CS FOR SENATE BILL NO. 6(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 4/19/21
Referred: Finance

Sponsor(s): SENATOR KAWASAKI

A BILL

FOR AN ACT ENTITLED

"An Act relating to reemployment of persons who retire under the teachers' retirement system; relating to retirement incentives for members of the defined benefit retirement plan of the teachers' retirement system and the defined benefit retirement plan of the Public Employees' Retirement System of Alaska; and providing for an effective date."

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

* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

PURPOSE AND INTENT. The State of Alaska and many local governments and school districts are facing the need to restructure their operations and workforces to reduce expenditures and balance budgets. Retirement incentives are management tools that have been used extensively by the private sector, the federal government, and other state and local governments across the country. A purpose of this Act is to make those management tools temporarily available to the state and to municipalities and school districts in the state. This Act will enable those entities to reduce operating costs by allowing certain positions to become vacant and then eliminating those positions or leaving them vacant.

*** Sec. 2.** AS 14.20.136(b) is amended to read:

(b) A member who is retired under **<u>AS 14.25.110</u>** [AS 14.25.110(a)] may not be reemployed under (a) of this section unless the member

(1) certifies that the member and the school district did not arrange before the member retired from the school district for the member to be reemployed by the school district after the member retired; and

(2) has been retired for at least

(A) 60 days if the member is at least 62 years of age; or

(B) six months if the member is less than 62 years of age.

*** Sec. 3.** AS 14.20.136(f) is amended to read:

(f) The requirements of (c), (d), and (e)(1) of this section do not apply to the rehire of a member who is

<u>(1)</u> eligible for restoration of tenure rights under AS 14.20.165**<u>; or</u>**

<u>(2) paid by the hour solely to mentor one or more members who are employed in the teaching profession under AS 14.20.370 and have worked for less than four years in that profession</u>.

*** Sec. 4.** AS 14.25.043(f) is amended to read:

(f) If a member who retired under **<u>AS 14.25.110</u>** [AS 14.25.110(a)] is reemployed by a school district under AS 14.20.136,

(1) the member does not become an active member;

(2) the member shall continue to receive retirement benefits from the plan as though the member were not reemployed by the school district;

(3) deductions from the member's salary may not be made under AS 14.25.050; and

(4) the member may not receive credited service in the plan during the period of reemployment.

*** Sec. 5.** AS 14.25.043(g) is amended to read:

(g) Notwithstanding (f) of this section, a member who is retired under **<u>AS 14.25.110</u>** [AS 14.25.110(a)] and reemployed by a school district under AS 14.20.136 is eligible to receive the group health plan coverage provided to active members employed by that school district. **<u>This subsection does not apply to a retired member who is rehired and paid by the hour solely to mentor one or more members who are employed in the teaching profession under AS 14.20.370 and have worked for less than four years in that profession.</u>**

*** Sec. 6.** AS 14.25.070(a) is amended to read:

(a) Each employer shall contribute to the system every payroll period an amount calculated by applying a rate of 12.56 percent to the total of

<u>(1)</u> all base salaries paid by the employer to active members of the system and to members who are retired from the plan**<u>,</u>** [AND] reemployed under AS 14.20.136, **<u>and eligible to receive group health plan coverage under AS 14.25.043(g); and</u>**

<u>(2) all</u> [INCLUDING ANY] adjustments to contributions required by AS 14.25.173(a).

*** Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETIREMENT INCENTIVE PROGRAM. (a) An employer, including a state agency, a political subdivision of the state, a public organization, and the University of Alaska, may elect to adopt a retirement incentive program under this Act. The employer may limit applicability of the program to employees

(1) in specific budget or administrative components designated by the employer;

(2) in specific job classifications designated by the employer;

(3) in specific geographic locations identified by the employer; or

(4) based on any combination of factors under (1) - (3) of this subsection.

(b) Only the administrator may approve or deny an employee's application to participate in a retirement incentive program adopted by an employer under (a) of this section. The administrator shall deny an application by a teacher if, after consulting with the school district that employs the teacher, the administrator determines that

(1) granting the application will create a vacant position that the school district more likely than not will be unable to fill in a timely manner; and

(2) the school district's inability to fill the vacant position in a timely manner

will create undue hardship for the school district.

(c) An employer that elects to adopt a retirement incentive program under (a) of this section shall propose the adopted program to the administrator for approval. The administrator shall approve the program if the program meets the requirements of this section and, if the employer is a state agency, sec. 14(a) of this Act. A program proposed under this section must include

(1) job classification designations, and specific budget and administrative components related to those job classification designations, that are wholly or partially made up of employees who may be eligible to participate in the program;

(2) a reimbursement agreement that requires

(A) the employer, for each employee who participates in the program, to reimburse the defined benefit retirement plan in the appropriate retirement system, within three years after the end of the fiscal year in which the employee is appointed to retirement, in an amount equal to the actuarial equivalent of the difference between the benefits the participant receives after the addition of the credit under (i) of this section and the benefits the participant would have received without the credit, less the amount the participant has paid on the indebtedness determined under (g) or (h) of this section; and

(B) the employer's obligation to contribute under this section be given priority over other financial obligations of the employer to the maximum extent permitted by law.

(d) An employer that elects, under (a) of this section, to adopt a retirement incentive program may request that the administrator establish one or more periods during which one or more employees of the employer who are eligible under (e) of this section may apply to participate in the program. A period established by the administrator under this subsection may not begin earlier than 30 days after the date it is established or end later than June 30, 2024, and must be not less than 30 days and not more than 60 days in duration.

(e) The administrator may not allow an employee to participate in a retirement incentive program adopted under this Act unless the employee is eligible under the program for appointment to retirement not later than the earlier of

(1) the first day of the sixth month that follows the last day of the application

period established by the administrator under (d) of this section; or

(2) a date set under the retirement incentive program as the date employees are required to be eligible for appointment to retirement.

(f) An employee is eligible to participate in a retirement incentive program under this Act only if

(1) the employee is a vested member of a defined benefit retirement plan in the public employees' retirement system or the teachers' retirement system;

(2) the employee has credit for service under AS 14.25.110 or AS 39.35.370 that occurred before July 1, 2006;

(3) the employee is at least 50 years of age, and, before application of credit described in (i) of this section, has

(A) at least 15 years of credited service as a peace officer or firefighter, as those terms are defined in AS 39.35.680; or

(B) at least 20 years of credited service as an employee other than an employee described in (A) of this paragraph;

(4) the employee will be qualified to retire under AS 14.25.110 or AS 39.35.370 after receipt of the credit described in (i) of this section;

(5) for an employer that is a state agency, the employee satisfies the additional requirements under sec. 8 of this Act; and

(6) the savings to the employer in personal services costs for the employee's position will exceed the costs to the employer for that position within three years after the employee is appointed to retirement.

(g) A member of the defined benefit retirement plan in the teachers' retirement system who participates in an approved retirement incentive program under this Act is indebted to the defined benefit retirement plan for an amount calculated under this subsection. The indebtedness is 25.95 percent of the member's actual compensation for the school year in which the member terminates employment, or the calculated school year compensation for a member who works less than the entire school year, plus an appropriate share of the administrative costs of the program. The member may apply annual or personal leave to the indebtedness before appointment to retirement. If the indebtedness is outstanding indebtedness at the time the member is appointed to retirement under the retirement incentive program, the pension benefits payable to the member shall be reduced by an actuarial adjustment that eliminates the indebtedness.

(h) A member of the defined benefit retirement plan in the public employees' retirement system who participates in an approved retirement incentive program under this Act is indebted to the defined benefit retirement plan for an amount calculated under this subsection. The indebtedness is 22 1/2 percent for a peace officer or firefighter, and 20 1/4 percent for other members, of the member's actual annual compensation for the year in which the member terminates employment, or the calculated annual compensation for a member who works fewer than 12 months, plus an appropriate share of the administrative costs of the program. The member may apply annual or personal leave to the indebtedness before appointment to retirement. If the indebtedness is outstanding at the time the member is appointed to retirement under the retirement incentive program, the pension benefits payable to the member shall be reduced by an actuarial adjustment that eliminates the indebtedness.

(i) An employee who participates in an approved retirement incentive program under this Act receives a credit of three years. The three years must be applied in the following order of priority until exhausted:

(1) to meet the age or service required for eligibility for normal retirement under AS 14.25.110 or AS 39.35.370, as appropriate;

(2) to meet the age required for early retirement under AS 14.25.110 or AS 39.35.370, as appropriate;

(3) to reduce the actuarial adjustment required for early retirement under AS 14.25.110 or AS 39.35.370, as appropriate;

(4) as years of credited service for calculating retirement benefits.

* **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to read:

AUTHORIZATION FOR STATE EMPLOYEE RETIREMENT INCENTIVE. (a) Subject to (b) of this section, an employee of a state agency may participate in a retirement incentive program approved under sec. 7 of this Act by the administrator if the employee is eligible to participate under sec. 7 of this Act and the employee

(1) has been continuously employed by the state for at least one year before the employee applies to participate in the program;

(2) is a permanent seasonal employee employed by the state in a permanent seasonal position for the entire period the position was filled during the 12 months preceding the employee's application to participate in the program;

(3) has been employed under a job-sharing agreement in which a state agency allowed two or more employees to share a single position that is identified by a single position control number, for the entire period in which the position was shared during the 12 months preceding the employee's application to participate in the program; or

(4) meets a combination of the requirements of this subsection.

(b) The governor, the lieutenant governor, and a commissioner, deputy commissioner, or assistant commissioner of a principal department of the executive branch of state government may not retire under a retirement incentive program adopted under this Act.

* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to read:

AUTHORIZATION FOR RETIREMENT INCENTIVE FOR EMPLOYEES OF THE UNIVERSITY OF ALASKA. Notwithstanding AS 14.40.661 - 14.40.799, a participant in a university retirement program under AS 14.40.661 - 14.40.799 who is vested in a defined benefit retirement plan in the public employees' retirement system or the teachers' retirement system may participate in a retirement incentive program for that defined benefit retirement plan if the participant satisfies the requirements under secs. 7 - 19 of this Act that apply to participants in that retirement incentive program.

* **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to read:

POLITICAL SUBDIVISION OR PUBLIC ORGANIZATION EMPLOYMENT. Notwithstanding AS 14.25 or AS 39.35, for purposes of determining the years of service required for retirement under AS 14.25.110 or AS 39.35.370, as appropriate, an employee of a state agency who has vested as a member of a defined benefit retirement plan in the teachers' retirement system or the public employees' retirement system and applies to participate in a retirement incentive program approved under this Act may receive credit for service while employed with a political subdivision or a public organization that occurred before the political subdivision or public organization elected to participate in that defined benefit retirement plan. The credit may not be applied for the purpose of determining the amount of a retirement benefit.

*** Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RECOVERY OF EMPLOYER DELINQUENCIES. To recover a delinquency owed under this Act by an employer other than the state, the commissioner of administration may

(1) withhold an amount of money equal to the amount of the delinquency, or a lesser amount, from money payable to the employer by the state, and credit it against the delinquency; and

(2) bring an action against the employer.

*** Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to read:

STOPPING ENROLLMENT FOR ACTUARIAL REASONS. If the administrator determines after approving a retirement incentive program under this Act that an increase in the number of participants in that retirement incentive program will have a significant negative effect on the actuarial soundness of a defined benefit retirement plan in the teachers' retirement system or the public employees' retirement system, the administrator may close the program to new applicants.

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

REEMPLOYMENT INDEBTEDNESS; PROHIBITION ON REEMPLOYMENT. (a) If an individual is reemployed as a member of the defined benefit retirement plan in the public employees' retirement system under AS 39.35, the defined benefit retirement plan in the teachers' retirement system under AS 14.25, the defined benefit retirement plan in the judicial retirement system under AS 22.25, or the defined benefit retirement plan in the optional university retirement program under AS 14.40.661 - 14.40.799 after appointment to retirement under secs. 7 - 19 of this Act, that individual forfeits incentive credit received or due under sec. 7(i) of this Act and incurs an indebtedness to the defined benefit retirement plan under which the individual has been reemployed as a member. The indebtedness is 110 percent of the amount, including health insurance premium costs, that the individual received solely as a result of participation in a retirement incentive program under this Act. The administrator shall apply the amount the individual has paid under sec. 7 of this Act as a requirement for participation in the retirement incentive as a credit toward the member's reemployment indebtedness under this subsection. Interest on the reemployment indebtedness accrues from the date of reemployment until the date that the individual either is appointed to retirement and accepts an actuarial adjustment to the individual's future benefits or repays the indebtedness in full. The rate of interest is that established by regulation for the member's defined benefit retirement plan by the Alaska Retirement Management Board.

(b) A state agency or the University of Alaska may not employ or contract for personal services with an individual who is appointed to retirement under a retirement incentive program authorized by this Act for a period of three years immediately following the date of the individual's appointment to retirement, except that

(1) the University of Alaska may enter into a personal services contract with the individual for teaching or research;

(2) the individual may accept employment with the legislature during a legislative session if the employment is on an hourly basis and does not entitle the individual to receive retirement, health, or leave benefits;

(3) the individual may accept employment with a school district as a substitute teacher; and

(4) the individual may accept employment with a school district if the individual participated in the defined benefit retirement plan in the teachers' retirement system and the employment is on an hourly basis and does not entitle the individual to receive retirement, health, or leave benefits.

(c) Notwithstanding the prohibition in (b) of this section, a state agency or the University of Alaska may enter into a personal services contract with an individual who was appointed to retirement under secs. 7 - 19 of this Act if the administrator approves the contract.

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

OFFICE OF MANAGEMENT AND BUDGET. (a) The director of the office of management and budget shall review each retirement incentive program adopted by a state agency, determine whether the program will result in a net reduction to the operating costs of the state agency that adopted it for a five-year period beginning July 1, 2021, and report the outcome of the review to the administrator. The administrator may not approve a retirement incentive program adopted by a state agency under sec. 7 of this Act unless the office of management and budget determines that the program's expected effect on the state agency's operation costs is a net reduction. The state agency that adopts the program shall cooperate with and provide information to the office of management and budget to aid with the preparation of the review under this subsection and reports under (b) of this section.

(b) Beginning January 15, 2022, and continuing through January 15, 2025, the office of management and budget shall submit to the senate secretary and the chief clerk of the house of representatives an annual report on the retirement incentive programs established under this Act and notify the legislature that the report is available. Each report must provide the information necessary for the legislature to evaluate the retirement incentive programs, including the effect of the programs on the defined benefit retirement plans of the teachers' retirement system and the public employees' retirement system, and whether the programs are economical for employers. The report must include, for each program,

(1) the designated employee categories;

(2) the employer's cost for each participant;

(3) the actual annual cost to the state;

(4) for state agencies, the budgeted annual cost;

(5) the cost paid by each participant;

(6) the number of positions that became vacant as a result of the program and how many of those positions remain vacant;

(7) for the relevant three-year period, the projected net savings and the actual net savings resulting from the program.

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

PROGRAM CHANGES. An individual employee does not have a vested or contractual right to a benefit under secs. 7 - 19 of this Act until an agreement is executed with the administrator that authorizes the employee to participate in that retirement incentive program. The legislature may change a retirement incentive program established under this Act as it relates to employees for whom an agreement under this section has not been executed.

*** Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to read:

REGULATIONS. The commissioner of administration may adopt regulations under AS 44.62 (Administrative Procedure Act) to implement and interpret secs. 7 - 19 of this Act.

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

DEFINITIONS. (a) Unless provided otherwise in this Act, the definitions set out in AS 14.25.220 apply to provisions in secs. 7 - 16 of this Act that relate to the teachers' retirement system and members of the teachers' retirement system.

(b) Unless provided otherwise in this Act, the definitions set out in AS 39.35.680 apply to provisions in secs. 7 - 16 of this Act that relate to the public employees' retirement system and members of the public employees' retirement system.

(c) In secs. 7 - 19 of this Act,

(1) "administrator" means the commissioner of administration or the commissioner's designee;

(2) "employer" has the meaning given in AS 14.25.220 and AS 39.35.680;

(3) "office of management and budget" means the office of management and budget in the Office of the Governor;

(4) "public employees' retirement system" means the Public Employees' Retirement System of Alaska (AS 39.35);

(5) "public organization" has the meaning given in AS 39.35.680;

(6) "state agency" means

(A) the legislative branch of state government;

(B) a principal department of the executive branch of state government;

(C) an independent state entity that is attached to a principal department of the executive branch of state government for administrative purposes and is not a public organization as defined in AS 39.35.680; or

(D) the Office of the Governor;

(7) "teachers' retirement system" means the teachers' retirement system under AS 14.25.

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

APPLICABILITY TO EXISTING BENEFICIARIES. Sections 1 - 17 of this Act may not impair or diminish the retirement benefits of a person who, before the effective date of this Act, is appointed to retirement under a defined benefit retirement plan in the teachers' retirement system or the public employees' retirement system or receives a benefit under that plan.

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

APPLICABILITY TO CONTRACTS. Sections 1 - 18 of this Act apply to contracts entered into on or after the effective date of this Act.

*** Sec. 20.** Sections 1 and 7 - 17 of this Act are repealed July 1, 2024.

*** Sec. 21.** This Act takes effect immediately under AS 01.10.070(c).