

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

May 26, 2016

11:05 a.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Shelley Hughes, Vice Chair (via teleconference)
Representative Jim Colver
Representative Gabrielle LeDoux
Representative Cathy Tilton
Representative Andy Josephson
Representative Sam Kito

MEMBERS ABSENT

Representative Mike Chenault (alternate)

OTHER LEGISLATORS PRESENT

Representative Paul Seaton
Representative Charisse Millett
Representative Louise Stutes

COMMITTEE CALENDAR

HOUSE BILL NO. 4002

"An Act relating to major medical insurance coverage under the Public Employees' Retirement System of Alaska for certain surviving spouses and dependent children of peace officers and firefighters; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB4002

SHORT TITLE: INS. FOR DEPENDS. OF DECEASED FIRE/POLICE

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

05/23/16	(H)	READ THE FIRST TIME - REFERRALS
05/23/16	(H)	L&C, FIN
05/26/16	(H)	L&C AT 11:00 AM BILL RAY CENTER 208

WITNESS REGISTER

JOHN BOUCHER, Deputy Commissioner
Office of the Commissioner
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Provided a PowerPoint presentation entitled, "Department Overview," dated 5/26/16, and introduced HB 4002.

MICHELE MICHAUD, Chief Health Official
Division of Retirement and Benefits
Central Office
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 4002.

ACTION NARRATIVE

[11:05:49 AM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 11:05 a.m. Representatives Olsen, Colver, Tilton, Kito, Josephson, Hughes (via teleconference), and LeDoux, were present at the call to order. Also present were Representatives Millet, Seaton, and Stutes.

HB4002-INS. FOR DEPENDS. OF DECEASED FIRE/POLICE

[11:06:14 AM](#)

CHAIR OLSON announced that the only order of business would be HOUSE BILL NO. 4002 "An Act relating to major medical insurance coverage under the Public Employees' Retirement System of Alaska for certain surviving spouses and dependent children of peace officers and firefighters; and providing for an effective date."

[11:07:19 AM](#)

JOHN BOUCHER, Deputy Commissioner, Office of the Commissioner, Department of Administration (DOA), provided a brief background on HB 4002, noting that the bill addresses the deaths of individuals who have served the State of Alaska in protective services capacities. As a result of recent deaths, a gap in benefits was identified, and the administration is introducing HB 4002 with the goal of providing premium-free medical coverage to families of peace officers and firefighters who are killed in the line of duty. Mr. Boucher said the first issue addressed by

the bill is that surviving spouses and dependent children are not eligible for premium-free medical coverage until survivors become eligible for those benefits at retirement age, thus there is a gap in coverage.

CHAIR OLSON recognized Representative Millet as having introduced the original bill in this regard.

[11:09:24 AM](#)

MR. BOUCHER stated HB 4002 allows surviving spouses and dependent children to obtain premium-free medical care upon the instance of an occupational death of a peace officer or firefighter. The state has multiple tiers in its retirement system, and portions of the bill relate primarily to Public Employees' Retirement System (PERS) Tier II, Tier III, peace officers and firefighters, and portions relate to PERS Tier IV, known as the Defined Contribution Retirement (DCR) plan. The second issue is that under the DCR plan, survivors cannot access health care until the deceased member would have reached 25 years of service, and must also pay 100 percent of the premium; however, HB 4002 allows the premium to be paid by the state on behalf of the surviving spouse or dependents of peace officers and firefighters, upon the instance of an occupational death. Mr. Boucher pointed out that Tier IV plan is a premium share plan, therefore, the member contributes a certain portion of the total premium, dependent upon the number of years of contributed service. Upon the instance of an occupational death of a peace officer or firefighter, survivors' benefits are received premium-free until Medicare takes effect, and then contributions begin based upon years of service [slide 2].

MR. BOUCHER said that the third issue addressed by the bill is that the Tier IV plan requires a member to retire directly from the plan, thus a member would have to work in the twelve months prior to retirement. For example, if a defined contribution retirement plan member worked five or ten years, and then was killed in the line of duty, and their dependent(s) continued to receive an occupational death benefit, they could not retire directly from the plan. He explained the bill made a technical fix that had to occur for certain members, because it was impossible for them to retire directly from the plan. Mr. Boucher continued to issue four, which affects all tiers, and explained that health benefits are not available to dependent children of PERS plan members if the member died and there was no surviving spouse. The bill would allow access to medical benefits to which dependents are entitled, in cases where there

is no surviving spouse, such as a single parent family [slide 3]. He directed attention to slide 4, which addressed the issue of the individual occupations that would be covered by HB 4002, and advised that statutorily-defined peace officers and firefighters include the following: police, chief of police, regional public safety officer, correctional officer, correctional superintendent, firefighter, and fire chief. The occupations are a subset of PERS referred to as peace/fire, and which incorporates about 1,900 members who are state employees, and roughly 1,700 members spread across 43 political subdivisions.

REPRESENTATIVE COLVER asked whether municipal and other non-state law enforcement officers and firefighters are required to be members of the PERS system, or if membership is optional.

MR. BOUCHER said he is aware there are volunteer and contract firefighters who do not have a relationship with PERS.

[11:16:01 AM](#)

MICHELE MICHAUD, Chief Health Official, Division of Retirement and Benefits (DRB), DOA, said that different municipalities and political subdivisions elect to participate in PERS, and part of their election allows them to exclude certain classes of employees; therefore, any municipality or political subdivision could choose to exclude peace officers and firefighters from participation in PERS.

REPRESENTATIVE COLVER relayed that some volunteer firefighter programs have had issues with their employees' eligibility for PERS due to their limited hours of work. He asked for clarification on whether the intent of the proposed legislation as drafted, covers volunteer firefighters, emergency medical service (EMS) workers, and municipal firefighters.

MR. BOUCHER agreed to provide this information.

CHAIR OLSON recalled proposed legislation in 2015 which was related to three service areas in the Interior that have a contract with a private firm, and have opted out of PERS, the Teachers' Retirement System (TERS), and "everything else." He agreed that there are other entities in the state that are privately contracting insurance and benefit packages.

REPRESENTATIVE COLVER noted that the Matanuska-Susitna Borough (Mat-Su Borough) tried to limit the amount of time firefighters

and EMS volunteers worked so that they would not qualify for PERS. After litigation, there is now a consent agreement. Some workers are fulltime and some are limited to 20 hours per week; he said the proposed legislation needs to identify who will be covered of those working in municipal volunteer fire departments. Representative Colver continued, "... Mat-Su has huge fire departments and it's generally, most of the staff are, are part-time because of the PERS issue." He then questioned whether EMS, such as ambulance drivers, are covered under the statutory definition. In Anchorage, the professional department cross-trains workers to serve as both firefighters and EMS crew, and he stressed for clarification on their status related to the proposed legislation.

MR. BOUCHER explained the intent of HB 4002 is to limit its effect to employees who have an existing relationship with the PERS system; if there is no preexisting relationship with PERS, there is no coverage. He said, "The intent is, to, you have to have that existing relationship with PERS, which, based on the comments from Ms. Michaud, would essentially be determined by the participation agreement between the state and the political subdivision."

[11:20:48 AM](#)

REPRESENTATIVE LEDOUX asked whether - under the current system - coverage would exist for someone who was not killed in the line of duty, but was disabled to the extent that they could no longer work.

MR. BOUCHER answered that PERS has an occupational death and disability benefit, thus the injured worker could receive a disability benefit.

REPRESENTATIVE JOSEPHSON stated that he introduced a bill during this and a previous legislative session, on behalf of an officer in the Anchorage Police Department (APD) who pointed out that if an APD officer were to be grievously injured on the job, no retirement benefits would be received during his convalescence. In fact, retirement benefits would be "frozen" while convalescing in a hospital or at home, and the officer would be covered only by workers' compensation. Representative Josephson said the bill he introduced would correct the present policy, and he asked Mr. Boucher whether it would "cover this, this gap where there'd be no retirement coverage."

MR. BOUCHER said he did not know about workers' compensation coverage and would research this question.

CHAIR OLSON asked how many bargaining units the state has that cover "these people."

MR. BOUCHER said two are the correctional officers and the Public Safety Employees Association (PSEA), and he would provide others.

CHAIR OLSON asked whether the aforementioned bargaining units have optional coverages in their "packages" from which employees can choose.

MR. BOUCHER offered his understanding that PSEA has some options. In further response to Chair Olson, he said options include accidental death, disability, and assisted care. He said that the state has a suite of voluntary insurance benefits, including life insurance for all AlaskaCare members and those who have access to the Alaska Supplemental Annuity Plan (SBS-AP).

CHAIR OLSON requested that Mr. Boucher provide the committee copies of both the current and previous contracts by the next meeting.

MR. BOUCHER agreed.

[11:24:38 AM](#)

REPRESENTATIVE LEDOUX returned to her previous question and asked whether under the current system, health insurance benefits would be terminated for a worker - and his/her dependents - who was grievously injured on the job and was not able to return to work.

MS. MICHAUD offered her understanding that if appointed to a disability benefit under the PERS system, members and their eligible dependents are entitled to health insurance, at least under the Tier II and Tier III plans, and she would inform the committee on entitlement under Tier IV.

MR. BOUCHER returned attention to slide 5, which provided a brief history of the proposed legislation. Former Governor Sean Parnell worked with legislators on proposed HB 66 and proposed SB 202, which covered all PERS and TRS employees, removed the requirement in the DCR plan to retire directly from the plan,

and those provisions, when combined with a high amount of offered coverage, resulted in a significant fiscal note. Due to the fiscal climate at this time, the present administration sought to narrow the focus of HB 66, and he described two attempted revisions that did not advance. On the governor's call for [the Fourth Special Session of the 29th Alaska State Legislature] is HB 4002, which was modeled on HB 66, Version S [slide 6].

[11:28:28 AM](#)

CHAIR OLSON added that the legislature first heard the bill about a year and a half ago, without a fiscal note or an actuarial review. The committee held no additional meetings because members did not receive the actuarial report until about three weeks ago, and received the \$60 million fiscal note on [May 25, 2016]. He said a second actuarial report was distributed [May 25, 2016], and opined that the bill is "more manageable this time around."

REPRESENTATIVE LEDOUX asked for an explanation of the fiscal note. She understood that 27 people have died in the line of duty over the last decade from "all departments," and questioned how coverage for 27 individuals could result in a \$60 million fiscal note.

CHAIR OLSON suggested that the fiscal note was in error, and may have offered coverage to all state employees.

MR. BOUCHER affirmed that the previously proposed legislation covered all PERS and TRS members, and held the provision that individuals in the DCR plan were not required to retire directly from the plan, thus additional issues - as well as a larger scope - contributed to the size of the fiscal note.

CHAIR OLSON clarified that the fiscal note currently discussed was "on the original version of the first bill."

REPRESENTATIVE COLVER pointed out that fiscal note [Identifier: HB4002-DOA-PERS-05-24-16] forecasts in fiscal year 2017 (FY 17) costs of \$174,000, and in [FY 22], costs of \$226,000.

[11:32:13 AM](#)

MR. BOUCHER directed attention to slide 7, which illustrated FY 17 projected costs of \$174,000, rising to \$226,000 over a five-year period. He said costs could be expected to incrementally

grow over time, depending on the cost of providing health care to affected employees. He continued to slide 9, which explained why the administration chose the approach taken by HB 4002. Although the bill could expand to include others who perform similar work, the issue is related to whether an individual has an existing relationship with the PERS system; for example, if there is no existing relationship, the legislation could violate Internal Revenue Service (IRS), U.S. Department of the Treasury, laws, by providing a benefit from a trust fund to non-participants of said trust fund. He cautioned that a violation of IRS laws means the plan could lose its exempt status, which would be very expensive for both employees and the state.

MR. BOUCHER further explained the potential problem of limiting the scope of the bill to a group such as the Alaska State Troopers. In this case, DRB would have to re-define the "peace officer/firefighter group" within the PERS retirement system who have, since inception, been offered a specific suite of benefits. However, from a legal perspective, DRB believes it is better to offer the benefit to the entire group, rather than offer an enhanced benefit to a subset group. He warned against creating a system of essentially customized benefits - by groups or employers - because the system may become unmanageable [slide 10]. Mr. Boucher stated that HB 4002 is a compromise which applies the benefit to an existing, statutorily-defined group of peace officers and firefighters that is consistent with the legal distinction of the group from other state employees. In addition, the fiscal impact of HB 4002 is much smaller than if the benefit were offered to a larger population [slide 11].

[11:38:11 AM](#)

CHAIR OLSON provided some background information on the original proposed legislation beginning about four years ago. He noted that of the 27 on-duty fatalities over the last decade, almost one-half were aircraft and other accidental fatalities, across a number of departments and divisions. Chair Olson cautioned that other entities would eventually want similar coverage. In response to Representative Colver, he stated he had indicated to the administration that to get the bill out of committee, which "is doable," the committee will next hear from the actuary, the state risk manager, and DRB.

MS. MICHAUD provided a sectional analysis for HB 4002, advising that proposed Section 1 addresses the health reimbursement arrangement account that is used to pay for part of the premium, or other qualified medical expenses for DCR plan members, by

amending AS 39.30.400(b) to allow for eligible members' dependent child(ren) to also have access to those funds. Proposed Section 2 removes the gap for Tier II and Tier III members in the defined benefits portion. Currently, if a peace officer or firefighter were to work 20 years, they were considered for normal retirement, but 25 years of service was required to get medical benefits, thus if a member suffers an occupational death, there would be a gap where there would be no coverage provided. This provision closes the first gap, and also allows for dependents to be covered when there is no surviving spouse, "which was a gap that we have in all of our Tiers." Section 3 allows for benefits to be provided to a surviving spouse premium-free. Currently, the eligible member's spouse had access to medical benefits through the defined benefit plan, but would be responsible for paying 100 percent of the premium.

REPRESENTATIVE JOSEPHSON offered his understanding that under the current law, if a non-public safety officer, such as a Clerk I, were a single parent and died, then there would be no coverage for dependents.

MS. MICHAUD answered that was correct. If there were no surviving spouse, and a non-peace/fire member passed away due to occupational reasons, there would not be access to a medical plan for the dependent child(ren). In further response to Representative Josephson, she said if there were a surviving spouse, the surviving spouse would be able to cover the dependent(s). In further response to Representative Josephson, she affirmed that the surviving spouse would have to pay for coverage until either the survivor reached age 60, or the member would have reached normal retirement, which in the "all other" category, is granted at 30 years of service, at which time the survivor would be eligible for premium-free medical benefits.

REPRESENTATIVE JOSEPHSON surmised that under the current structure, even though one has to pay a premium, it is advantageous to be a married person who is a widow or widower, and the state shows prejudice to single parents under the existing law.

MS. MICHAUD agreed there is a disadvantage for a child(ren) when there is no surviving spouse.

[11:46:35 AM](#)

REPRESENTATIVE KITO inquired as to whether - either under the existing or the proposed plan - a surviving spouse could continue to receive benefits from the state if they got a job, and were eligible to receive their own benefits.

MS. MICHAUD stated that if a survivor is appointed a benefit, if not eligible for premium-free coverage, they could elect to pay for that coverage; furthermore, survivors may drop the coverage when employed, and once the survivor reached age 60, and became eligible for premium-free coverage, they would be given the opportunity to re-enroll in the plan. However, if the survivor had active coverage through an employer, the coordination and benefit rules apply, thus the employee plan would become primary, and the retirement plan would become the secondary coverage.

REPRESENTATIVE KITO gave an example of a survivor working in a state position where they were eligible for a benefit, and asked whether they could elect to pay the work-related benefit, or if they would be allowed to receive the survivor benefits.

MS. MICHAUD responded that in the AlaskaCare plan, state employees are required to participate - at least in some level of medical coverage - if they were in a medical benefit eligible position, although they could elect a premium-free coverage.

[11:48:49 AM](#)

REPRESENTATIVE COLVER directed attention to the bill on page [3], line 25 which read:

(E) is receiving a benefit under (a)(3) of this section.

REPRESENTATIVE COLVER remarked:

This simply gives them the option to just ... pay like a [Consolidated Omnibus Budget Reform Act] up to the point that, where they would receive statutory benefits as a survivor of the employee, like you said at 60, depending on the number of years of service in the plan, as an option to Section 11, which is that the state will cover the premium at no cost to the surviving spouse and dependent children.

MS. MICHAUD asked Representative Colver to repeat the question.

REPRESENTATIVE COLVER surmised there are two options: the surviving spouse has an option to elect to pay the premium to keep the insurance in force, or Section 11 provides that the premium would be covered by the state retirement system.

MS. MICHAUD answered that on page 1 there is a change to AS 39.30.400(b), which is the health reimbursement arrangement account as related to the DCR plan. Section 11 allows for dependent children to receive premium-free medical benefits if there was no surviving spouse, or until the surviving spouse reaches Medicare age, at which point the "premium subsidy piece of these statutes" becomes effective, depending on years of service. For example, 25 years of service would obligate the member to pay 15 percent of the premium. Further, the health reimbursement arrangement account could be used to pay the 15 percent, thus there is the option, once the survivor "converts to the premium subsidy, other than 100 percent, to use that to, to pay those premiums."

REPRESENTATIVE COLVER suggested a flow chart would better explain what Medicare will not pay.

MS. MICHAUD gave an example of a premium for a DCR plan that cost \$1,000, and if the survivor had to pay 15 percent, or \$150 per month, the health reimbursement arrangement account could be used to make those payments.

[11:52:02 AM](#)

REPRESENTATIVE LEDOUX concluded that under the current system, if there is no surviving spouse, kids are left without coverage.

MS. MICHAUD responded that currently, the statutes do not provide access to a medical plan for dependents if there is no surviving spouse.

REPRESENTATIVE LEDOUX surmised that the lack of coverage is being fixed for the surviving children of peace officers, and asked, "Are we fixing this for everybody else, too?"

MS. MICHAUD responded no. Under the current version of HB 4002, the provision is limited to peace officers and firefighters killed in the line of duty.

REPRESENTATIVE LEDOUX asked whether the issue could be fixed, in order to provide the additional benefit to others that is going to be provided for peace officers.

MS. MICHAUD advised an amendment would require running another actuarial analysis to determine whether there would be additional cost associated with that change.

REPRESENTATIVE LEDOUX requested that DRB run another actuarial analysis with that change, and opined that children would be in a worse situation, if left without either parent, than if they were left with one parent.

MS. MICHAUD said yes.

CHAIR OLSON said further testimony on legal matters is forthcoming.

REPRESENTATIVE KITO suggested that the Department of Health and Social Services (DHSS) could advise whether children left without a parent would become wards of the state, and thereby eligible for coverage from Denali KidCare, Alaska's Children's Health Insurance Program (CHIP), Division of Health Care Services, DHSS.

REPRESENTATIVE JOSEPHSON opined that the state has a policy to encourage people to enter careers in public safety - because they are needed - and HB 4002 costs less than its earlier iteration. However, he characterized a policy that says single parents' children would not get something that married parents' children would get as invidious, arbitrary, and capricious. This is not discrimination based on race, creed, or color, and he questioned its rational basis.

CHAIR OLSON asked Ms. Michaud whether significant others are treated any differently than spouses.

MS. MICHAUD acknowledged that in response to a recent court ruling, a provision was changed which "grandfathered in" a small subset of qualified same-sex partner retirees.

CHAIR OLSON requested a copy of the change.

[11:56:45 AM](#)

MS. MICHAUD returned attention to the sectional analysis, briefly describing each section as follows:

- Section 4 expands coverage to include spouses and dependents of peace officers and firefighters under the DCR plan. Previously, the statute limited coverage to a surviving spouse of a member who already retired, or was eligible to retire at the time of death; HB 4002 allows coverage for the spouse and dependents to begin immediately upon the death of fallen peace officers and firefighters.
- Section 5 is conforming language to expand who is eligible to apply for benefits from "members" to "a person."
- Section 6 clarifies language related to participation in the medical plan.
- Section 7 is a new benefit; for example, if a DCR plan retiree died after five years of service, their service continues to accrue while their survivor receives an occupational death benefit. Therefore, the survivor and dependent child(ren) would not have any access to health care until the years of service reach twenty-five, at which time the survivor would pay 100 percent of the premium. Section 7 allows for an end date for child(ren) to stop receiving coverage if they aged-out during that waiting period.
- Section 8 expands a definition to allow for coverage to a surviving spouse or dependent children.
- Section 9 also expands the end date so that there would be no conflict if child(ren) age-out in the interim period of time and coverage was not continued.
- Section 10 is also conforming language.
- Section 11 provides for the survivor or the eligible dependent child(ren) to have coverage premium-free until the survivor would have reached Medicare age, and at that time coverage converts back to a normal premium subsidy.
- Section 12 removes a redundant reference to the occupational death benefit.
- Section 13 repeals AS 39.365.880(c) which was reenacted under AS 39.365.880(b).
- Section 14 adds a new section that allows for the adoption of regulations.
- Section 15 provides for benefits to be retroactive to January 1, 2013.
- Section 16 allows Section 14 to become effective immediately after enacted.
- Section 17 provides regulations to be effective January 1, 2017.

[12:02:11 PM](#)

CHAIR OLSON asked for the purpose of the January 1, 2013, [retroactivity] date.

MR. BOUCHER replied that that date was set to make certain the state covered the aforementioned fatalities. In further response to Chair Olson, he said [2013] was the year of the first fatality.

REPRESENTATIVE JOSEPHSON posed an example of a vehicle crash November 24, 2012, leaving one dependent spouse and no children, and asked whether that spouse would be eligible for health care.

MR. BOUCHER answered that if an incident occurred prior to January 1, 2013, no; he pointed out that the two qualifiers are: peace/fire [member] and occurrence after January 1, 2013.

[HB 4002 was held over.]

[12:05:14 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 12:05 p.m.