

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

February 12, 2009

9:03 a.m.

MEMBERS PRESENT

Senator Linda Menard, Chair
Senator Kevin Meyer, Vice Chair
Senator Hollis French
Senator Albert Kookesh
Senator Joe Paskvan

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARINGS

Joe Masters, Commissioner, Department of Public Safety
CONFIRMATION ADVANCED

Kathleen Ballenger, Alaska Public Offices Commission
CONFIRMATION ADVANCED

SENATE BILL NO. 79

"An Act waiving payment of premiums for major medical insurance under the defined benefit retirement plan for public employees for disabled peace officers who have at least 20 years of credited service as peace officers."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 79

SHORT TITLE: MED BENEFITS OF DISABLED PEACE OFFICERS

SPONSOR(S): SENATOR(S) MCGUIRE

01/26/09	(S)	READ THE FIRST TIME - REFERRALS
01/26/09	(S)	STA, L&C, FIN
02/12/09	(S)	STA AT 9:00 AM BELTZ 211

WITNESS REGISTER

JOSEPH MASTERS, Commissioner Designee

Department of Public Safety (DPS)
Anchorage AK
POSITION STATEMENT: Spoke to his confirmation.

KATHLEEN BALLENGER, Nominee
Alaska Public Offices Commission
Kodiak, AK
POSITION STATEMENT: Spoke to her confirmation.

LESIL MCGUIRE, Senator
Alaska State Legislature
Juneau AK
POSITION STATEMENT: Introduced SB 79 as sponsor.

JEFF BRIGGS, Legislative Director
Alaska Professional Firefighters Association
Anchorage AK
POSITION STATEMENT: Spoke in support of SB 79.

DAN WAYNE, Attorney
Legislative Legal Services
Juneau AK
POSITION STATEMENT: Answered questions regarding SB 79.

KEVIN BROOKS, Deputy Commissioner
Department of Administration
Juneau AK
POSITION STATEMENT: Answered questions regarding SB 79.

ACTION NARRATIVE

[9:03:49 AM](#)

CHAIR LINDA MENARD called the Senate State Affairs Standing Committee meeting to order at 9:03 a.m. Senators French, Kookesh, Paskvan, Meyer, and Menard were present at the call to order.

Confirmation, Joseph Masters, Commissioner Designee, Department of Public Safety

CHAIR MENARD announced the committee will hear from Joseph Masters, the governor's appointee to the position of Commissioner of the Department of Public Safety.

[9:04:45 AM](#)

JOSEPH MASTERS, Commissioner Designee, Department of Public Safety (DPS), Anchorage, said he provided a resume that gives a

good overview of his varied experience, especially within public safety -- administratively and out in rural and urban environments. He started his law enforcement career about 26 years ago after graduating from Unalaska High School. He first worked in Unalakleet as a police officer and then a village public safety officer (VPSO), and he was offered a position in Unalaska in 1984. In 1986 he joined the Alaska State Troopers. After two more academies, he worked in Fairbanks and soon moved out to rural Alaska. He was in Sand Point for five years as the only trooper assigned to that part of Alaska. His primary duties included felony and misdemeanor investigations and oversight of the VPSOs. He was promoted to the rank of corporal and trained at the academy for almost five years. He transferred to Anchorage and was promoted to first sergeant in judicial services and recruitment. Then he worked for Fish and Wildlife Protection in western Alaska. He did enforcement in Kodiak and the Aleutians for the Bering Sea crab fisheries and the Bristol Bay red salmon fisheries. He became deputy director as a major for several years. He then retired and worked for a private security company until now.

[9:09:04 AM](#)

SENATOR MEYER asked if the security company was Doyon Universal Services.

COMMISSIONER MASTERS said yes.

SENATOR MEYER said he has indirectly overseen that work, and Mr. Masters is an excellent candidate for commissioner.

SENATOR KOOKESH said this is a great example of somebody who is homegrown. It is a wonderful resume. He doesn't know him personally, but he is impressed. "If we don't take care of people who are in our system and grow up in our system and grow up in our state, then we're really on the wrong track." He said Commissioner Masters deserves the committee's full support.

[9:10:15 AM](#)

SENATOR PASKVAN agreed.

CHAIR MENARD agreed and thanked the commissioner for stepping forward after retiring. "It's certainly needed in the state."

SENATOR FRENCH said he was a prosecuting attorney before he was a senator and had encounters with Mr. Masters. Senator French praised his legislative overview on the DPS; it was one of the

better ones he has seen. He asked where he wants the department to head. He noted recent progress in recruitment of officers.

9:11:49 AM

COMMISSIONER MASTERS said the DPS is struggling on several fronts, and the biggest is response and quality of work. It can be argued whether budgets and positions are adequate, but there is a very strong need for improvements in rural Alaska and criminal investigations and major crime response. Highway safety can be improved. His vision for DPS is to determine its needs; to assure there are adequate positions to meet those needs adequately; and to build on the infrastructure that supports the members of the department to do their mission.

9:13:00 AM

SENATOR FRENCH asked what he means by "response".

COMMISSIONER MASTERS said there are areas in the state that have enough resources to respond to most of the needs of the community, but in other areas officers are very expedient but not the most effective. Response times need to be shortened and work quality could be better.

9:14:21 AM

Confirmation, Kathleen Ballenger, Nominee, Alaska Public Offices Commission

CHAIR MENARD announced the committee will hear from Kathleen Ballenger, the governor's nominee to the Alaska Public Offices Commission.

KATHLEEN BALLENGER, Nominee, Alaska Public Offices Commission (APOC), Kodiak, AK, said she noticed the vacancy on the APOC board and considered it. Her friends said she would be perfect because of her honesty and integrity. She had decided to no longer sit on the board of the Kodiak Electric Association. Being on the commission would allow her to do something for the state and for herself and keep her out of trouble. She put in for the position, and she was called and interviewed. Her work experience is varied. She has been in Alaska since 1966 and in Kodiak since 1967. Kodiak is what Alaska is supposed to be. Anchorage tries to be a big city, but it doesn't have a clue. Kodiak is everything of what she had envisioned for Alaska. She has fished, and she has worked for the Kodiak Island Borough, Wien Air, and City of Kodiak police chief.

[9:19:01 AM](#)

MS. BALLENGER said she enjoys the political world. One downside of being an APOC commissioner is the requirement to stay out of politics, but she is glad that she can't make contributions to campaigns. The governor's office asked her if she would be interested in another commission if she didn't get this appointment, and she said she absolutely would. She was surprised when the legislature called and told her she needed this hearing since she has been on the commission since June.

[9:20:33 AM](#)

SENATOR KOOKESH said he appreciates her honesty, her comments about Anchorage, and her willingness to serve.

SENATOR MEYER said he appreciates her willingness to take this on. He has met with her and thinks she will be great for the commission. His staff person from Kodiak recommends her. He expressed concern that APOC can become very political and high profile. The staff at APOC are topnotch, but he would like to see them challenged because they are not always right. He asked her to think independently and not do just what the staff recommends, and he believes she will think on her own.

[9:22:49 AM](#)

MS. BALLENGER said there is nothing close to party-line voting with the commission. Everyone is very independent. She was at first worried that she was not smart enough to deal with the legalese on the commission. She is not an attorney. But she believes that common sense and listening to all sides is the way to do it. She was a step mother, and her husband stressed that "we don't lie, cheat, and steal." He worked for fish and game and nailed a lot of people. He did a lot of bear tagging and had a great reputation -- and she does too.

[9:25:00 AM](#)

CHAIR MENARD said that her dealings with APOC have been good. Her calls were welcomed and answered in a good time. The paperwork is nerve wracking for new legislators.

SENATOR MEYER moved to forward the names of Joseph Masters and Kathleen Ballenger on to the joint session. Hearing no objection, it was so ordered.

[9:26:46 AM](#)

The committee took an at-ease.

SB 79-MED BENEFITS OF DISABLED PEACE OFFICERS

[9:29:51 AM](#)

CHAIR MENARD announced the consideration of SB 79.

SENATOR LESIL MCGUIRE, Alaska State Legislature, sponsor, said SB 79 addresses an odd situation that has been in statute since 1986 and was recently identified. People in the Tier II retirement system have just begun the retirement process and an irregularity was found. If public safety employees are disabled during their first 20 years of service, they receive major medical coverage for the disability. The state will provide permanent disability for life to a person who is severely injured fighting a fire or serving the community in the area of public safety. Persons who are injured after 25 years of service go immediately into the retirement system and have medical coverage. SB 79 is for those who become disabled between their 21st year and 25th year. It is a small, inadvertent gap in benefits. She has found no record or any public policy statement that was intended to exclude this group of public safety employees who become permanently disabled in the line of duty. The bill restores what she believes is the original intent of lawmakers in 1986. "If you are out there serving us, our communities, in the area of public safety and you become disabled, ... certainly it would be our intent that you receive permanent disability coverage for your life." Fiscally, it may be \$570,000, but there is no way to know. It corrects a serious problem in the statute.

[9:32:59 AM](#)

SENATOR PASKVAN asked if anyone has been denied those benefits and if the bill needs to be retroactive. Are we dealing with an unfortunate person who was disabled in the 21st year of service?

SENATOR MEYER said this is just an oversight.

SENATOR MCGUIRE said there are other bills [in the legislature] that are more comprehensive and will change the defined contribution plan to a defined benefit plan, but this bill is just correcting an oversight.

[9:34:21 AM](#)

SENATOR KOOKESH asked if there are other overlooked issues, because it is a lot of money.

SENATOR MCGUIRE said other issues may have been created as the tiers changed over the years in an effort to reduce the state's liability, including the wholesale change from a defined benefit

program to a defined contribution program. "But at this time I haven't identified any."

[9:35:32 AM](#)

JEFF BRIGGS, Legislative Director, Alaska Professional Firefighters Association, Anchorage, said there are no firefighters that have been injured and denied benefits, but there is a corrections officer in Fairbanks. Senator Olson said he met someone while campaigning.

SENATOR PASKVAN said that an employee who was disabled after 17 years of work would qualify for medical coverage. It would seem that a person disabled in the 21st year has given more to this state. If there is someone out there that was disabled in those gap years, the bill should be made retroactive "so this oversight doesn't land on just a few people."

MR. BRIGGS said he agrees. His group just found out about the problem last winter, and it tried going through the Department of Administration and found out that the statute would need to change. It only affects Tier II and Tier III public safety employees, and since Tier II was created in 1986, it is just now impacting employees that are reaching that gap. His hope is that the legislation would take effect from that 20-year point. "We are the only workgroup that this happens to." All other work groups are covered for occupational injuries. The plan allows vesting at 10 years, so a person with 10 years and a day of service has more benefits than a person with 20 to 25 years.

[9:39:06 AM](#)

SENATOR FRENCH asked that legislative legal staff answer Senator Paskvan's question about the bill being retroactive.

DAN WAYNE, Attorney, Legislative Legal Services, Juneau, said if there is a peace officer that was denied benefits, it won't fix that. "It would fix it prospectively." He doesn't believe correctional officers will be affected by this bill. "Under the definitions of peace officers that we have in statute, they don't appear in any of those definitions." He said the staff in retirements and benefits should know if someone has been denied [benefits].

SENATOR FRENCH asked for that definition of who is a peace officer under state law.

MR. WAYNE said that in AS 01.10.060 a peace officer is "an officer of the state troopers; a member of the police force of a

municipality; a village public safety officer; a regional public safety officer; a United States marshal or deputy marshal; or an officer whose duty it is to enforce and preserve the public peace." That's the general definition. Under criminal statutes, peace officer means a public servant vested by law with the duty to maintain public order or make arrests. He doesn't think a correctional officer is a peace officer.

SENATOR FRENCH asked if the bill will fix the problem for firefighters.

[9:42:20 AM](#)

MR. WAYNE said it will certainly fix it prospectively.

SENATOR FRENCH said, "For firefighters?"

The committee took an at-ease.

[9:44:11 AM](#)

SENATOR MCGUIRE said lines 15-18 on page 2 of the bill references 20 years of credited service as a peace officer under AS 39.35.360 and 39.35.370. That statute refers to a peace officer or a firefighter, "so that's where the definition comes from and that's where the firefighters come in." She has no objection to including correctional officers. There is no retroactivity clause, but the bill clarifies a law that was put in place in 1986. It is her intent that the new statute would work from that moment. "This would have been the rule. This would've been what was intended." If a retroactivity clause is needed to make it clear, she welcomes that from the committee.

SENATOR FRENCH said it may save some poor guy a lawsuit. "An injured worker will face a lawsuit and there'll be some good-natured Department of Law attorney saying the statute doesn't cover you, and the legislature had their opportunity to do it."

SENATOR PASKVAN asked if [this conversation] of the committee will influence it.

SENATOR FRENCH said, a little, but it is better to be explicit.

[9:46:29 AM](#)

MR. WAYNE said it is better to be explicit.

SENATOR FRENCH said in 2006 the first Tier II employees got 20 years of service and could get injured and not have coverage, unlike if it had happened the year before. The gap to be fixed

starts there. It is now 2009, so the gap has been there for three years, so there may be people that have been injured and are fighting for major medical disability payments. This bill could cure their problem if the bill is explicit in covering everyone who has 20 years of service in Tier II. So the committee should make it retroactive to 2006 or "just say that we mean to make it cover all those employees."

MR. WAYNE said he agrees.

SENATOR FRENCH said he thinks a CS [committee substitute] is needed.

SENATOR MCGUIRE said a conceptual amendment on making the law retroactive would be acceptable, and then Mr. Wayne could tackle the language.

[9:48:46 AM](#)

SENATOR PASKVAN said his concern is that there may be individuals that have already been denied. It is important to make it explicit through a CS.

SENATOR MEYER said it is the chair's prerogative to get a CS or use a conceptual amendment, but he would like to hear from Kevin Brooks because there may be other overlooked classifications.

CHAIR MENARD said it will affect the fiscal note if there are others, so she prefers a CS.

[9:50:44 AM](#)

KEVIN BROOKS, Deputy Commissioner, Department of Administration, Juneau, said it is his understanding that p-retirement is differentiated from police officers defined in statute. P-retirement includes peace officers, firefighters, and correctional officers, but he will confirm that later.

SENATOR FRENCH said Senator Meyer's issue may be resolved because it may be only that narrow class of employees that have access to a 20-year retirement. So other employees won't fall into this gap.

MR. BROOKS said he thinks that is correct, and those benefits have been changed from 20 to 25 [years] for Tier IV. He has a handy matrix comparing the tiers that he will give to the committee. He believes there are no other oversights that are similar. He knows of no one who has applied for benefits that may have been denied [because of this gap], but he will check

into that. He said his department attached the fiscal note of about \$570,000. There is a lot of proposed legislation relating to pension benefits this year. This bill is a very narrow piece, but the retirement management board is meeting today and will provide the status of the funds. At the last report there was a \$7.4 billion unfunded status with PERS and TRS retirement funds. That doesn't include the dramatic recent losses. He expects that the unfunded liability has grown, and it may be in the \$9 billion range. This bill adds a \$570,000 present value to the liability, and he is concerned about adding anything. But the bill does recognize a gap in benefits. He is trying to figure out the intent of the gap, and he hasn't gotten a definitive answer. "We had a small amount in our operating budget, as well, to do some programming changes -- \$12,800 in the current year; \$12,400 in FY10, but that's just some computer programming changes that we would need to make to accommodate the changes in the plan if the bill becomes law."

9:55:50 AM

SENATOR MEYER said the confusion was defining peace officers for retirement purposes which is different than the definition in statute. Does the administration support this bill? He believes it was an oversight, but it will add to the unfunded liability.

MR. BROOKS said he has no word from the governor, but the department is neutral because of the additional cost. He apologized for the "cop out."

CHAIR MENARD suggested that if it is the right thing to do, it "trumps what the department's going to have to look at and get creative to find this money, because if we truly did err, then this is our opportunity to correct it."

9:57:50 AM

CHAIR MENARD closed public testimony and asked Mr. Wayne if he had further comments.

MR. WAYNE said it is a good idea to name correctional officers and firefighters explicitly, which means changing the title. It would be changing the law as it is now because only peace officers are eligible ... There are a couple of paragraphs that refer to peace officers in the bill on page 2. If the committee intends to include correctional officers and firefighters, they should be added.

CHAIR MENARD said that is a good suggestion and held SB 79 in committee.

9:59:57 AM

There being no further business to come before the committee, Chair Menard adjourned the Senate State Affairs meeting at 9:59 a.m.