONDITION
 20 OF THE FUND WOULD ONLY PERMIT AN INCREASE IN BENEFITS WHEN
 21 THE RATIO OF TOTAL FUND ASSETS TO THE ACCRUED LIABILITY MEETS
 22 OR EXCEEDS 105 PERCENT. IN THIS SUBSECTION, "ACCRUED LIABILITY"
 23 MEANS THE PRESENT VALUE OF ALL MEMBER BENEFITS ACCRUED BY
 24 MEMBER SERVICE IN THIS PLAN.]

25 * **Sec. 5.** AS 14.25.310 is amended to read:

26 **Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.590.** The provisions of
 27 AS 14.25.310 - 14.25.590 apply only to teachers

28 (1) who first become members on or after July 1, 2006, **and do not**
 29 **transfer to a defined benefit retirement plan under AS 14.25.009 - 14.25.220 or**
 30 **AS 39.35.095 - 39.35.680; and**

31 (2) **described in AS 14.25.330 who elect under that section to**

1 **become** [TO MEMBERS WHO ARE EMPLOYED BY EMPLOYERS THAT DO
 2 NOT PARTICIPATE IN THE DEFINED BENEFIT RETIREMENT PLAN
 3 ESTABLISHED UNDER AS 14.25.009 - 14.25.220, OR TO] members [WHO
 4 TRANSFER INTO THE DEFINED CONTRIBUTION RETIREMENT PLAN
 5 UNDER AS 14.25.540].

6 * **Sec. 6.** AS 14.25.330 is repealed and reenacted to read:

7 **Sec. 14.25.330. Retirement plan election option.** (a) A teacher who is first
 8 hired on or after the effective date of this section and has not previously been a
 9 member of a defined benefit retirement plan or a defined contribution retirement plan
 10 under this chapter or AS 39.35, and who, at the time of hire, is fully vested in a
 11 defined benefit retirement plan that is outside of this chapter and AS 39.35, may make
 12 a one-time election to participate in the defined contribution retirement plan under
 13 AS 14.25.310 - 14.25.590 and transfer employee contributions, if any, and employer
 14 contributions, if any, that have been made to the defined benefit retirement plan under
 15 AS 14.25.009 - 14.25.220 since the date of hire. Before employer contributions are
 16 transferred under this subsection, the administrator shall recalculate them under
 17 AS 14.25.350.

18 (b) The election to participate in the defined contribution retirement plan
 19 under (a) of this section must be made within 60 days after the date of hire, and be
 20 made in writing on a form and in the manner prescribed by the administrator. Before
 21 accepting an election to participate in the defined contribution retirement plan, the
 22 administrator shall, within five days after the teacher's hire, provide the teacher
 23 eligible to make an election to participate in the defined contribution retirement plan
 24 under AS 14.25.310 - 14.25 590 with

25 (1) information, including calculations to illustrate the effect of
 26 moving the teacher's retirement plan from the defined benefit retirement plan to the
 27 defined contribution retirement plan; and

28 (2) other information to clearly inform the teacher of the potential
 29 consequences of the teacher's election.

30 (c) An election made under (a) of this section to participate in the defined
 31 contribution retirement plan is irrevocable. On making the election, the teacher shall

1 be enrolled as a member of the defined contribution retirement plan under
 2 AS 14.25.310 - 14.25.590, the member's participation in the plan shall be governed by
 3 the provisions for the defined contribution retirement plan, and the member's
 4 participation in the defined benefit retirement plan under AS 14.25.009 - 14.25.220
 5 shall terminate. The member's enrollment in the defined contribution retirement plan is
 6 effective the first day of the month after the administrator receives the completed
 7 enrollment forms. An election made by an eligible member who is married is not
 8 effective unless the election is signed by the member's spouse.

9 (d) As directed by the member, the Alaska Retirement Management Board
 10 shall transfer or cause to be transferred the appropriate amounts to the designated
 11 account. The administrator shall credit the member with a service credit that is equal
 12 to the member's actual service or the actuarially calculated value of the employer and
 13 employee contributions transferred, whichever is less. The board shall establish
 14 transfer procedures by regulation, but the actual transfer may not be later than 30 days
 15 after the effective date of the member's participation in the defined contribution
 16 retirement plan, unless the major financial markets for securities available for a
 17 transfer are seriously disrupted by an unforeseen event that also causes the suspension
 18 of trading on any national securities exchange in the country where the securities were
 19 issued. In that event, the 30-day period of time may be extended by a resolution of the
 20 board. Transfers are not commissionable or subject to other fees and may be in the
 21 form of securities or cash as determined by the board. Securities shall be valued on the
 22 date of receipt in the member's account.

23 * **Sec. 7.** AS 39.35.095 is repealed and reenacted to read:

24 **Sec. 39.35.095. Applicability of AS 39.35.095 - 39.35.680.** The provisions of
 25 AS 39.35.095 - 39.35.680 apply to public employees who are eligible to be members
 26 of the public employees' retirement system under AS 39.35.095 - 39.35.680 and are
 27 not members of the defined contribution retirement plan under AS 39.35.700 -
 28 39.35.990.

29 * **Sec. 8.** AS 39.35.475(a), as that subsection read following amendment by sec. 34, ch. 146,
 30 SLA 1980, until amended by sec. 41, ch. 82, SLA 1986, as amended by sec. 112, ch. 9,
 31 FSSLA 2005, is amended to read:

1 (a) When the **board** [ADMINISTRATOR] determines that the cost of living
 2 has increased and that the financial condition of the retirement fund permits, the
 3 administrator shall increase benefit payments to persons receiving benefits under this
 4 plan. [FOR PURPOSES OF THIS SUBSECTION, THE FINANCIAL CONDITION
 5 OF THE FUND WOULD ONLY PERMIT AN INCREASE IN BENEFITS WHEN
 6 THE RATIO OF TOTAL FUND ASSETS TO THE ACCRUED LIABILITY MEETS
 7 OR EXCEEDS 105 PERCENT. IN THIS SUBSECTION, "ACCRUED LIABILITY"
 8 MEANS THE PRESENT VALUE OF ALL MEMBER BENEFITS ACCRUED BY
 9 MEMBER SERVICE IN THIS PLAN.]

10 * **Sec. 9.** AS 39.35.620(k) is amended to read:

11 (k) Termination of an employer's participation in the plan does not bar future
 12 participation in the system by that employer if the employer is current with payments
 13 on amounts due under AS 39.35.625. [IF A PREVIOUSLY TERMINATED
 14 EMPLOYER RETURNS TO THE SYSTEM, THE EMPLOYER MAY ONLY
 15 PARTICIPATE IN THE PLAN ESTABLISHED UNDER AS 39.35.700 - 39.35.990.
 16 EMPLOYEES MAY BE CREDITED UNDER AS 39.35.700 - 39.35.990 ONLY
 17 WITH SERVICE SUBSEQUENT TO THE DATE OF RETURN.]

18 * **Sec. 10.** AS 39.35.700 is amended to read:

19 **Sec. 39.35.700. Applicability of AS 39.35.700 - 39.35.990.** The provisions of
 20 AS 39.35.700 - 39.35.990 apply only to

21 **(1) members first hired on or after July 1, 2006, who do not transfer**
 22 **to a defined benefit retirement plan under AS 14.25.009 - 14.25.220 or**
 23 **AS 39.35.095 - 39.35.680; and**

24 **(2) public employees described in AS 39.35.720 who elect under**
 25 **that section to become** [TO MEMBERS WHO ARE EMPLOYED BY
 26 EMPLOYERS THAT DO NOT PARTICIPATE IN THE DEFINED BENEFIT
 27 RETIREMENT PLAN ESTABLISHED UNDER AS 39.35.095 - 39.35.680, OR TO]
 28 members [WHO TRANSFER INTO THE DEFINED CONTRIBUTION
 29 RETIREMENT PLAN UNDER AS 39.35.940].

30 * **Sec. 11.** AS 39.35.720 is repealed and reenacted to read:

31 **Sec. 39.35.720. Retirement plan election option.** (a) A public employee who

1 is first hired on or after the effective date of this section and has not previously been a
2 member of a defined benefit retirement plan or a defined contribution retirement plan
3 under AS 14.25 or this chapter, and who, at the time of the hire, is fully vested in a
4 defined benefit retirement plan that is outside AS 14.25 and this chapter, may make a
5 one-time election to participate in the defined contribution retirement plan under
6 AS 39.35.700 - 39.35.990 and to transfer employee contributions, if any, and
7 employer contributions, if any, that have been made to the defined benefit retirement
8 plan under AS 39.35.095 - 39.35.680. Before employer contributions are transferred
9 under this subsection the administrator shall recalculate them under AS 39.35.255.

10 (b) The election to participate in the defined contribution retirement plan
11 under (a) of this section must be made within 60 days after the date of hire, and be
12 made in writing on a form and in the manner prescribed by the administrator. Before
13 accepting an election to participate in the defined contribution retirement plan under
14 AS 39.35.700 - 39.35.990, the administrator shall, within five days after the public
15 employee's hire, provide the employee eligible to make an election to participate in the
16 defined contribution retirement plan with

17 (1) information, including calculations to illustrate the effect of
18 moving the employee's retirement plan from the defined benefit retirement plan to the
19 defined contribution retirement plan; and

20 (2) other information to clearly inform the employee of the potential
21 consequences of the employee's election.

22 (c) An election made under (a) of this section to participate in the defined
23 contribution retirement plan is irrevocable. On making the election, the employee shall
24 be enrolled as a member of the defined contribution retirement plan under
25 AS 39.35.700 - 39.35.990, the member's participation in the plan shall be governed by
26 the provisions for the defined contribution retirement plan, and the member's
27 participation in the defined benefit retirement plan under AS 39.35.095 - 39.35.680
28 shall terminate. The member's enrollment in the defined contribution retirement plan is
29 effective the first day of the month after the administrator receives the completed
30 enrollment forms. An election made by an eligible member who is married is not
31 effective unless the election is signed by the member's spouse.

1 (d) As directed by the member, the Alaska Retirement Management Board
2 shall transfer or cause to be transferred the appropriate amounts to the designated
3 account. The administrator shall credit the member with a service credit that is equal
4 to the member's actual service or the actuarially calculated value of the employer and
5 employee contributions transferred, whichever is less. The board shall establish
6 transfer procedures by regulation, but the actual transfer may not be later than 30 days
7 after the effective date of the member's participation in the defined contribution
8 retirement plan, unless the major financial markets for securities available for a
9 transfer are seriously disrupted by an unforeseen event that also causes the suspension
10 of trading on any national securities exchange in the country where the securities were
11 issued. In that event, the 30-day period of time may be extended by a resolution of the
12 board. Transfers are not commissionable or subject to other fees and may be in the
13 form of securities or cash as determined by the board. Securities shall be valued on the
14 date of receipt in the member's account.

15 * **Sec. 12.** AS 14.25.012(c), 14.25.540; AS 39.35.940, 39.35.957(b); and secs. 17 and 81,
16 ch. 20, SLA 2007, are repealed.

17 * **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 **RETIREMENT PLAN ELECTION OPTION.** (a) A teacher who was first hired on or
20 after July 1, 2006, and before the effective date of this section and who is a member of the
21 defined contribution plan of the teachers' retirement system under AS 14.25.310 - 14.25.590
22 may make a one-time election before September 1, 2009, or within 90 days after the effective
23 date of this section, whichever is later, to participate in the defined benefit retirement plan
24 under AS 14.25.009 - 14.25.220 and to transfer any contributions, including employer
25 contributions, made to the defined contribution plan before that date.

26 (b) A public employee who was first hired on or after July 1, 2006, and before the
27 effective date of this section and who is a member of the defined contribution plan of the
28 public employees' retirement system under AS 39.35.700 - 39.35.990 may make a one-time
29 election before September 1, 2009, or within 90 days after the effective date of this section,
30 whichever is later, to participate in the defined benefit retirement plan under AS 39.35.095 -
31 39.35.680 and to transfer any contributions, including employer contributions, made to the

1 defined contribution plan before that date.

2 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 **RETIREMENT PLAN ELECTION PROCEDURE; REGULATIONS REQUIRED.**

5 (a) The election to participate in the defined benefit retirement plan under sec. 13 of this Act
6 must be made in writing on forms and in the manner prescribed by the administrator. Before
7 accepting an election to participate in the defined benefit retirement plan, the administrator
8 shall provide the employee planning on making an election to participate in the defined
9 benefit retirement plan with information, including calculations to illustrate the effect of
10 moving the employee's retirement plan from the defined contribution retirement plan to the
11 defined benefit retirement plan as well as other information to clearly inform the employee of
12 the potential consequences of the employee's election.

13 (b) An election made under sec. 13 of this Act to participate in the defined benefit
14 retirement plan is irrevocable. On making the election, the participant shall be enrolled as a
15 member of the defined benefit retirement plan, the member's participation in the plan shall be
16 governed by the provisions for the defined benefit retirement plan, and the member's
17 participation in the defined contribution retirement plan shall terminate. The participant's
18 enrollment in the defined benefit retirement plan shall be effective the first day of the month
19 after the administrator receives the completed enrollment forms. An election made by an
20 eligible member who is married is not effective unless the election is signed by the
21 individual's spouse.

22 (c) As directed by the participant, the Alaska Retirement Management Board shall
23 transfer or cause to be transferred the appropriate amounts to the designated account. The
24 administrator shall credit the participant with a service credit that is equal to the participant's
25 actual service or the actuarially calculated value of the employer and employee contribution
26 transferred, whichever is less. The board shall establish transfer procedures by regulation, but
27 the actual transfer may not be later than 30 days after the effective date of the member's
28 participation in the defined benefit retirement plan unless the major financial markets for
29 securities available for a transfer are seriously disrupted by an unforeseen event that also
30 causes the suspension of trading on any national securities exchange in the country where the
31 securities were issued. In that event, the 30-day period of time may be extended by a

1 resolution of the board. Transfers are not commissionable or subject to other fees and may be
 2 in the form of securities or cash as determined by the board. Securities shall be valued on the
 3 date of receipt in the participant's account.

4 (d) In this section,

5 (1) "administrator" means the person appointed or designated by the
 6 commissioner of administration under AS 39.35.050 for a public employees' retirement plan
 7 and under AS 14.25.003 for a teachers' retirement plan;

8 (2) "board" means the Alaska Retirement Management Board established
 9 under AS 37.10.210;

10 (3) "defined benefit retirement plan" means the retirement plan established
 11 under

12 (A) AS 14.25.009 - 14.25.220 for a teacher; or

13 (B) AS 39.35.095 - 39.35.680 for a public employee;

14 (4) "defined contribution retirement plan" means the retirement plan
 15 established under

16 (A) AS 14.25.310 - 14.25.590 for a teacher; or

17 (B) AS 39.35.700 - 39.35.990 for a public employee.

18 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
 19 read:

20 **ADOPTION OF REGULATIONS.** The commissioner of administration shall proceed
 21 immediately to adopt regulations consistent with this Act, but in no event may the regulations
 22 take effect before the effective date of sec. 13 of this Act.

23 * **Sec. 16.** Sections 14 and 15 of this Act take effect immediately under AS 01.10.070(c).