

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

February 10, 2015

8:05 a.m.

MEMBERS PRESENT

Representative Cathy Tilton, Chair
Representative Paul Seaton, Vice Chair
Representative Shelley Hughes
Representative Lora Reinbold
Representative Harriet Drummond
Representative Dan Ortiz

MEMBERS ABSENT

Representative Benjamin Nageak

COMMITTEE CALENDAR

HOUSE BILL NO. 47

"An Act requiring each municipality with a population that decreased by more than 25 percent between 2000 and 2010 that participates in the defined benefit retirement plan of the Public Employees' Retirement System of Alaska to contribute to the system an amount calculated by applying a rate of 22 percent of the total of all base salaries paid by the municipality to employees of the municipality who are active members of the system during a payroll period; reducing the rate of interest payable by a municipality with a population that decreased by more than 25 percent between 2000 and 2010 that is delinquent in transmitting employee and employer contributions to the defined benefit retirement plan of the Public Employees' Retirement System of Alaska; giving retrospective effect to the substantive provisions of the Act; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 47

SHORT TITLE: PERS CONTRIBUTIONS BY MUNICIPALITIES

SPONSOR(s): REPRESENTATIVE(s) FOSTER

01/21/15	(H)	PREFILE RELEASED 1/9/15
01/21/15	(H)	READ THE FIRST TIME - REFERRALS
01/21/15	(H)	CRA, L&C

02/10/15

(H)

CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

REPRESENTATIVE NEAL FOSTER

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 47.

PAUL LABOLLE, Staff

Representative Neal Foster

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 47 and answered questions.

KATHIE WASSERMAN, Executive Director

Alaska Municipal League (AML)

Juneau, Alaska

POSITION STATEMENT: Testified to the importance of HB 47.

JOHN KORTA, Mayor

City of Galena

Galena, Alaska

POSITION STATEMENT: Testified as to the importance of HB 47 for the City of Galena.

SHANDA HUNTINGTON, City Manager

City of Galena

Galena, Alaska

POSITION STATEMENT: Testified to the importance of HB 47.

KEVIN WORLEY, Chief Financial Officer

Division of Retirement and Benefits

Department of Administration (DOA)

Juneau, Alaska

POSITION STATEMENT: During hearing of HB 47, answered questions.

KATHLEEN LEA, Chief Pension Officer

Division of Retirement and Benefits

Department of Administration

Juneau, Alaska

POSITION STATEMENT: During hearing of HB 47, answered questions.

ACTION NARRATIVE

[8:05:13 AM](#)

CHAIR CATHY TILTON called the House Community and Regional Affairs Standing Committee meeting to order at 8:05 a.m. Representatives Reinbold, Ortiz, Drummond, Seaton, Hughes, and Tilton were present at the call to order.

HB 47-PERS CONTRIBUTIONS BY MUNICIPALITIES

[8:05:59 AM](#)

CHAIR TILTON announced that the only order of business would be HOUSE BILL NO. 47, "An Act requiring each municipality with a population that decreased by more than 25 percent between 2000 and 2010 that participates in the defined benefit retirement plan of the Public Employees' Retirement System of Alaska to contribute to the system an amount calculated by applying a rate of 22 percent of the total of all base salaries paid by the municipality to employees of the municipality who are active members of the system during a payroll period; reducing the rate of interest payable by a municipality with a population that decreased by more than 25 percent between 2000 and 2010 that is delinquent in transmitting employee and employer contributions to the defined benefit retirement plan of the Public Employees' Retirement System of Alaska; giving retrospective effect to the substantive provisions of the Act; and providing for an effective date."

[8:06:34 AM](#)

REPRESENTATIVE NEAL FOSTER, Alaska State Legislature, speaking as the sponsor of HB 47, paraphrased from the following written sponsor statement:

HB 47 seeks to correct an unintended consequence of the [Public Employees' Retirement System] PERS "salary floor" established in [Senate Bill] 125 of the 25th Legislature. [Senate Bill] 125 changed the PERS system from a multiple employer plan to a cost share plan. It transferred the individual liability of the 160 PERS employers and consolidated it so that all the employers share in that liability. [Senate Bill] 125 also created what is commonly referred to as the 2008 salary floor, which requires that the employer's contribution rate is paid at or above that floor. The floor was instituted to ensure that the system could not be "gamed." This discourages employers from

replacing PERS employees with contract hires to reduce their base contribution to the system. Some municipalities have found themselves under the 2008 floor through no fault of their own. A large change in population results in a reduced tax base, which affects the services a city can provide. As that financial reality drives a city to downsize, current law exacerbates this problem by keeping their PERS contribution at the 2008 level. This bill targets the communities whose population has dropped by more than 25% since the previous census. HB 47 will address this issue in two ways: 1. Establish a new floor of FY 2012 for communities whose population decreased by more than 25% between 2000 and 2010. 2. Provides relief to communities that are delinquent in transferring contribution if their population decreased by more than 25% between 2000 and 2010. I urge your support of this legislation. HB 47 does not intend to repeat the "2008 floor" debate, but to correct one of the unintended consequences caused by the arbitrary line that debate created.

[8:08:47 AM](#)

PAUL LABOLLE, Staff, Representative Neal Foster, Alaska State Legislature, began by characterizing the City of Galena as the poster child for HB 47. He explained that in 2008 the floor from Senate Bill 125 [25th Alaska State Legislature] was enacted, it was the same year the Air Force Base left Galena. The 25 percent population decrease [specified in HB 47] would encompass the following five cities: Galena, Atka, Pelican, Anderson, and St. George. Galena lost 30 percent of its population, which resulted in downsizing its municipal government while still being required to make payments based on its 2008 salaries. Galena was unable to make those payments, which resulted in the difference between the actual payments and the required 2008 floor to accrue. Additionally, the accrued amount has a 12 percent interest rate, which Galena can't possibly administer. Further, bankruptcy is not an option as the state doesn't provide for it nor is dissolution without canceling out the debts. Therefore, the real possibility is that the city would close down everything and stop being a city, which has happened elsewhere. Should the aforementioned happen, the state is on the hook for that entire liability whereas now the City of Galena, although it's not making its floor payments, is at least making its contribution rate on its actual salaries.

8:11:27 AM

REPRESENTATIVE HUGHES requested an explanation of the indeterminate fiscal note as she thought there would be an additional cost to the state if the [salary floor is changed].

MR. LABOLLE explained that fiscal notes that require an actuarial assessment aren't due until the legislation is in possession of the House Rules Standing Committee. Therefore, the indeterminate fiscal note for HB 47 only deals with state appropriations not the actuarial account that touches the PERS or Teachers' Retirement System (TRS) liability. Within the fiscal note statute, PERS and TRS liabilities are their own separate item in fiscal notes. The indeterminate fiscal note is not what it will cost the retirement system but rather what it will cost the state.

8:12:35 AM

REPRESENTATIVE SEATON inquired as to how many other communities have fewer employees now than when the salary floor was set.

MR. LABOLLE said that he has numbers from last year that will need to be updated. Last year, the communities with fewer employees now than when the salary floor was set were: Tanana, Sand Point, Dillingham, Ketchikan, Craig, Galena, Pelican, Whittier, Thorne Bay, Aleutians East Borough, Husila, Kaltag, Noorvik, Lake and Peninsula, Mekoryuk, St. George, Allakaket, Quinagak, Toksook Bay, Anderson, Upper Kalskag, and Shaktoolik.

REPRESENTATIVE SEATON remarked that although he wasn't sure that list would be different because HB 47 would reset the salary floor to the 2010 census, he expressed interest in updated information. He requested that the updated information also include the number of employees as a percentage of lost population.

MR. LABOLLE agreed to provide that updated information. He then noted that part of the impetus of HB 47 is to silo what [the state] covers as sort of a cost control measure. Since HB 47 only involves those communities that lost 25 percent or more of their population between the 2000 and 2010 census, no more communities will be added to the list. The aforementioned, he stressed, is by design. He suggested that any communities facing similar problems in the future should be addressed as the problem arises rather than creating a measure to identify it without legislative oversight.

[8:16:05 AM](#)

MR. LABOLLE, in response to Representative Ortiz, specified that the communities he listed were communities that are underneath their floor payment and it's not respective of any population loss. In fact, those communities could have had an increase in population, but they just aren't making their floor.

[8:16:43 AM](#)

REPRESENTATIVE HUGHES inquired as to whether the assumption is that the amount of employees will decrease by the same percentage as the population decreases. She said she didn't believe it really worked that way because certain positions would be necessary; for instance, a school would need a janitor no matter the size of the school. Therefore, she questioned whether the number of positions is being decreased such that the [salary floor] rate aligns the population decrease with the position decrease. Or, are adjustments being made because some positions have to stay regardless of the size of the town, she asked.

MR. LABOLLE clarified that HB 47 simply resets the floor to the salary [floor] of 2012. Mr. LaBolle further clarified that it's not really the number of positions but rather the total salary amount. Theoretically, the salary base could stay the same in a situation in which there was a decrease in one position while everyone else received a raise. Therefore, it's about the actual expenditure not the number of positions.

[8:18:35 AM](#)

REPRESENTATIVE HUGHES asked whether an adjustment is being made to realize that some positions will have to remain no matter whether it's salary or positions.

MR. LABOLLE answered that in concept that's addressed by resetting the floor to 2012, acknowledging that the requisite employees are being retained even though the community isn't making the 2008 floor.

[8:19:25 AM](#)

REPRESENTATIVE HUGHES, returning to the [indeterminate] fiscal note, related her understanding that lowering the rate for these communities places the state on the hook through PERS/TRS.

Therefore, she surmised that although the [fiscal impact] might not have to be in the budget this year, it would be felt at some point.

MR. LABOLLE replied yes. In further response to Representative Hughes, Mr. LaBolle noted that he has last year's fiscal note, which is out of date. The bulk of the expense would arise in the first year of implementation due to the retroactivity clause embodied in Section 3. The fiscal note from last year reported an expense of \$706,000 and then decreased every year following. He pointed out that the current payment to the state for PERS/TRS is about \$226 million, and thus the \$700,000 is a rounding error.

REPRESENTATIVE HUGHES surmised then that the forthcoming [fiscal note] will have slightly higher amounts.

MR. LABOLLE replied yes, pointing out that there has been an additional year of delinquent payments and an additional year of 12 percent interest rate running on the previous delinquent payments. In further response to Representative Hughes, Mr. LaBolle agreed that the costs should be considered, but suggested that one should definitely consider the cost of not solving this problem.

[8:22:17 AM](#)

REPRESENTATIVE SEATON inquired as to factors that would increase the fiscal note as it refers to a limited number of communities and the floor is reset to 2012. He indicated his understanding that last year's fiscal note would accurately reflect the cost to the system.

MR. LABOLLE explained that Section 3 makes the changes in Sections 1 and 2 retroactive to July 1, 2009, which was when the floor was implemented. The retroactivity eliminates those delinquent payments, and thus every year there are delinquent payments going forward would add to the fiscal impact to the system. He further explained that costs will be added to the system because since the last fiscal note there has been another year of delinquent payments as well as the retroactivity aspect.

[8:23:47 AM](#)

REPRESENTATIVE SEATON requested last year's fiscal note.

MR. LABOLLE said that it should be in the committee's packet. He then related his understanding that the department doesn't intend to provide an updated fiscal note until the legislation reaches the House Rules Standing Committee.

[8:24:42 AM](#)

REPRESENTATIVE SEATON asked if any of the earlier listed communities have actually made their payments, which might result in taking money from the general fund (GF) to make reimbursement payments. If that is the case, he inquired as to the size of that impact.

MR. LABOLLE noted that he had asked the department about that, but had not received a response from them.

[8:25:34 AM](#)

CHAIR TILTON opened public testimony.

[8:25:59 AM](#)

KATHIE WASSERMAN, Executive Director, Alaska Municipal League (AML), stressed the importance of HB 47 since the 2008 floor has had a negative effect on communities. As explained earlier, the 2008 floor was placed into law by Senate Bill 125 because there was fear that municipalities would pull out employees and hire contractors in order to avoid the PERS liability. Although that could have happened, she said she hadn't heard of it happening and the unintended consequence is not worth it. She pointed out that no municipality or business would find themselves in a position in which they were penalized for having fewer employees than they had before, especially in the face of impending deficits. She suggested that the list of communities impacted by the 2008 floor could increase when municipalities [due to the deficit] find they have to lay off employees. Thankfully, the state doesn't face the same penalty or consequence when it lays off employees. She acknowledged that addressing this issue may incur a small cost to the state, but emphasized that not addressing the issue will cause larger costs to the state when some of these municipalities can't function. Although those communities who can't function are required to file a petition with the Local Boundary Commission and pay their bills, she characterized that as crazy since the reason they can't function is because they can't pay their bills. At some point, the responsible party for those bills will be the state. She opined that a concerted decision has to be made in regard to what is

going to be done with these small municipalities. The very entity that is intended to keep these communities healthy is now charging them and charging them with a 12 percent interest rate. She recalled Galena's first bill was approximately \$150,000 and now it's up to \$600,000. She characterized Galena's case as hopeless as its budget will never allow it to catch up. Ms. Wasserman echoed Mr. LaBolle's testimony that there are other communities in the same situation and although they may not be as deeply mired, they will be over time. For three years, AML has been trying to get this addressed by the legislature, she lamented.

8:30:02 AM

REPRESENTATIVE SEATON asked if AML is supportive of the 25 percent reduction in population as the [trigger for] resetting the [salary] floor.

MS. WASSERMAN answered that for the five communities specified, yes.

REPRESENTATIVE SEATON clarified that he is interested in whether there are other communities similarly situated to the five communities identified in terms of the [salary] floor, but that haven't lost 25 percent of their population. He then asked whether AML is supportive of the legislation if it applies to communities that have lost over 25 percent of their population.

MS. WASSERMAN related that AML is supportive of HB 47 for the five communities identified as there are discussions regarding how to address the other communities.

8:31:59 AM

JOHN KORTA, Mayor, City of Galena, paraphrased from the following written remarks [original punctuation provided]:

I'd like to thank the committee for taking time today so that I may explain the importance of this legislation for communities like Galena that have seen significant population decreases in the last decade.

As you may know, the Galena Forward Operating Location (FOL) was closed by the United States Air Force. As part of the [Base Realignment and Closure] BRAC process, the Galena FOL closure was effective October 1, 2008, but had been in process for four years. The

Air Force base was the main source of employment for Galena residents. Not surprisingly, the base closure resulted in a reduction of the population. Galena had almost 50% more residents in 2000 than it had in 2010. Galena was again struck by hardship in spring of 2013 when ice dammed the Yukon River and inundated the City, leading to a disaster declaration.

The 2008 "Floor" established by the current law exists to prevent a municipality from gaming the PERS system by contracting out work previously performed by municipal employees in order to avoid making ongoing contributions to PERS. The current minimum PERS contribution is based on the level of salaries that existed in 2008. This purpose does not account for Galena's situation. It was not intended, nor does it contemplate, municipalities with sharply declining populations. The legislation does not change the PERS policy, but rather recognizes nuance.

The legislation affects only communities that suffered a minimum 25% decline in population between 2000 and 2010, like Galena. To put that in perspective, the 25% threshold would represent the loss of 75,000 people from Anchorage or 8,000 people from Juneau. What would happen to Fairbanks if the Borough's population declined by 30,000, *while at the same time seeing the closure of Eielson and Fort Wainwright?* The demand for municipal administrative and public services would decline sharply; so would the municipality's ability to provide these services having lost the region's economic driver.

The legislation, which moves the floor year from 2008 to 2012 for the communities that experienced these huge losses, *does not* provide a "loophole" allowing Galena or any other community with a similar population loss between 2000 and 2010 to "game" the system now or in the future. The 2008 floor for these communities is replaced with a 2012 floor. Galena's budgeted payroll for FY 2015 is above the 2012 amount for 17 employees.

Galena's circumstances are not a result of any choice the city made. The base closure and subsequent loss of close to 1/3 of the city's population was entirely involuntary. The relationship between a declining

population and declining payroll is clear: **fewer residents = fewer public employee = lower public payroll**. Based on the 2008 floor, Galena is required to pay an amount owed by a city substantially larger than Galena. Galena's required PERS contribution approaches half of the City's entire payroll.

The 2008 Floor is, overall, a sound piece of legislation, furthering sound policy, but it does not account for all situations. It does not account for cities that have suffered massive population contractions. This legislation furthers the underlying policy goals of the regulatory structure: It helps ensure that municipalities are able to continue contributing to PERS, while recognizing that a city cannot, and should not, have to make the contribution of a city that has a significantly larger population. Recognizing that Galena is not the same city it was before the base closed and 30% of its population moved away is simply good policy, policy that helps ensure that Galena continues to contribute to PERS.

Recognizing the reality of sharply declining populations is a worthy amendment and is just plain fair. Thank you for your time this morning. I would be happy to answer any questions you may have.

[8:36:47 AM](#)

REPRESENTATIVE SEATON related his understanding that Galena's current salary base is higher than the 2012 floor.

MAYOR KORTA explained that the City of Galena is paying current on its PERS contribution, but it hasn't been paying at the level established with the 2008 floor.

[8:37:35 AM](#)

REPRESENTATIVE SEATON asked whether the City of Galena is currently, in 2015, paying more salaries than the 2012 floor.

MAYOR KORTA responded, "I believe so, yes."

[8:38:20 AM](#)

SHANDA HUNTINGTON, City Manager, City of Galena, paraphrased from the following written remarks [original punctuation provided]:

Before serving as the city manager, I served as the city clerk for 6 years. I was also born in Galena, grew up there, and raised my four children in Galena. I would like to follow up on Mayor Korta's testimony with information relating to Galena's population decline, the base closure, and the effects on city payroll and finances.

As Mayor Korta said, the air force base officially closed in 2008, following a multi-year drawdown. In 1990, before base realignment, Galena's population was 847. Galena has always been a small city and the base was the driver of economic activity. According to the 2000 census, the number of residents, which does not include all of the Air Force personnel, was 675. That number had dropped to 470 with the 2010 census. 205 people may not sound like a lot, but it represents a 30% decrease in the City's resident population between the two censuses. 30% of residents moved away, but the decline in the city's economic activity was much greater.

For FY 2008, the current floor year, Galena's salary total was \$1,513,365.19 for 36 employees. Therefore, Galena's annual minimum PERS contribution is \$332,940. In FY 2012, the amended floor year, Galena's payroll was \$765,776 for 17 employees. Between FY 2008 and FY 2012, Galena's payroll was cut in half, reflecting the decrease in population and in economic activity. Galena's current annual minimum PERS contribution of \$332,940 is nearly half of the City's FY 2012 total payroll costs. Allowing a floor year of 2012 for cities that experienced a drastic decrease in population changes Galena's annual minimum contribution to \$168,940.

For Galena, the difference in PERS contributions between the 2008 floor and FY 2012 actual payroll is \$164,000. This difference will continue going forward creating an ever increasing obligation. By statute, any amount unpaid accrues interest at 12%. This ever-increasing obligation adds to an already stressed situation. The City's financial situation was so

severe in FY 2009 that it required a low interest loan through the Alaska Municipal Bond Bank to deal with a severe cash flow crisis that was preventing us from being able to secure fuel for heat and electricity. Simply put, if Galena can't pay its bills, the lights go out in Galena.

Reasonably adjusting the floor year for severely impacted cities does not mean that the cities will pay the minimum amount only. Modifying the floor year changes Galena's *minimum* annual contribution from \$332,940 to \$168,940; the actual contribution may be higher. For FY 2013, Galena would in fact pay more than that amended minimum. For FY 2013, Galena added one employee, for a total payroll of \$895,784.53. For FY 2013, Galena's contribution would have been above the 2012 floor by approximately \$30,000.

This amendment simply recognizes that reality of drastic population decreases experienced by some Alaska cities, using a clearly defined metric: a 25% decrease in population according the 2000 and 2010 censuses.

The base closure has been very difficult for Galena. As previously noted, Galena required a low interest loan through the Alaska Municipal Bond Bank to secure fuel for heat and electricity in FY 2009. In the last several years, Galena's finances have stabilized and there are even indicators of recovery after the catastrophic decline. We cannot say what will happen to Galena's population long-term, but we believe that we've turned a corner in terms of population and finances.

The City of Galena is adjusting to a new reality following the base closure and loss of 30% of the population. This amendment is one part of that adjustment. I became city manager during a difficult period for the City. Our finances have stabilized somewhat over the last several years. Requiring the City of Galena to pay to PERS a contribution owed by a much larger city weakens Galena, and threatens its ability to provide any contribution to PERS. We are cautiously optimistic that the City will become stronger and even grow over time. If and when Galena becomes the city it was in 2008, the city will be

required to make a PERS contribution comparable with that size and payroll, and will do so gladly, but it's not that city right now and the oversized PERS contribution inhibits it from becoming so.

Recognizing the reality of drastically declining populations is a matter of simple fairness. The amendment recognizes this and ultimately promotes the goals of PERS: ensuring that Alaska municipalities continue to contribute their fair share to the system.

I'd like to thank the committee for taking time today so that I may explain the importance of this amendment for communities like Galena that have seen significant population decreases in the last decade.

[8:44:58 AM](#)

MAYOR KORTA, in summary, informed the committee that Galena is a functional community, but this salary floor issue has hurt it. Therefore, he requested the committee truly consider HB 47.

[8:47:54 AM](#)

REPRESENTATIVE SEATON surmised that HB 47 seems to attempt to balance the objective of cities not going out of business and the salary floor. He then inquired as to the relative cost to the system of small cities going out of business without assets to make the payments versus making adjustments to stay in the system by changing the date when the floor is imposed.

[8:49:06 AM](#)

KEVIN WORLEY, Chief Financial Officer, Division of Retirement and Benefits, Department of Administration (DOA), said that he had no statement on HB 47 itself. Regarding resetting the floor to 2012, Galena hasn't paid its salary floor. He informed the committee that Galena's 2012 gross salaries were about \$765,000, the 2008 salaries were \$1.5 million, and in fiscal year 2010 Galena was billed \$115,000. Therefore, [if the floor was reset to a salary base of 2012 and was made retroactive to July 1, 2009], the state would forgo the receipt of \$115,000 from Galena. In fiscal year 2011, [the bill] to Galena was about \$139,000. Therefore, by using the 2012 salary base, the state would forgo \$164,000. In fiscal year 2013, Galena's gross salaries would be above the 2012 salary floor and the state would forgo \$136,000. In fiscal year 2014, Galena's gross

salaries would again be above the 2012 salary floor and the state would forgo \$138,000. Therefore, [were the 2012 salary floor used] the state would lose a total of about \$693,000 in addition to the 12 percent interest charge of \$154,000, which would amount to a grand total loss to the state of \$850,000. This is just the loss from Galena, one of the five communities impacted. In response to Representative Seaton, Mr. Worley agreed to provide the committee with the aforementioned loss data for each of the five communities that HB 47 would address.

[8:52:05 AM](#)

REPRESENTATIVE SEATON asked if other communities have closed/gone out of business. He then inquired as to what happens to the PERS liability if a community can't pay and doesn't have physical assets to meet its obligations.

[8:52:48 AM](#)

KATHLEEN LEA, Chief Pension Officer, Division of Retirement and Benefits, Department of Administration, explained that the only recourse PERS has is to intercept funds coming from the state to the community that is delinquent or has defaulted in its contributions. The state intercepting the funds from the state to these small communities would impact these small communities' ability to pay for very basic necessary services in the communities. Therefore, the amount these communities don't pay becomes part of the unfunded liability and "the state on behalf" that needs to be paid unless those payments are received from the community at some point, which would reduce future obligation for the state on the "on behalf." However, the reality is the state hasn't received any funds.

[8:54:19 AM](#)

The committee took a brief at ease.

[8:55:03 AM](#)

MS. LEA, correcting earlier testimony, clarified that if the state, as an employer in PERS, fell below its salary floor, the state would be charged the interest and the contributions through the plan.

[8:55:32 AM](#)

REPRESENTATIVE SEATON directed attention to the provision in HB 47 that would change the interest rate on delinquent [payments] and asked whether the PERS Board or its managers believe that change in interest rate is reasonable.

MR. WORLEY explained that by statute the state is required to charge the actuarial rate of return, which is currently 8 percent for PERS and TRS plus one half that amount. Therefore, it's one and a half times the actuarial rate of return of 12 percent. He opined that the [12 percent] is charged because it's assumed that the 8 percent rate of return on those investments will be made. Furthermore, by the state not receiving the contributions in a timely manner and getting them into systems for investment purposes, the state is forgoing interest/investment earnings from each of those funds. A charge below that [12 percent] is in effect helping an employer by not obtaining the 8 percent charge.

[8:57:13 AM](#)

REPRESENTATIVE SEATON surmised that if the actuarial investment return is 8 percent and [the community] is charged that, the division is making the actuarial investment rate. Therefore, the division isn't foregoing the investment rate because the average investment rate is achieved in the 8 percent interest. Therefore, he questioned why the half [percent] penalty is necessary.

MR. WORLEY reminded the committee that the statute specifies one half times the actuarial rate of return. Statute withstanding, when the division isn't receiving contributions on a timely basis, the division is foregoing interest being earned on each of those payrolls. Currently, there are some employers who haven't paid their salary floors for a number of years and thus the state is forgoing a \$150,000 contribution from 2009. Receiving only 8 percent on that this year means the division has lost investment and interest earnings from 2009-2013 have been lost.

[8:59:00 AM](#)

REPRESENTATIVE SEATON surmised then the division is not charging 8 percent on the total debt. Rather, it's charging 8 percent for one year and then the debt is set aside as a fixed amount and the 8 percent interest rate is not being charged on the entire debt the next year.

MR. WORLEY explained that 12 percent is the interest charged each month. If the division doesn't receive the amount due in 2009, 12 percent interest will be charged. As any other bill becomes due with interest charges to it, the 12 percent will continue to accrue. In 2009, if that hasn't been paid, interest will be accrued through 2010, 2011, 2012, 2013, and 2014. If the payment due in 2010 isn't received, there will be an interest rate charge for 2011, 2012, 2013, and 2014. Therefore, it's compounding interest over time. Receiving a payment one year at a rate well below 8 percent would result in forgoing investment earnings and there would be interest expense to the communities that are still due to the plan. He noted that those would be significantly less than 8 percent.

[9:00:57 AM](#)

REPRESENTATIVE SEATON related his analysis that if 8 percent interest is achieved, when a payment comes in the actuarial 8 percent would be achieved and the [payment] would be whole. He clarified that he wasn't saying that the interest rate in the bill is giving the division 8 percent, rather it's merely earning 8 percent in another place and then coming into the division's account.

[9:02:37 AM](#)

REPRESENTATIVE SEATON said he appreciated the necessity for making an adjustment; however, he expressed concern about setting the floor and contributions at less than the actuarial 8 percent that PERS is to return on its investment. He then requested an analysis of whether the 8 percent interest rate would eliminate another potential gaming situation as well as avoid losing [money] on delayed contributions.

REPRESENTATIVE FOSTER agreed to run those calculations.

MR. LABOLLE, referring to Section 2, asked if Representative Seaton is referring to resetting that interest rate based on the population loss criteria or the entire system.

REPRESENTATIVE SEATON said he would have to review that. He related his understanding that HB 47 resets the entire system and ongoing calculation rates if communities don't make the floor contribution. He expressed the need to avoid a situation in which the contribution rates are calculated one way on an ongoing basis for one community that doesn't make its payments and calculate the nonpayment of the floor of another community

at another rate. Therefore, he opined that it would be the system related to not meeting the floor, not the entire rest of the system.

MR. LABOLLE explained that under HB 47 the new interest rate applies only to those communities that meet the population loss criteria.

REPRESENTATIVE SEATON remarked that the committee needs to review whether that's a fair and equitable way in which to address the matter. He opined that meeting the population criteria shouldn't take one community to one percentage while another community that doesn't meet the floor is calculated at another percentage. The calculation should be fair and equitable across the communities. He offered his initial thought that if a community isn't meeting the floor, the legislation would cover that interest rate but nothing else in the entire system.

REPRESENTATIVE FOSTER offered to review that as well.

[9:08:26 AM](#)

MR. LABOLLE pointed out that theoretically the retroactivity clause would eliminate the interest on those delinquent payments, and therefore the committee could consider eliminating Section 2 of HB 47. With the elimination of Section 2, theoretically the communities would still be made whole due to the retroactivity clause.

[9:09:09 AM](#)

CHAIR TILTON announced that HB 47 would be held over.

[9:10:02 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:10 a.m.