

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

February 2, 2023

8:06 a.m.

MEMBERS PRESENT

Representative CJ McCormick, Chair
Representative Kevin McCabe, Vice Chair
Representative Tom McKay
Representative Justin Ruffridge
Representative Rebecca Himschoot
Representative Donna Mears

MEMBERS ABSENT

Representative Josiah Patkotak

OTHER LEGISLATORS PRESENT

Representative Mike Cronk

COMMITTEE CALENDAR

HOUSE BILL NO. 22

"An Act relating to participation of certain peace officers and firefighters in the defined benefit and defined contribution plans of the Public Employees' Retirement System of Alaska; relating to eligibility of peace officers and firefighters for medical, disability, and death benefits; relating to liability of the Public Employees' Retirement System of Alaska; and providing for an effective date."

- MOVED HB 22 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 22

SHORT TITLE: PEACE OFFICER/FIREFIGHTER RETIRE BENEFITS

SPONSOR(S): REPRESENTATIVE(S) JOSEPHSON

01/19/23	(H)	PREFILE RELEASED 1/9/23
01/19/23	(H)	READ THE FIRST TIME - REFERRALS
01/19/23	(H)	CRA, STA, L&C, FIN
01/24/23	(H)	CRA AT 8:00 AM BARNES 124
01/24/23	(H)	Heard & Held
01/24/23	(H)	MINUTE(CRA)

01/31/23 (H) CRA AT 8:00 AM BARNES 124
01/31/23 (H) Heard & Held
01/31/23 (H) MINUTE (CRA)
02/02/23 (H) CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

EDNA DEVRIES, Mayor
Matanuska-Susitna Borough
Palmer, Alaska

POSITION STATEMENT: Testified during the hearing on HB 22.

JUSTIN MACK, Fire Fighter
Anchorage Fire Department;
Secretary/Treasurer
Alaska Professional Fire Fighters Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 22.

JOHN BREEN, representing self
Wasilla, Alaska

POSITION STATEMENT: Testified in opposition to HB 22.

SHAYNE WESTCOTT, Firefighter
Anchorage Fire Department;
Member
Alaska Professional Firefighters Board
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 22.

DOMINIC LOZANO, President
Alaska Professional Firefighters
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 22.

REPRESENTATIVE ANDY JOSEPHSON
Alaska State Legislature
Anchorage, Alaska

POSITION STATEMENT: As prime sponsor, answered questions and commented on Amendment 1 during the hearing on HB 22.

ACTION NARRATIVE

[8:06:48 AM](#)

CHAIR CJ MCCORMICK called the House Community and Regional Affairs Standing Committee meeting to order at 8:06 a.m.

Representatives McKay, Ruffridge, Himschoot, Mears, McCabe and McCormick were present at the call to order.

HB 22-PEACE OFFICER/FIREFIGHTER RETIRE BENEFITS

[8:07:14 AM](#)

CHAIR MCCORMICK announced that the only order of business would be HOUSE BILL NO. 22, "An Act relating to participation of certain peace officers and firefighters in the defined benefit and defined contribution plans of the Public Employees' Retirement System of Alaska; relating to eligibility of peace officers and firefighters for medical, disability, and death benefits; relating to liability of the Public Employees' Retirement System of Alaska; and providing for an effective date."

[8:07:52 AM](#)

CHAIR MCCORMICK opened public testimony on HB 22.

[8:08:16 AM](#)

EDNA DEVRIES, Mayor, Matanuska-Susitna Borough, stated that the Matanuska-Susitna (Mat-Su) Borough has not taken a position on HB 22 but is in the process of figuring this issue out in the next week, at which time the borough would update the committee.

[8:09:50 AM](#)

JUSTIN MACK, Fire Fighter, Anchorage Fire Department; Secretary/Treasurer, Alaska Professional Fire Fighters Association, testified in support of HB 22. He spoke about shared responsibility among employees, employers, retirees, and the State of Alaska in relation to recruitment, retention, and retirement. He allowed there are risks and challenges in a defined benefit system for retirement, but opined pensions "can be done the right way." He said the new system would help local communities retain public safety workers without creating an unfunded liability. He talked about a "real world study" going on in Washington, D.C., for 45 years, and he spoke about the ensuing good results of that study. He said the right way to offer a pension is to offer a modest benefit and, he reiterated, to share the risk amongst all parties, as well as to maintain the health of the retirement system. He encouraged committee members to contact their local fire chief, police chief, and school superintendent to ask about this issue firsthand. He

talked about the opportunity for Alaska to create a well-funded 401K combined with a defined benefit plan coupled with social security, which he opined is the ideal model for a successful retirement. He indicated he has none of those things, and the probability of success [in retirement] following a 25-year career is "about 6 percent." That jumps to 22 percent after 30 years. He remarked, "This is the value we place on sworn public safety officers." He urged the committee to move HB 22 forward, without amendments.

[8:13:27 AM](#)

CHAIR MCCORMICK recognized previous testifier Ms. Devries as having formerly served as a Senator in the Alaska State Legislature.

[8:13:52 AM](#)

JOHN BREEN, representing self, testified in opposition to HB 22, which he characterized as "ill-advised and unnecessary." He discussed the options of IRAs and 401k retirement investing, indicating more could be saved through the 401k. He offered his understanding that most private citizens do not have access to a 401k. He concluded that [those listed under the provisions of HB 22] must be "special people," but then said they are no more special than anyone else. He said, "We could give them a 401k, with a good match, and they could manage their own retirement just like the rest of us have to do. And that's about all I have to say."

[8:15:56 AM](#)

SHAYNE WESTCOTT, Firefighter, Anchorage Fire Department; Member, Alaska Professional Firefighters Board, indicated that when [the board] was addressing the pension issue, it considered how to make it effective for both parties. He stated that the fiscal note for House Bill 55 [heard during the Thirty-Second Alaska State Legislature] was directed in part to "pay down the unfunded liability," which was approximately 22 percent. He said, "When that unfunded liability is paid off, that cost is now down to 12 percent." He opined that is a sustainable number and is comparable to the cost of private sector [retirement] when factoring in a 401k match, as well as social security. He said years have been spent to come up with a quality plan that benefits both employee and State of Alaska, with minimum risk, and he said that is why he supports HB 22.

[8:18:18 AM](#)

DOMINIC LOZANO, President, Alaska Professional Firefighters, testified in favor of HB 22. He opined that both the defined benefit (DB) system and the defined contribution (DC) system work; however, he argued that the current DC system is broken, as expressed by management and employees. He said the current DC system is underfunded; a successful DC system requires a 30 percent contribution, whereas the current contribution by employers is 5 percent. He recounted his experience researching retirement plans across the country, and he reported that there is no other state in the country that mandates a DC system for its public safety employees. He emphasized that DB system plans work; they provide modest benefits, are multigenerational and "smoothing," enable employees to have a stable retirement, and the risk is shared. Under HB 22, he noted, the risk is shared.

[8:21:40 AM](#)

CHAIR MCCORMICK, after ascertaining there was no one else who wished to testify, closed public testimony on HB 22.

[8:22:11 AM](#)

The committee took an at-ease from 8:22 a.m. to 8:24 a.m.

[8:24:49 AM](#)

CHAIR MCCORMICK announced that the committee would take up the consideration of amendments.

[8:25:02 AM](#)

REPRESENTATIVE MCCABE moved to adopt Amendment 1 to HB 22, labeled 33-LS0259\A.3, Klein, 2/1/23, which read as follows:

Page 18, following line 14:

Insert a new bill section to read:

"* Sec. 31. AS 39.35.680(9) is amended to read:

(9) "compensation" means

(A) for an employee who does not receive a benefit under AS 39.35.370(1), the remuneration earned by an employee for personal services rendered to an employer, including employee contributions under AS 39.35.160, cost-of-living differentials only as provided in AS 39.35.675, payments for leave that is actually used by the employee, the amount by which the

employee's wages are reduced under AS 39.30.150(c), an amount that is contributed by the employer under a salary reduction agreement and that is not includable in the gross income of the employee under 26 U.S.C. 125 or 132(f)(4), and any amount deferred under an employer-sponsored deferred compensation plan, but does not include retirement benefits, severance pay or other separation bonuses, welfare benefits, per diem, expense allowances, workers' compensation payments, or payments for leave not used by the employee, whether those leave payments are scheduled payments, lump-sum payments, donations, or cash-ins; for a member first hired on or after July 1, 1996, compensation does not include remuneration in excess of the limitations set out in 26 U.S.C. 401(a)(17) (Internal Revenue Code);

(B) for an employee who receives a benefit under AS 39.35.370(1), the remuneration earned by an employee for personal services rendered to an employer, including employee contributions under AS 39.35.160, cost-of-living differentials only as provided in AS 39.35.675, payments for leave that is actually used by the employee, the amount by which the employee's wages are reduced under AS 39.30.150(c), an amount that is contributed by the employer under a salary reduction agreement and that is not includable in the gross income of the employee under 26 U.S.C. 125 or 132(f)(4), and any amount deferred under an employer-sponsored deferred compensation plan, but does not include overtime compensation, retirement benefits, severance pay or other separation bonuses, welfare benefits, per diem, expense allowances, workers' compensation payments, or payments for leave not used by the employee, whether those leave payments are scheduled payments, lump-sum payments, donations, or cash-ins; for a member first hired on or after July 1, 1996, compensation does not include remuneration in excess of the limitations set out in 26 U.S.C. 401(a)(17) (Internal Revenue Code);"

Renumber the following bill sections accordingly.

Page 19, line 31, through page 20, line 1:

Delete "sec. 35"

Insert "sec. 36"

Page 20, line 9:

Delete "sec. 35"

Insert "sec. 36"

Page 20, line 16:

Delete "sec. 35"

Insert "sec. 36"

Page 22, line 24:

Delete "secs. 4 - 36"

Insert "secs. 4 - 37"

Page 22, line 29:

Delete "Section 37"

Insert "Section 38"

Page 22, line 30:

Delete "sec. 38"

Insert "sec. 39"

CHAIR MCCORMICK objected for the purpose of discussion.

[8:25:08 AM](#)

REPRESENTATIVE MCCABE spoke to Amendment 1. As written, he observed, Section 30 of HB 22 would calculate average monthly compensation for those joining the DB plan as the five consecutive payroll years during the period of credited service with the highest average. However, he pointed out that that could include a host of other compensation, including overtime, per diem, and pay for unused leave. He said Amendment 1 would make changes to the definition of "compensation" in Section 30 to stipulate the compensation would be limited to "base wages or salaries." He opined that this calculation would make the retirement plan fair and manageable. He indicated many police and fire rescue employees work overtime to increase the average in the "high three years," which creates an unsafe situation. He said he thinks the five-year rolling average makes sense.

[8:27:14 AM](#)

REPRESENTATIVE HIMSCHOOT said these fields of service are "a 24/7/365 operation," and she pondered whether overtime is required in order to staff for such a schedule. She questioned whether Amendment 1 would affect the ability to offer overtime.

REPRESENTATIVE MCCABE shared his understanding that it would not impact the ability to offer overtime. He described his background in fatigue risk management, and he questioned the

safety of officers who are awake for 16 hours on the job and "have the mental acuity of somebody that is legally drunk." He said the committee needs to decide whether it wants to protect citizens from possible negative actions of an officer who has stayed on the job for too many hours merely to "plus up" his/her high three years for retirement.

[8:29:49 AM](#)

REPRESENTATIVE HIMSCHOOT said she agreed on the impact of lack of sleep; however, she thinks people should be paid for working overtime. She said she would like to tackle the issue by increasing staffing to eliminate the need for overtime; therefore, she said she would not support Amendment 1.

REPRESENTATIVE MCCABE clarified that Amendment 1 would not eliminate paying overtime; it would just make it so the overtime paid would not count toward retirement. He allowed that occasional overtime is not bad; it's when it is done repeatedly and purposefully to increase retirement pay that it becomes detrimental.

[8:32:43 AM](#)

REPRESENTATIVE MCKAY shared an anecdotal example about bumping up "high threes." He spoke about senior officers wasting their talents serving as traffic cops.

[8:33:46 AM](#)

REPRESENTATIVE HIMSCHOOT suggested someone who is extremely tired may be safer directing traffic than responding to 911 calls, and she would trust management to figure that out. She said she would like there to be a system in which people aren't working themselves to the bone. She reiterated she would not support Amendment 1.

REPRESENTATIVE MCKAY replied he thinks that if senior officers sign up to direct traffic, there is nothing management can do about it.

[8:34:38 AM](#)

REPRESENTATIVE MCCABE noted that senior officers doing traffic duty still carry guns. In the case of accidents, he said, when the bottom of the chain of events begins with fatigue, it is a big issue.

8:35:26 AM

REPRESENTATIVE MEARS noted that flights get cancelled when pilots get "timed out," and truck drivers have limits on [time worked]. She argued that [Amendment 1] is not the mechanism to manage this concern.

8:35:53 AM

REPRESENTATIVE RUFFRIDGE argued that it was imperative that the committee and legislative body as a whole deal in real numbers and facts. He noted that the proposed bill is seeking to have a "high five" instead of a "high three." He said he would like to see numbers showing the difference between a base salary with no increases and a public safety employee working "to the bone" for five years.

REPRESENTATIVE MCCABE responded that he does not have those numbers because the bill had been rushed. He referenced a resolution from the Municipality of Anchorage [included in the committee packet], urging the legislature to "diligently vet" the proposed legislation on both the House and Senate side and collaborate with municipalities to produce a final bill for passage. He talked about the high cost of retirement and 31 cities' employers that are delinquent in paying, and he questioned whether the legislature would drive them further into delinquency. He urged inviting these employers to testify and weigh in on the issue.

8:40:10 AM

REPRESENTATIVE RUFFRIDGE, regarding the 31 delinquencies, which he said exist among all tiers of the retirement system, offered his understanding that "the proposed new tier or new system" would not change the requirement for the municipalities to "pay in" their 22 percent; therefore, the delinquency would still exist with or without HB 22. He asked Representative McCabe for response.

REPRESENTATIVE MCCABE answered, "We don't know." He said the committee has not invited anyone from the Division of Retirement and Benefits or the Legislative Finance Division to testify. He reiterated his point that the contribution is the same and already the employers are struggling to pay it. He requested that the bill be set aside to allow time to hear from both

divisions and the 31 municipalities that are behind in their payments.

[8:43:15 AM](#)

CHAIR MCCORMICK said he appreciated the discussion, then steered the focus back to Amendment 1.

[8:43:40 AM](#)

REPRESENTATIVE RUFFRIDGE said, in looking at the proposed amendment, there was no explanation of the associated numbers or costs. He asked whether Amendment 1 would affect the delinquent municipalities' ability to pay.

REPRESENTATIVE MCCABE reiterated that he did not know.

[8:45:42 AM](#)

REPRESENTATIVE MCCABE, in response to a comment by Representative Himschoot, explained that many bills that are pre-filed do not necessarily get heard; therefore, bringing in invited testimony may not happen right away. He commented that it is unusual to see a bill like this pushed through so fast.

REPRESENTATIVE HIMSCHOOT replied that "it passed the House twice before."

REPRESENTATIVE MCCABE said he knew about it having passed once before.

[8:46:53 AM](#)

REPRESENTATIVE ANDY JOSEPHSON, Alaska State Legislature, as prime sponsor of HB 22, noted that of the 31 identified communities, only about 6 would be impacted by the bill, because most do not have their own police and fire services. He clarified that the delinquencies were not relevant to the bill. He explained that the only things calculated in the formula were base pay and overtime. Further, he said he believes the use of overtime is a management decision, and many departments are so understaffed that overtime becomes necessary.

REPRESENTATIVE MCCABE emphasized that he wanted to hear from the actuaries and the experts. He recalled that Representative Josephson had stated early in the bill's introduction that [this

issue] would not end with police and fire, indicating that teachers would want a new retirement system.

[8:50:05 AM](#)

CHAIR MCCORMICK once again steered the committee's focus back to Amendment 1.

[8:50:13 AM](#)

REPRESENTATIVE RUFFRIDGE suggested the need to look into the fiscal analysis in terms of whether or not "individuals are getting a huge amount of overtime for the course of three to five years." He said there are clear actuarials from the last time this issue was addressed in House Bill 55. Regarding the idea that putting public safety professionals in positions of working overtime is scary, he shared his experience of them is that they are "the ultimate professionals" who would not willingly "put the public at risk in order to personally benefit." He characterized Amendment 1 as misplaced, thus said he would not support it.

REPRESENTATIVE MCCABE reiterated his experience in fatigue risk management and recounted personal examples of pilots who were fatigued and flew anyway. He said he appreciated Representative Ruffridge's questioning of his expertise in this area but called it misplaced, and he urged Representative Ruffridge to conduct his own fatigue risk management study. He emphasized that he had not said the police would intentionally put the public at risk.

CHAIR MCCORMICK interjected his concern that the conversation was veering into personal attacks.

[8:54:10 AM](#)

REPRESENTATIVE MCKAY, to Representative Ruffridge, commented that he does not think anyone can truly know another person's intention. He advised, "We have to do what's on paper and what's right for the state."

[8:54:49 AM](#)

CHAIR MCCORMICK maintained his objection to the motion to adopt Amendment 1 to HB 22.

[8:55:01 AM](#)

A roll call vote was taken. Representatives McKay and McCabe voted in favor of Amendment 1 to HB 22. Representatives Ruffridge, Himschoot, Mears, and McCormick voted against it. Therefore, Amendment 1 failed to be adopted by a vote of 2-4.

[8:55:47 AM](#)

The committee took an at-ease from 8:55 a.m. to 8:56 a.m.

[8:56:48 AM](#)

REPRESENTATIVE MEARS moved to report HB 22 out of committee with individual recommendations.

REPRESENTATIVE MCCABE objected.

[8:57:12 AM](#)

The committee took a brief at-ease at 8:57 a.m.

[8:57:32 AM](#)

REPRESENTATIVE MCKAY objected to the motion and stated for the record that Representative Patkotak was not present to vote on the bill.

[8:57:42 AM](#)

A roll call vote was taken. Representatives Ruffridge, Himschoot, Mears, and McCormick voted in favor of the motion to report HB 22 out of committee with individual recommendations. Representatives McCabe and McKay voted against it.

CHAIR MCCORMICK announced that with a vote of 4 yays and 2 nays, HB 22 would move to the next committee of referral with individual recommendations. [The fiscal note for HB 22 was adopted by the committee on 2/14/23.]

[8:58:41 AM](#)

The committee took a brief at-ease at 8:58 a.m.

[8:59:00 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at [8:59] a.m.