

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

March 31, 2009

8:08 a.m.

MEMBERS PRESENT

Representative Bob Lynn, Chair
Representative Paul Seaton, Vice Chair
Representative Carl Gatto
Representative Craig Johnson
Representative Peggy Wilson
Representative Max Gruenberg
Representative Pete Petersen

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 157

"An Act amending the State Personnel Act to place in the exempt service the chief economist and state comptroller in the Department of Revenue and certain professional positions concerning oil and gas within the Department of Natural Resources; relating to reemployment of and benefits for or on behalf of reemployed retired teachers and public employees by providing for an effective date by amending the delayed effective date for secs. 3, 5, 9, and 12, ch. 57, SLA 2001 and sec. 19, ch. 50, SLA 2005; and providing for an effective date."

- MOVED CSHB 157(STA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 157

SHORT TITLE: REEMPLOYMENT OF RETIREES; EXEMPT SERVICE

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/27/09	(H)	READ THE FIRST TIME - REFERRALS
02/27/09	(H)	STA, FIN
03/17/09	(H)	STA AT 8:00 AM CAPITOL 106
03/17/09	(H)	Heard & Held
03/17/09	(H)	MINUTE(STA)
03/31/09	(H)	STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

NICKI NEAL, Director
Division of Personnel & Labor Relations
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Responded to questions during the hearing on HB 157.

GINGER BLAISDELL, Director
Administrative Services Division
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 157.

KEVIN BANKS, Acting Director
Central Office
Division of Oil & Gas
Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 157.

CAROL COMEAU, Superintendent
Anchorage School District
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 157.

AGNES MORAN
Ketchikan, Alaska

POSITION STATEMENT: Testified in support of HB 157.

HANNAH RAMISKEY
Ketchikan Charter School (KCS)
Ketchikan, Alaska

POSITION STATEMENT: Testified during the hearing on HB 157.

DAVID HULL
Ketchikan, Alaska

POSITION STATEMENT: Testified during the hearing on HB 157.

BARB ANGAIAK, President
National Education Association-Alaska (NEA-Alaska)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of a sunset during the hearing on HB 157.

BRUCE JOHNSON

Member

Association of Alaska School Boards (AASB)

Juneau, Alaska

POSITION STATEMENT: Testified in support of the extension of the sunset during the hearing on HB 157.

PETE FORD, Southeast Regional Manager

Alaska Public Employees Association (APEA)

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HB 157.

KATHIE WASSERMAN, Executive Director

Alaska Municipal League (AML)

Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 157.

PAT SHIER, Director

Division of Retirement & Benefits

Department of Administration

Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 157.

ACTION NARRATIVE

[8:08:54 AM](#)

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at 8:08 a.m. Representatives Seaton, Gatto, Johnson, Wilson, Petersen, and Lynn were present at the call to order. Representative Gruenberg arrived as the meeting was in progress.

HB 157-REEMPLOYMENT OF RETIREES; EXEMPT SERVICE

[Contains brief mention of SB 126.]

[8:09:18 AM](#)

CHAIR LYNN announced that the only order of business was HOUSE BILL NO. 157, "An Act amending the State Personnel Act to place in the exempt service the chief economist and state comptroller in the Department of Revenue and certain professional positions concerning oil and gas within the Department of Natural Resources; relating to reemployment of and benefits for or on behalf of reemployed retired teachers and public employees by

providing for an effective date by amending the delayed effective date for secs. 3, 5, 9, and 12, ch. 57, SLA 2001 and sec. 19, ch. 50, SLA 2005; and providing for an effective date."

8:09:50 AM

NICKI NEAL, Director, Division of Personnel & Labor Relations, Department of Administration, noted that the division had provided responses to the committee's questions after the last hearing on HB 157 [included in the committee packet].

8:10:43 AM

GINGER BLAISDELL, Director, Administrative Services Division, directed attention to the last two pages of the aforementioned responses, which show statistics on retiree positions statewide. She pointed out that at the beginning of the past sunset period, there were 227 positions that were hired under the retiree waiver, and that number has been reduced to 124. She said that is a good sign that new employees are being brought into the system, and the retiree positions still existing reflect those jobs where there are no other applicants that meet the minimum qualifications or are able to take those jobs.

8:12:54 AM

MS. BLAISDELL stated that HB 157 combines two subjects within the "personnel Act" for the practical reason of streamlining the hearing process for the legislature, "as well as for public testimony." She noted that the two positions in the Department of Revenue and 23 positions in the Department of Natural Resources are not tied to the retire/rehire provision of the bill. Ms. Blaisdell related that if the proposed legislation does not pass, approximately 124 jobs in schools, local governments, courts, and state offices will be left vacant. She stated, "While these individuals may ... appear to be receiving additional income, the retirement income is earned income and would be paid whether they [were] paid in a government position or in the private sector." She said a retiree can only be offered a job if there are not other qualified applicants.

MS. BLAISDELL stated that the 23 professional oil and gas related positions are at risk for high turnover, because the jobs are temporary and project-oriented, rather than long-term. If a private company offers these highly skilled individuals similar pay, but with longevity, it would be a challenge for the state to retain them. She said turnover would be unacceptable

during the state's efforts in natural gas development. She stated, "There is no fiscal impact to the status change of these positions, and the risk of losing these professionals is not one the state should take."

MS. BLAISDELL warned that the chief economist position would remain vacant because it is unattractive to qualified candidates, given its current rate of pay. The person in this position is responsible for the revenue forecast, and also reviews a wide variety of fiscal systems as they impact Alaska's interest in the world. Leaving the position vacant would put the state at a disadvantage in maximizing opportunities in a global economy and place the state at risk for lost opportunity it can ill afford.

MS. BLAISDELL, regarding the state comptroller, said the state can only hope that the person currently in that position will remain, despite the fact that similar positions in the private sector are paid 20-30 percent more. With the position turnover rate averaging one per year, she relayed, the learning curve is reliant on lower level staff, and the state cannot "grow positively in its cash management practices." Longevity in the position [of comptroller] would be of benefit to the state's investments.

MS. BLAISDELL concluded by urging the committee to pass HB 157, so that Alaska can progress in developing a gas pipeline, compete in a global economy, educate its children, adequately staff its courts, and fill other necessary positions that would otherwise be left vacant.

CHAIR LYNN expressed concern that the bill was not heard earlier so that there would be enough time to advance it through the process.

[8:17:45 AM](#)

MS. BLAISDELL stated her belief that HB 157 was introduced at the beginning of session, but that it has been taking a bit of time to get bills scheduled for hearing. She noted that there is a companion bill in the Senate which may facilitate the legislation making it through the process.

CHAIR LYNN observed that the bill was introduced on February 27, 2009.

MS. BLAISDELL, in response to Chair Lynn, said she requested a hearing on March 3.

[8:18:19 AM](#)

REPRESENTATIVE SEATON said the Alaska Legislative Report, dated February 6, 2009, [included in the committee packet], notes [on page 8] that 16 former state employees were retired between 1-6 months before being rehired. He asked if the department has a further breakdown that shows how many of those were rehired within the first two months.

[8:19:15 AM](#)

MS. NEAL responded that Representative Seaton's staff has made that inquiry, and currently the Division of Retirement & Benefits is looking for an answer.

[8:20:45 AM](#)

REPRESENTATIVE SEATON remarked that only 80 percent of the employers required to do so have forwarded their knowledge transfer plans to the Department of Administration. He said he wants to know if there would be a commitment from "your division" to actively pursue the implementation of the knowledge transfer plans, which are required by statute from "anyone employed under this."

[8:21:36 AM](#)

KEVIN BANKS, Acting Director, Central Office, Division of Oil & Gas, Department of Natural Resources (DNR), responded that he can gladly make that commitment, but currently none of the staff in the Division of Oil & Gas are rehired retirees.

REPRESENTATIVE SEATON clarified that he wants a commitment from the commissioners of all applicable departments that that section of statute would be implemented.

[8:22:19 AM](#)

MS. BLAISDELL suggested that Ms. Neal, as the person who reviews all of the knowledge transfer plans, could speak specifically to that issue.

[8:22:41 AM](#)

MS. NEALS assured Representative Seaton that "we do follow up." Currently, she reported, only one knowledge plan is lacking, and she indicated that is being addressed. She also assured him that she would follow up with the Division of Retirement & Benefits as it oversees the receipt of knowledge transfer plans from other Public Employees' Retirement System (PERS) employers.

[8:23:29 AM](#)

REPRESENTATIVE WILSON observed that the aforementioned report shows that there were only five that did not have that knowledge transfer plan, and "evidently they've picked up four of those since then."

MS. BLAISDELL explained:

The five positions that show that they're missing a knowledge transfer plan came from school districts. And what Nicki does with the Department of Administration is she looks at every knowledge plan for the state agencies through the executive branch. So, the school districts would have to follow up and pursue their own.

[8:24:28 AM](#)

CAROL COMEAU, Superintendent, Anchorage School District, testified in support of HB 157. She said the district [rehires retirees] minimally, mostly in the area of special education and related services, and in some cases when it cannot find teachers at the high school level who have the skills to teach higher level math and science. She said these employees are terminated at the end of each school year in order to give preference to qualified applicants [who have not already retired].

MS. COMEAU, in response to a question from Chair Lynn, regarding whether she likes the bill as is, stated support of allowing districts and other state agencies to "use the tool, but on a limited basis where we absolutely have to prove that there are no viable applicants."

[8:26:32 AM](#)

REPRESENTATIVE SEATON said he is pleased to see that the district is using that tool judiciously. He noted that currently there is no limitation on the number of applicants. He asked Ms. Comeau if she would object to a provision that

would limit use of the retire/rehire tool to situations in which there were three or less qualified applicants."

[8:27:36 AM](#)

MS. COMEAU responded that that limitation would not be onerous for the Anchorage School District, because it already ensures that there are zero applicants or, at least, that if there are one or two, those one or two may have paper credentials but do not meet the criteria in other ways.

[8:28:10 AM](#)

REPRESENTATIVE GATTO, regarding a case in which a retiree has to be rehired, asked how long a period would elapse before the rehire.

MS. COMEAU responded that the district usually waits until after the normal hiring season - late spring to right before school starts - and then asks the rehire to apply for a one-year contract. She stated, "I think we've made it work very successfully for the last many years."

[8:29:06 AM](#)

REPRESENTATIVE PETERSEN noted that his program started in 2001, and he asked Ms. Comeau what the longest period of continual time is in which a retiree has been rehired.

[8:29:33 AM](#)

MS. COMEAU said she does not know, but speculated that there are not many who "continue employment since the bill began."

[8:29:56 AM](#)

AGNES MORAN told the committee that she is testifying as a parent in support of HB 157. She related that her son was involved in a special education program for six years, and she knows how important it is for the rural schools to have access to experienced educators who are available locally and have made a commitment to remain in Alaska. Although the number of participants in the retiree rehire program may appear small, their impact on the community is large, she opined. Many of the rehired retirees are certified in special education fields and work not only with students directly, but also with parents, families, and other educators. She said she thinks these people

are sometimes viewed as barriers, but for the parents of a child with special needs, these people are viewed as "bridges." Ms. Moran indicated that the legislative report shows that most of the schools that are listed as having rehired retirees also have current openings. She asked the committee to support the proposed legislation.

[8:31:20 AM](#)

HANNAH RAMISKEY, Ketchikan Charter School (KCS), said she is a grandparent of a child in the Ketchikan Charter School. She noted that materials related to SB 126 show that Ketchikan had a custodian who was a rehired retiree. She subsequently discovered that about three years ago, that custodian was hired just until someone else was found to fill the role. She stated concern that the list may not be completely accurate.

MS. RAMISKEY said KCS had a superintendent who retired, KCS was without a qualified principal, and there were two sessions during which the school "fell apart." Ms. Ramiskey added further details. Mr. Martin, she said, agreed to come back and work for the charter school. She relayed that he is at the lowest rung of the pay scale of administrator and does not accrue benefits toward his retirement. The school is running smoothly; its students are "80 percent proficient across the board."

MS. RAMISKEY related another incident in which a woman who was a reading specialist left her job to tend to her husband, who had cancer. When her husband died, she was rehired in the same position. Ms. Ramiskey remarked that there were no other applicants to take that position. She stated that in small towns and places that get so much rain in a year's time, it is often difficult to find qualified applicants; therefore, "we really need the opportunity to hire the best for our kids." In response to Representative Gatto, she said there are 180 students in the Ketchikan Charter School.

[8:34:31 AM](#)

DAVID HULL said he is a 20-year retiree from the City of Ketchikan Fire Department and currently works as the fire chief for the North Tongass Volunteer Fire Department through the Ketchikan Gateway Borough. He said the bill affects him personally. He warned that as of January 1, 2009, if the deadline is not extended, the service areas of North Tongass Fire & EMS [emergency medical service] will be at a distinct

disadvantage if there is a need to hire experienced help for the leadership role that a chief holds in a fire department. He related that he has held his current position since May 2004 and would like to stay. He stated, "It should be understood that ... the ability for a retiree to be able to hold onto their retirement benefits and work in a situation like this is akin to providing a level playing field for the small kids versus the big kids when it comes for a competition to hire experienced help."

MR. HULL related that the Ketchikan Airport recently lost a highly experienced police chief who was in a situation similar to Mr. Hull's. He noted that the position of police chief at the airport remains unfilled, and [those in charge of airport security] have been forced to work with the police department of the City of Ketchikan in order to maintain a police force at the airport. He opined that the benefit of extending the deadline probably far outweighs any detriment. He acknowledged that there is a fiscal impact, but asked the committee to consider what it would be doing for the smaller departments that are trying desperately to compete for quality help.

MR. HULL, in response to a question from Representative Gatto, estimated that his current rate of pay is \$71,000. He added that the fire chief for the City of Ketchikan, who was recently hired is paid over \$100,000.

[8:37:42 AM](#)

MS. BLAISDELL, in response to Representative Gruenberg, recalled that he had discussed the definition of "special inquiry" - found in AS 39.25.110(9) - with Kevin Banks, the acting director of the Division of Oil & Gas. For Mr. Banks' benefit, and upon the suggestion of Representative Gruenberg, she read the [second] paragraph of a memorandum from Dan Wayne of Legislative Legal and Research Services, dated March 31, 2009, [included in the committee packet], which read as follows:

"Special Inquiry." The term "special inquiry" is not defined by state statute or regulation, and in the time available to respond to your request I am unable to determine whether it applied uniformly, in the context of the exempt service or any other context, throughout the agencies of the state's executive branch.

[8:39:01 AM](#)

REPRESENTATIVE GRUENBERG observed that in the aforementioned paragraph of the memorandum, the word "s" should appear between "it" and "applied." He stated that [the term] is an issue that is central to Sections 1 and 2 of the bill, and he opined that the legislature should define it. He said he wonders whether the executive branch might work with the legislature to draft a definition.

[8:40:39 AM](#)

MS. BLAISDELL responded that she thinks it would probably be okay that efforts be made to define the term. She clarified that "special inquiry" applies to Section 1, which relates to a position within the Department of Natural Resources; Section 2 addresses the positions of chief economist and state comptroller, which do not fall under special inquiry.

REPRESENTATIVE GRUENBERG said he would like a message sent to the executive branch regarding this issue, and he questioned whether the definition should be made through statute or regulation.

CHAIR LYNN said that would be fine.

[8:42:26 AM](#)

BARB ANGAIK, President, National Education Association-Alaska (NEA-Alaska), emphasized the importance of interpretation of language. She said the term, "hard to fill position," has been broadened to include all positions in a job category, including some positions that perhaps are not hard to fill, which she said is problematic. She offered the following positions as examples: middle school physical education teacher and high school counselor. She expressed her appreciation for Ms. Cuomo's previous statement that the district is careful to limit its hiring of retirees only to those positions that are hard to fill, but she said the problem is that there has been some abuse of the rehiring of retirees.

MS. ANGAIK opined that there is no need to extend the sunset; if there are people who are retired who can fill a position that could not be filled otherwise, those people can come back into employment, "but not draw down on ... a retirement benefit at the same time." She concluded that NEA-Alaska would like to see the sunset happen.

REPRESENTATIVE GATTO asked Ms. Angaiak if she has examples in which minimally qualified applicants were available but the position was instead given to a rehired retiree.

MS. ANGAIK answered no.

[8:45:47 AM](#)

REPRESENTATIVE GRUENBERG said Ms. Angaiak had remarked that sometimes people are brought back for no special reason, when there are other qualified people around. He said the aforementioned statute is in the public employee section, it is not in Title 14. He asked Ms. Angaiak what the legal authority is that she was discussing.

MS. ANGAIK said she had been referencing "the interpretation, generally, of language," which she said is used to rehire retired teachers and retired administrators. The terms "teacher" and "administrator" have been broadened, in some cases, to include people who do not represent what NEA-Alaska believes constitute truly "hard-to-fill positions," such as specialists and special education teachers.

REPRESENTATIVE GRUENBERG said he understands what Ms. Angaiak is saying, but explained that it is difficult to address the issue through concept alone, with no particular statute being supplied.

MS. ANGAIK clarified that she is talking about the definitions in statute that outline how to define "teacher" and "administrator."

REPRESENTATIVE GRUENBERG said he would like Ms. Angaiak's staff to look at specific statutes with him. He said the wording of the bill is confusing.

[8:48:55 AM](#)

REPRESENTATIVE SEATON offered his understanding that the data shows there have been 58 [rehired retirees] within the Teachers' Retirement System (TRS) across the state, which he said seems like a restricted amount, even though currently there are no parameters for rehiring retirees in TRS. He asked Ms. Angaiak if she would support a restriction similar to that in PERS, such that there could be no more than three qualified applicants to be able to even consider rehiring a retiree. He noted that the

restriction would be set "by particular job, not by a broad category."

[8:50:20 AM](#)

MS. ANGAIK responded that [some kind of restriction] would be better; however, she would still be opposed to the bill.

[8:50:28 AM](#)

REPRESENTATIVE WILSON observed that out of the many teachers in the Anchorage School System, only 11 [are rehired retirees]. Lower Kuskokwim, on the other hand, has 36. She said that number seems high, but she realizes that that district is remote and she does not know how the living conditions are for the teachers there. Furthermore, she said she does not know how big the Lower Kuskokwim School District is to be able to make any comparison to the district in Anchorage. She noted that Ms. Angaik had used the term, "hard-to-fill," and she asked her if she agrees that sometimes the location of the school would make a difference.

[8:51:57 AM](#)

MS. ANGAIK responded that the Lower Kuskokwim School District has approximately 3,300 students, about 350 teachers, and has some very remote locations. She offered her understanding that "the larger number out of" the 36 rehired retirees in that school district are located in the hub community of Bethel; therefore, the hardship of living in a rural community is minimal. She added that she is from Bethel. Ms. Angaik concurred that in some cases it is more difficult to fill positions in rural Alaska. However, she said she maintains that if there are people who wish to continue teaching or being administrators, they can do that through the regular channels and not be drawing retirement at the same time they are drawing a salary.

REPRESENTATIVE WILSON asked, "Are there several that have continued the whole time that this program has been in effect?"

MS. ANGAIK answered yes.

[8:53:29 AM](#)

BRUCE JOHNSON, Member, Association of Alaska School Boards (AASB), stated that AASB supports the extension of the sunset

proposed in HB 157. Mr. Johnson related that he is the principle individual involved in superintendent searches. Most of the superintendents hired new to Alaska are retired in another state. Currently, in Chevak, two of the three finalists are retirees - one from in-state and one from out-of-state. He said AASB encourages new blood, because it is in the best interest of the school systems. He said he senses that "we have been using this judiciously," and he noted that there is oversight from [the Division of Retirement & Benefits].

MR. JOHNSON stated that there are 24-25 school sites in Lower Kuskokwim, four or five of which are located in Bethel, while the rest are in individual villages. He said those are remote places. He reported that there is a lot of turnover in that district; recruitment is done on an annual basis nationwide. Furthermore, the district is making remarkable progress "with achievement"; therefore, the system in place seems to be producing decent results, he noted.

MR. JOHNSON stated that considering the fact that less than 80 positions out of several thousand are "tied up in this," he thinks "it's an appropriate tool." He encouraged the committee to "continue this opportunity as a tool."

REPRESENTATIVE GATTO asked Mr. Johnson if he is saying he is relying on what is better for students in his analysis.

MR. JOHNSON responded in the affirmative. He expounded that AASB does not select superintendents - the local school board does - but it facilitates the process. In all cases, he noted, AASB asks [applicants] to identify the kinds of skills and qualifications that they feel meet their particular needs, "and that references students, in terms of moving this district forward on behalf of students." He indicated that AASB asks [the local school boards] to evaluate files according to that applicant file. In response to a follow-up question from Representative Gatto, Mr. Johnson said the Lower Kuskokwim School District is making progress after being "pretty flat for a long period of time." He added, "And, of course, we know ... their principle site administrators and the teaching staff are the key ingredients to making that happen."

[8:57:26 AM](#)

PETE FORD, Southeast Regional Manager, Alaska Public Employees Association (APEA), told the committee that APEA is a primarily public labor union that represents about 8,000 active employees

in the state and close to 2,000 retirees. Approximately 2,000 of APEA's members are state employees in the supervisory and confidential unit, while most of the others are employees of local jurisdictions - cities, boroughs, and some in the university system.

MR. FORD stated, "We are opposed to all three portions of this bill." Regarding the portion of the bill addressing the Department of Natural Resources, he said APEA has been unable to get definitive information regarding the positions within DNR, other than the fact that they are highly specialized positions. He said APEA's best understanding is that while the DNR jobs involve a high degree of specialization and expertise, they are policy-implementing not policy-making positions. Because of that, he said, APEA thinks the position probably ought to be part of the classified service and not exempt. Mr. Ford said APEA has philosophical problems with the idea that a job that has been in existence for at least four years and is apparently anticipated to continue in existence for some time is regarded as a temporary job, rather than a regular or career-type job. He opined that that seems to diminish both the job and the people who are providing that service to the state. He explained that an on-going service ought to be recognized as a career-type position.

[8:59:28 AM](#)

MR. FORD next addressed the two positions within the Department of Revenue. He noted that the comptroller position is already a partially exempt (PX) position, and the state has some substantial degree of flexibility in the way it might manage that position. The [chief economist] position is a supervisory unit (SU) position that recently went through reclassification. The position was upgraded to a grade 26. He noted that the committee was given a reclassification package, which indicates that monetary issues are not where the recruiting challenges exist. He stated, "It seems to us that that position has been well addressed and ought not be changed in any way. Again, while this is a highly specialized, expert-driven position, it's not, as we understand it, a position that makes policy, but a position that implements policy and, therefore, a position that ought to have the protection of civil service and bargaining unit representation."

MR. FORD continued as follows:

With respect to the retiree program, again, this is a program that's already been in existence for eight years. That seems like ample time ... for the transition and the change of institutional knowledge to have taken place. And while admittedly, there are probably some occasional exceptions, in general, I think the cost that's being paid by rehire/retirees in allowing them to receive double payment for performing one job is taking a real toll in the state and in the agencies by the fact that it suppresses the careers of younger ... employees and stops them from being able to move up. A cork is stuck in the bottle.

MR. FORD said he is personally familiar with at least six people in the state who have left state employment because of the fact that their careers were being suppressed by a retiree who was back in the position the retiree previously held. He opined that rehiring retirees is not the best way to promote change.

[9:02:22 AM](#)

REPRESENTATIVE WILSON said it sounds like part of Mr. Ford's objection is that retirees should not be "double dipping." She asked what his opinion would be if the retiree were to come back, but was only paid salary, not salary with retirement.

MR. FORD said he thinks that would certainly change the character of the plan and make it more palatable, because neither the monetary reward nor the opportunity for substantial discrepancy in pay would exist. He said it would still remain for the state to address appropriate levels of pay for the positions and make those adjustments, which he said would be a much more permanent and satisfactory resolution situation.

[9:03:34 AM](#)

REPRESENTATIVE GATTO expressed concern with the phrase "double pay for doing one job." He asked Mr. Ford if he would consider it double pay for a retiree from another state, who was receiving a pension from that state, to take a job in Alaska.

MR. FORD replied that to some degree that is a variation of "double pay" while not being a direct application that exists when both the pension and the new job salary are being supplied by the same employer, which he opined hurts the rest of the workforce.

REPRESENTATIVE GATTO expressed his confusion. He described a situation in which one retiree comes from a Lower 48 state and gets a job in Alaska, while another retiree leaves Alaska, and gets a job in that person's state. He asked, "Does that make a difference? Or should they both stay in their position and then be criticized, or should they both switch and then not be criticized?"

MR. FORD responded that the primary difference is that Alaska has no control over a retiree coming from another state, but has control within the state and its own employment environment. He said if the problem is that the position is not appropriately paid, then that is the correction that needs to be made.

REPRESENTATIVE GATTO asked if Mr. Ford, during his comments about the DNR position, meant to say that only the top person in any department is the policy maker while everyone else is a policy implementer.

MR. FORD answered yes. He said as he understands the public employee relations law and the classification system within the state, there is an upper tier of state management comprised of elected officials and high political appointees who are policy makers. Certainly those individuals will seek input from their staff, but the policy decisions will be made by that upper tier.

REPRESENTATIVE GATTO posed the idea that the chief economist may be at least as valuable as the director, because the director needs to rely on the chief economist's wisdom to formulate policy.

[9:07:02 AM](#)

MR. FORD responded that the chief economist is certainly as valuable as the director because he/she is making a significant contribution; however, that contribution is in the area of technical and expert knowledge that is provided to the director, who then develops the policy.

[9:07:44 AM](#)

CHAIR LYNN noted that he had retired from the school system in California and began working in the school system in Alaska. He said, "When I retired and came back on board, I lost my retirement pay. The good news was when I finally did retire, I almost doubled my retirement pay."

[9:08:35 AM](#)

REPRESENTATIVE JOHNSON said it seems Mr. Ford is discriminating against Alaskans when he differentiates between hiring retirees from the Lower 48 for jobs in Alaska versus hiring retirees from Alaska.

MR. FORD noted that there are some other states that would not allow a retiree to draw retirement from those states while working for Alaska. Nevada, for example, monitors people's income and adjusts their pension based on what they might be earning even though they are technically retired from the state. He said he supposes there could be some kind of equalizing national policy. He said he cannot see this as discrimination, because it is not something over which the state has control. He said it seems to him that within the state, an undesirable situation is being created by allowing a person to "use a unique technique after having been around awhile" to "ratchet" a job valued at a certain amount to three times that amount.

REPRESENTATIVE JOHNSON responded, "The fact that we're here indicates to me that we do have control over it." Asked Mr. Ford if he knows of any states other than Nevada that "cap" what a person can make [when retired].

MR. FORD answered that he does not. He added, "My familiarity with Nevada is about nine years old, but that was the practice when I was there."

REPRESENTATIVE JOHNSON responded:

So, ... Nevada caps your retirement, and so, ... if you were to go to work even outside the public sector, ... your retirement's capped. It's counting social security if you're adjusted by your revenue. Is that your understanding of their system?

MR. FORD answered that to his understanding that is the method by which Nevada manages its retirement pension program.

REPRESENTATIVE JOHNSON remarked, "That seems to me like we might ... be on to something."

[9:11:46 AM](#)

REPRESENTATIVE GRUENBERG directed attention to page 2, line 9, and noted that the language there would exempt the chief

economist and the state comptroller. He asked Mr. Ford if he believes that the state comptroller is properly exempted and should be left so, while the chief economist position is removed, and thus not exempted.

MR. FORD responded that that would be more palatable to APEA. He reiterated his understanding that currently the comptroller is a PX position; therefore, the change that takes place if that position becomes exempt would be less dramatic than if a classified position becomes exempt.

REPRESENTATIVE GRUENBERG, in response to Representative Johnson's previous line of questioning, he said it seems that if the state does not allow local people to be rehired, but does allow [retirees] from out of state to be rehired, that would be poor public policy and would discriminate against Alaskans.

MR. FORD agreed that that would be an undesired result. The best result, he said, would be to help build the careers of younger people. He stated, "I'm not sure that we're well-served by having folks from other states who aren't that familiar with Alaska anyway come to Alaska and take key positions, but that's usually not my decision to make."

REPRESENTATIVE GRUENBERG pondered how it would be possible to keep those out-of-state retirees from coming to Alaska and getting hired by the State of Alaska.

[9:14:28 AM](#)

REPRESENTATIVE PETERSEN asked Mr. Ford if he believes that the retire/rehire exemption is being used as an inducement to get certain retirees to come back to their old position with the promise of being able to "double dip," or if the situation is just that the State of Alaska is in a difficult position of having to hire specialized positions with a limited number of qualified candidates available.

MR. FORD replied that he is sure there are instances when recruiting has been difficult, but he also knows that "abuse has taken place."

[9:16:03 AM](#)

REPRESENTATIVE JOHNSON said he used the term discrimination intentionally because that is what he believes it is. He asked Mr. Ford whether or not he would agree that it is the

responsibility of the state and its departments to put the most qualified person in the job, whether or not that person is promoted from within, retired from Massachusetts, or an existing employee that is going to be serving under the retire/rehire program.

MR. FORD affirmed his belief that the most qualified person ought to be the person hired.

REPRESENTATIVE JOHNSON asked Mr. Ford if that means he would support a rehired retiree, if that person was the most qualified.

MR. FORD responded as follows:

I would initially presume that an individual who retires is retiring; they're not posturing themselves in order to enrich themselves at the expense of the state. And if an individual opts to use that kind of a technique, it seems to me that the state needs to look kind of skeptically at that. And I also recognize that qualification is very often a subjective judgment, and that somebody who may look very good on paper or who has sat in the chair for a very long time, isn't necessarily the best person to be holding that position in the future. It seems to me there ought to be some integrity, I suppose, associated with the decision to retire, and that that decision ought not be a technique for enrichment.

[9:18:04 AM](#)

REPRESENTATIVE GATTO questioned whether "enrichment at the expense of the state" isn't just what the free market is.

MR. FORD said he does not understand state employment as being part of the free market. The laws of the state provide for classification of the overwhelming majority of state positions, and those classification decisions create a plan within the state so that all positions - particularly in the classified service - are appropriately defined and compensated. He said he sees it as enrichment that an individual would "circumvent and trick the classification system by retiring and then coming back into a classified position, but also having the state pay for retirement, when in fact the person is not retired and their career is not concluded."

[9:19:43 AM](#)

KATHIE WASSERMAN, Executive Director, Alaska Municipal League (AML), stated that AML has not taken up the subject of the proposed bill "on the whole," but she said she has called the municipalities that rehire retirees and will echo [Mr. Johnson's] previous remark that "this is a tool that these communities have used." The further off the road system, the more difficult it is for communities to hire certified people; it is much easier for those communities if they have the option to rehire retired people. She said her purpose in testifying is to speak for those who "use this tool and feel it's a very valuable one." She said she thinks the numbers show that this system has not been overused in these communities.

CHAIR LYNN remarked that it is not only employers that can use this tool; employees can "use it as a tool to essentially double their income."

MS. WASSERMAN responded that she thinks Chair Lynn is right, but challenged him to prevent that from happening "anywhere around the world."

[9:21:34 AM](#)

CHAIR LYNN closed public testimony.

[9:21:55 AM](#)

PAT SHIER, Director, Division of Retirement & Benefits, Department of Administration (DOA), in response to Representative Seaton's previous question regarding the timing of retirees' return to the work force, noted that one retiree returned 30 days after retirement and 11 returned after a range of 30-60 days. In response to a question from Representative Johnson regarding the proportion of retirees being rehired, he noted that the division typically processes between 750-1,100 retirements a year. If all those retirees had returned to work in the same year - which is unlikely - "it would be a very small percentage, indeed."

[9:23:39 AM](#)

REPRESENTATIVE SEATON noted that page 8 of the aforementioned legislative report shows that [60] retirees of the State of Alaska were rehired, and about one-fifth of those were hired back within two months.

REPRESENTATIVE JOHNSON said he appreciates that, but pointed out that "as a percentage of the total retirees, we're talking about a minimal number of people."

[9:24:53 AM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 1, labeled 26-GH1035\A.1, Wayne, 3/28/09, which read as follows [original punctuation provided]:

Page 1, line 5:

Delete "**by providing for an effective date by**"

Insert ";

Page 2, following line 10:

Insert a new bill section to read:

"* **Sec. 3.** AS 39.35.150(h) is amended to read:

(h) Notwithstanding (b) of this section, an employer in the executive branch of state government may not allow a member hired to fill a position that requires recruitment to make the election provided in (b) of this section unless

(1) the employer conducted an initial recruitment for at least 15 days for the position to be filled by the member making an election under (b) of this section that resulted in fewer than **three** [FIVE] qualified, eligible, and available applicants, including the retired member; and

(2) the employer then conducted an additional recruitment and the additional recruitment resulted in fewer than **three** [FIVE] qualified, eligible, and available applicants, including the retired member; this additional recruitment period added to the initial recruitment period must be at least 30 days total."

Renumber the following bill sections accordingly.

Page 2, line 25:

Delete "secs. 3, 4, 7, and 8"

Insert "secs. 4, 5, 8, and 9"

Page 2, line 26:

Delete "secs. 3, 4, 7, and 8"

Insert "secs. 4, 5, 8, and 9"

[9:24:59 AM](#)

REPRESENTATIVE GRUENBERG objected.

REPRESENTATIVE SEATON explained that he would like the number of qualifying applicants reduced to three before a retiree could be considered as one of the applicants for rehire, because when there are five - four others besides the retiree - that is a large pool from which to choose.

[9:26:32 AM](#)

REPRESENTATIVE JOHNSON initiated the topic of the proposed deletion of the effective date and Sections 3, 4, 7, and 8. In response to a request, he yielded to Representative Gruenberg.

[9:27:01 AM](#)

REPRESENTATIVE GRUENBERG said he is confused by Amendment 1. He remarked that the language in Amendment 1 proposing to delete the effective date does not relate to anything else in the amendment.

REPRESENTATIVE SEATON said he does not know why the drafter included that language in the amendment.

REPRESENTATIVE GRUENBERG said furthermore all the language in Amendment 1 proposing to delete lines 3,4,7, and 8 do not correspond with the bill.

[9:28:17 AM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 1 to Amendment 1, such that the only remaining language in Amendment 1 would be the proposed insertion of Section 3. There being no objection, Amendment 1 to Amendment 1 was adopted.

REPRESENTATIVE JOHNSON said that answers his concern.

[9:29:17 AM](#)

REPRESENTATIVE GRUENBERG asked how Representative Seaton would feel about deleting "in the executive branch of state government" from the remaining language in Amendment 1, [as amended]. In response to Representative Johnson, he confirmed that his intent is that Amendment 1, as amended, would cover every branch of government, not just the executive branch.

REPRESENTATIVE SEATON stated that the intent of the amendment is to cover PERS employees; it is not intended to cover only the executive branch. He apologized for not having time to review the amendment before bringing it before the committee, and he said he would not have any objection to taking out the reference to the executive branch.

[9:31:54 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 2 to Amendment 1, as amended, to delete "in the executive branch of state government".

REPRESENTATIVE SEATON, in response to Representative Gatto, explained that Amendment 2 to Amendment 1, as amended, would allow any PERS employer to rehire retirees, but under the conditions contained within the rest of Amendment 1, as amended.

CHAIR LYNN announced that there being no objection, Amendment 2 to Amendment 1, as amended, was adopted.

[9:33:12 AM](#)

REPRESENTATIVE WILSON remarked that the 15-day minimum recruitment time is "nothing."

REPRESENTATIVE SEATON responded that that minimum is current law.

[9:34:09 AM](#)

MR. SHIER offered further details regarding that requirement. He said the time can be two, 15-day recruitments or one, 30-day recruitment. He said he was reading that information from an e-mail from Kathy Lea, the retirement manager with the Division of Retirement & Benefits.

REPRESENTATIVE WILSON reiterated that she thinks 15 days is too short a period for a full recruitment.

[9:35:34 AM](#)

REPRESENTATIVE JOHNSON said he thinks 2 weeks is appropriate, because "during that period of time we're doing without important services."

REPRESENTATIVE WILSON responded, "You can get by with not having people fill a position longer than you think."

[9:36:45 AM](#)

REPRESENTATIVE GATTO explained that he thinks the requirement exists to prevent someone from retiring on Friday and being rehired on Monday. He remarked that there are some positions that are so specialized and hard to fill, that if a qualified person is found, the 15-day requirement allows that person to be hired sooner.

[9:37:30 AM](#)

REPRESENTATIVE SEATON offered the example of a special education teacher leaving mid-year and the importance of hiring a replacement sooner than later.

[9:39:13 AM](#)

REPRESENTATIVE WILSON moved to adopt Amendment 3 to Amendment 1, which would change the number of days from 15 to 25.

[9:39:52 AM](#)

REPRESENTATIVES GATTO and JOHNSON objected.

REPRESENTATIVE SEATON said it is not necessarily the same person who comes back to the job; there may be another retired individual who is hired. He reiterated that there are few individuals across the state to whom this applies. He expressed his hope that the usefulness of the tool is maintained.

[9:42:37 AM](#)

MR. SHIER, in response to a request for clarification, reiterated that [Amendment 1, as previously amended] would require two, 15-day periods, which would total 30 days minimum. In response to a question from Representative Gruenberg, he said the language is sufficiently clear, as it has been used by employers who have taken advantage of this tool.

[9:44:22 AM](#)

REPRESENTATIVE PETERSEN asked if Amendment 3 to Amendment 1 would make the minimum requirement 40 days.

MR. SHIER offered his interpretation that the minimum would still remain at 30 days; the initial period would be 25 days.

REPRESENTATIVE PETERSEN reasoned that that would leave 5 days in the secondary recruitment in order to reach the 30-day minimum.

[9:45:53 AM](#)

REPRESENTATIVE WILSON withdrew Amendment 3 to Amendment 1, as amended.

[9:46:05 AM](#)

REPRESENTATIVE WILSON moved to adopt Amendment 4 to Amendment 1, as amended, so that the initial recruitment period would be changed from 15 days to 20 days and the additional recruitment period added to the initial one would total a minimum of 40 days rather than 30 days.

[9:46:32 AM](#)

REPRESENTATIVE JOHNSON objected.

[9:46:56 AM](#)

REPRESENTATIVE GRUENBERG said he would like to hear the administration's opinion.

[9:47:10 AM](#)

The committee took an at-ease from [9:47:15 AM](#) to [9:48:55 AM](#).

[9:48:59 AM](#)

MS. BLAISDELL said she does not think an extended recruitment period would pose a problem. If the timing was critical, there may be the possibility to begin recruitment before the position is vacated if the person vacating the position gives notice early enough, she added.

[9:49:49 AM](#)

REPRESENTATIVE JOHNSON removed his objection.

[9:49:53 AM](#)

REPRESENTATIVE GATTO objected. He opined that the language of "at least 15 days" and "at least 30 days" is sufficient. He said it is not for the committee to decide what works best in a system that is already in use.

[9:50:42 AM](#)

REPRESENTATIVE GRUENBERG suggested that this issue could be discussed during a break between meetings.

CHAIR LYNN questioned whether the administration sees this as a problem.

REPRESENTATIVE WILSON said, "Let's just vote."

[9:51:21 AM](#)

REPRESENTATIVE GATTO said he wants to vote rather than delaying decisions.

[9:51:48 AM](#)

A roll call vote was taken. Representatives Gruenberg, Petersen, Wilson, and Lynn voted in favor of Amendment 4 to Amendment 1, as amended. Representatives Gatto, Johnson, Seaton, voted against it. Therefore, Amendment 4 to Amendment 1, as amended, was adopted.

[9:52:27 AM](#)

REPRESENTATIVE GRUENBERG removed his objection to Amendment 1 [as amended]. There being no further objection, Amendment 1, as amended, was adopted.

[9:52:45 AM](#)

REPRESENTATIVE SEATON moved to adopt Conceptual Amendment 2, which would mirror the intent of the adopted Amendment 1, as amended, but would apply to TRS instead of PERS.

[9:54:38 AM](#)

REPRESENTATIVES JOHNSON and GRUENBERG objected.

[9:55:49 AM](#)

REPRESENTATIVES JOHNSON and WILSON emphasized their concerns regarding the need for clarity.

REPRESENTATIVE GRUENBERG echoed their concern, stating a desire to have the change that was made regarding the number of days for recruitment periods specified by way of an amendment to Conceptual Amendment 2.

REPRESENTATIVE SEATON reiterated that Conceptual Amendment 2 is conceptual, but said he would accept a "friendly amendment."

[9:57:37 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt [Conceptual] Amendment 1 to Conceptual Amendment 2, which would change Conceptual Amendment 2 to read as follows:

Page 1, following line 8:

Insert new bill sections to read:

"* **Section 1.** AS 14.20.135(a) is amended to read:

(a) A school district or regional educational attendance area that has or anticipates having a shortage of teachers qualified to teach in a particular discipline or specialty may, **subject to AS 14.25.043(f)** [BY RESOLUTION], adopt, **by resolution,** a policy that permits the employment of retired teachers who are qualified to teach in the discipline or specialty in accordance with this section. The policy must describe the circumstances that constitute the shortage. If a shortage of teachers exists as described in the policy, the district or attendance area shall notify the administrator of the teachers' retirement system (AS 14.25) that it is hiring retired teachers under this section.

* **Sec. 2.** AS 14.25.043 is amended by adding a new subsection to read:

(f) Notwithstanding (b) and (e) of this section and AS 14.25.135, an employer that is a school district or regional educational attendance area may not allow a member hired to fill a position that requires recruitment to make the election provided in (b) or (e) of this section unless

(1) the employer conducted an initial recruitment for the position for at least 20 days that resulted in fewer than three qualified, eligible, and available applicants, including the retired member; and

(2) the employer then conducted an additional recruitment for the position and the additional recruitment resulted in fewer than three qualified, eligible, and available applicants, including the retired member; the additional recruitment period required by this paragraph added to the initial recruitment period in (1) must total not fewer than 40 days."

Renumber the following bill sections accordingly.

[9:57:59 AM](#)

REPRESENTATIVE PETERSEN concluded then that Conceptual Amendment 2, if amended, would afford TRS the same tools as Amendment 1, as amended, would offer PERS.

[9:58:41 AM](#)

CHAIR LYNN announced that Conceptual Amendment 1 to Conceptual Amendment 2 was adopted.

[9:59:12 AM](#)

REPRESENTATIVE JOHNSON withdrew his objection to Conceptual Amendment 2, [as amended]. [Representative Gruenberg's objection was considered withdrawn.] There being no further objection, Conceptual Amendment 2, as amended, was adopted.

[9:59:43 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 3, labeled 26-GH1035\A.3, Wayne, 3/30/09, which read as follows [original punctuation provided]:

Page 1, lines 1 - 2:
Delete "**chief economist and**"

Page 1, lines 2 - 3:
Delete "**and certain professional positions concerning oil and gas within the Department of Natural Resources**"

Page 1, line 9, through page 2, line 7:
Delete all material.

Renumber the following bill sections accordingly.

Page 2, line 9:
Delete "the chief economist and"

Page 2, line 25:
Delete "secs. 3, 4, 7, and 8"
Insert "secs. 2, 3, 6, and 7"

Page 2, line 26:
Delete "secs. 3, 4, 7, and 8"
Insert "secs. 2, 3, 6, and 7"

REPRESENTATIVE GRUENBERG said the only remaining proposed change to current law would be to make the state comptroller an exempt employee. He indicated that this proposed amendment is in response to the testimony of Mr. Johnson, and he stated his belief that the state comptroller makes policy, whereas the other positions do not and should, thus, remain in classified service.

[10:02:00 AM](#)

REPRESENTATIVES JOHNSON, SEATON, and GATTO objected.

REPRESENTATIVE JOHNSON said he thinks the chief economist is in a position of recommending policy.

[10:02:31 AM](#)

REPRESENTATIVE SEATON said, "I think that in the DNR oil positions ... they were functioning as a team instead of as a single, top-down, so I think that those are policy-related positions."

[10:02:46 AM](#)

A roll call vote was taken. Representatives Gruenberg and Petersen voted in favor of Amendment 3. Representatives Johnson, Seaton, Wilson, Gatto, and Lynn voted against it. Therefore, Amendment 3 failed by a vote of 2-5.

[10:03:17 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 4, labeled 26-GH1035\A.4, Wayne, 3/30/09, which read as follows [original punctuation provided]:

Page 2, line 18:
Delete "2013"
Insert "2010"

Page 2, line 21:
Delete "2013"
Insert "2010"

Page 2, line 29:
Delete "2013"
Insert "2010"

Page 2, line 31:
Delete "2013"
Insert "2010"

[10:03:24 AM](#)

REPRESENTATIVE JOHNSON objected.

[10:03:35 AM](#)

REPRESENTATIVE GRUENBERG explained that making general exemptions to the policy of the merit-based classified service for two years rather than four will allow the legislature to revisit the issue sooner to determine whether the change was beneficial.

[10:04:31 AM](#)

REPRESENTATIVE JOHNSON noted that 2010 is just one year away. He maintained his objection.

[10:05:00 AM](#)

A roll call vote was taken. Representatives Gruenberg and Petersen voted in favor of Amendment 4. Representatives Seaton, Wilson, Gatto, Johnson, and Lynn voted against it. Therefore, Amendment 4 failed by a vote of 2-5.

The committee took an at-ease from [10:05:37 AM](#) to [10:06:40 AM](#).

[10:06:42 AM](#)

REPRESENTATIVE GRUENBERG next directed attention to AS 39.35.150(g), which read as follows:

(g) In accordance with this section, a political subdivision or a public organization that has or anticipates having a shortage of employees qualified for particular job classes may, by resolution, adopt a policy that permits the employment of employees who retired under AS 39.35.370(a), who have been separated from employment for at least 30 days, and who are qualified for particular job classes. The policy adopted by resolution must describe the circumstances that constitute the shortage. The policy must require recruitment procedures similar to the procedure described in (h) of this section for any position filled by a retired employee under (f) of this section. If a shortage of qualified employees exists as described in the policy, the political subdivision or the public organization shall notify the administrator that it is hiring retired members under (f) of this section and shall provide a copy of the resolution and policy adopted by the resolution to the administrator of the public employees' retirement system (AS 39.35).

REPRESENTATIVE GRUENBERG moved to adopt Amendment 5, which would change "30" to "180" in AS 39.35.150(g).

REPRESENTATIVE JOHNSON objected.

[10:09:44 AM](#)

REPRESENTATIVE GRUENBERG said Amendment 5 would stop the current practice, in some cases, of "the revolving door," whereby an employee retires one day and returns very quickly to the same job, thus "double dipping." He said he believes there should be a mandatory separation of 180 days. In response to Representative Johnson, he confirmed that Amendment 5 would affect PERS, not TRS.

[10:10:25 AM](#)

REPRESENTATIVE JOHNSON expressed concern that a 180-day waiting period may prohibit hiring someone needed for the continuation of the construction of the [gas] pipeline. He stated that he strongly objects to putting artificial barriers in the way of hiring the best people possible.

[10:11:41 AM](#)

REPRESENTATIVE GRUENBERG withdrew Amendment 5, and urged the committee to work on the issue.

[10:11:54 AM](#)

REPRESENTATIVE GATTO moved to report HB 157, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 157(STA) was reported out of the House State Affairs Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:12 a.m.