

Introduced: 2/11/63  
Referred: Judiciary and  
Finance

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 SENATE BILL NO. 69

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRD LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act providing retirement and other bene-  
7 fits for justices and judges of the supreme  
8 and superior courts of Alaska; and providing  
9 for an effective date."

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

11 \* Section 1. AS 22 is amended by adding a new chapter to read:

12 CHAPTER 25. RETIREMENT AND DEATH BENEFITS.

13 ARTICLE 1. JUSTICES AND JUDGES.

14 Sec. 22.25.010. RETIREMENT OF JUSTICES AND JUDGES. (a)

15 A supreme court justice or superior court judge shall be re-  
16 tired on the date that he reaches the age of 70. He is  
17 eligible for retirement pay if he has had two or more years  
18 of service at the time of retirement.

19 (b) A justice or judge may be retired for incapacity as  
20 provided in AS 22.05.110 and 22.10.160. He is eligible for  
21 retirement pay if he has had two or more years service at the  
22 time of retirement. The effective date of retirement under  
23 this subsection is the day upon which the governor, with  
24 respect to a justice, or the supreme court, with respect to  
25 a judge, files with the director of the Public Employees'  
26 Retirement System of Alaska a written declaration to the  
27 effect that a designated justice or judge was retired for in-  
28 capacity. A duplicate copy of the declaration shall be filed  
29 with the Judicial Council.

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1 (c) A justice or judge who served for a period of five  
2 years, and who believes that he has become so incapacitated  
3 as to prevent him from efficiently performing his judicial  
4 duties, may file with the governor a written application for  
5 retirement which contains a sworn statement of his service  
6 and of his incapacity. When an application is filed the  
7 governor shall appoint a board of three persons to inquire  
8 into the circumstances, and may, upon the board's recommenda-  
9 tion, retire the justice or judge. The effective date of  
10 the retirement shall be as provided in (b) of this section.

11 (d) A justice or judge may voluntarily retire, and is  
12 eligible for retirement pay, when he has (1) reached the age  
13 of 60 years and has served for 10 years or more, or (2) his  
14 age plus his years of service equal 75. In the latter case,  
15 if the justice or judge has not reached the age of 60 years,  
16 he may elect either to have his retirement pay begin when he  
17 reaches the age of 60 years, or to have his retirement pay  
18 begin on an actuarial equivalent basis as of the effective  
19 date of his retirement. A justice or judge desiring to  
20 retire under this subsection shall file with the governor a  
21 notice of his desire, together with a sworn statement of the  
22 facts establishing his eligibility to retire. The governor  
23 shall certify those facts to the director of the Public  
24 Employees' Retirement System and declare, in writing, the  
25 eligibility or ineligibility for retirement of the justice  
26 or judge. If a justice or judge is eligible for retirement  
27 under this subsection, his retirement is effective on the  
28 date the written declaration of the governor is filed with  
29 the director. A duplicate copy of the declaration shall be

1 filed by the governor with the Judicial Council.

2 (e) A justice or judge who was rejected at a general  
3 election and who served for nine years before the time his  
4 office became vacant by reason of the rejection is considered  
5 to have retired for the purposes of secs. 10 - 80 of this  
6 chapter and is eligible for retirement pay. If a justice or  
7 judge is considered to have retired under this subsection and  
8 has not reached the age of 60 years, he may elect either to  
9 have his retirement pay begin when he reaches the age of 60,  
10 or to have his pay begin on an actuarial equivalent basis as  
11 of the effective date of his retirement. The effective date  
12 of retirement under this subsection is the day upon which the  
13 office becomes vacant.

14 (f) In the computation of service for retirement under  
15 secs. 10 - 80 of this chapter, the time served by a judge of  
16 the superior court is added to the time served by him, if any,  
17 on the supreme court, and vice versa. All service rendered  
18 by a justice or judge before the effective date of secs. 10 -  
19 80 of this chapter shall be included in the computation.

20 Sec. 22.25.020. RETIREMENT PAY. A retired justice or  
21 judge eligible for retirement pay shall receive monthly,  
22 while retired, from the date of retirement until his death,  
23 compensation equal to five per cent per year of service, to  
24 a maximum of 75 per cent, of the monthly salary he is re-  
25 ceiving on the date of retirement, except that payments be-  
26 ginning before age 60 for reasons other than incapacity shall  
27 be made on an actuarial equivalent basis. A justice or judge  
28 may be permitted to elect any other actuarially equivalent  
29 optional form of benefit with the consent of the retirement

1 board. The election shall not be effective until attainment  
2 of age 60 or two years from the date of the election, which-  
3 ever is later. The election shall be in accordance with the  
4 conditions prescribed by the retirement board which may in-  
5 clude the requirement that the justice or judge provide  
6 evidence of good health satisfactory to the board.

7 Sec. 22.25.030. DEATH BENEFITS. (a) Upon the death of  
8 a justice or judge who is retired or who is eligible for re-  
9 tirement at the time of his death, his widow is entitled to  
10 receive during the remainder of her life and as long as she  
11 remains unmarried monthly compensation equal to one-half of  
12 the monthly retirement pay to which her deceased husband was  
13 or would have been entitled at age 60 on the basis of his  
14 actual earnings and service. However, in order to receive  
15 the compensation his widow must have been his wife con-  
16 tinuously for at least five years immediately before his  
17 death. For the purposes of this subsection a justice or judge  
18 who has served two or more years at the time of his death is  
19 considered eligible for retirement as of the date of his  
20 death.

21 (b) If the provisions of (a) of this section are not  
22 applicable, then, upon the death of a justice or judge who  
23 at the time of his death was eligible for retirement, the  
24 surviving designated beneficiary of the justice or judge, or  
25 if there is no surviving beneficiary, the estate of the  
26 justice or judge is entitled to a refund of the contributions,  
27 together with interest credited thereon, made by the justice  
28 or judge under the provisions of sec. 60 of this chapter.

29 (c) Upon the death of a retired justice or judge, where

1 the provisions of (a) of this section are not applicable,  
2 and upon the death of a widow who has received death benefits  
3 under (a) of this section, the surviving designated bene-  
4 ficiary, or if none, then the estate of the justice or judge  
5 receives the excess, if any, of the deceased's contribu-  
6 tions, together with the interest credited thereon, over  
7 the sum of retirement benefits that have been paid to the  
8 justice or judge and death benefits, if any, that have been  
9 paid to the deceased widow.

10 Sec. 22.25.040. REFUND OF CONTRIBUTIONS. A justice or  
11 judge who vacates his office for any reason and who is not  
12 then eligible for retirement is entitled to receive a refund  
13 of the total amount of his contributions, together with  
14 interest credited thereon. In the event that a justice or  
15 judge who has received a refund of contributions returns to  
16 active service, he shall repay the refunded contributions  
17 with interest at three per cent a year to receive credit for  
18 his earlier period of service under sec. 10(f) of this  
19 chapter.

20 Sec. 22.25.050. FINANCING AND ADMINISTRATION. (a)  
21 There shall be established in the Public Employees' Retire-  
22 ment System of Alaska a separate justices' and judges' re-  
23 tirement account, which shall be administered as a part of  
24 and in like manner as the Public Employees' Retirement  
25 System.

26 (b) There shall be credited to that account (1) the  
27 contributions provided by sec. 60 of this chapter, and (2)  
28 interest income and other income accruing to the system under  
29 the provisions of AS 39.35, in such reasonable pro rata

1 amount as may be determined by the Public Employees' Re-  
2 tirement Board of the system. Retirement pay and other  
3 benefits for justices and judges and their beneficiaries  
4 under secs. 10 - 80 of this chapter are paid from the special  
5 account.

6 Sec. 22.25.060. CONTRIBUTIONS. (a) Beginning on the  
7 effective date of secs. 10 - 80 of this chapter, each justice  
8 and judge shall contribute five per cent of compensation  
9 earned and accruing after that date. This contribution is  
10 made in the form of a deduction from compensation, and is  
11 made notwithstanding that the compensation paid in cash to  
12 the justice or judge is reduced thereby below the minimum  
13 prescribed by law. Each justice and judge is considered to  
14 consent to the deduction made from his compensation. Payment  
15 of compensation less the deduction constitutes a full and  
16 complete discharge and acquittance of all claims and demands  
17 for the services rendered by him during the period covered  
18 by the payment, except as to the benefits provided for under  
19 secs. 10 - 80 of this chapter.

20 (b) For services rendered after the effective date of  
21 secs. 10 - 80 of this chapter, the state court system shall  
22 make contributions concurrently with the contributions by  
23 the justices and judges in an amount to be determined in the  
24 same manner as employer contributions are determined under  
25 the Public Employees' Retirement System of Alaska. The  
26 amount required for contributions by the state court system  
27 for the purposes of secs. 10 - 80 of this chapter shall be  
28 included in its annual appropriations, together with an  
29 amount necessary for its pro rata share of the administrative

1 expense of the retirement system.

2 Sec. 22.25.070. VACANCY IN OFFICE. At the time a  
3 justice or judge retires under secs. 10 - 80 of this chapter  
4 his office is considered vacant.

5 Sec. 22.25.080. TRANSFER OF CONTRIBUTIONS. Upon the  
6 effective date of secs. 10 - 80 of this chapter the commis-  
7 sioner of administration shall transfer to the justices' and  
8 judges' retirement account provided by sec. 50 of this  
9 chapter all amounts then credited to the employee contribu-  
10 tion account and the employer assent share account of the  
11 Public Employees' Retirement System of Alaska which were  
12 credited to those accounts by reason of membership of  
13 justices or judges in the Public Employees' Retirement  
14 System before the effective date of secs. 10 - 80 of this  
15 chapter. Any amount held for the account of a justice or  
16 judge in an employee savings account, together with interest  
17 that may have accrued, shall be distributed to the justice  
18 or judge as soon as possible following the effective date of  
19 secs. 10 - 80 of this chapter.

20 \* Sec. 2. AS 39.35.370(c) is amended to read:

21 (c) The monthly amount of the normal retirement pension  
22 is the sum of (1) one-half of one per cent of the employee's  
23 average monthly compensation multiplied by his years of  
24 credited service, including fractional years; and (2) three-  
25 fourths of one per cent of the employee's average monthly  
26 compensation in excess of one-twelfth of the average annual  
27 taxable wage under the federal social security program during  
28 the period of credited service, after the effective date,  
29 multiplied by the number of years of credited service,

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including fractional years [; EXCEPT THAT THE PENSION PAYABLE TO A SUPREME AND SUPERIOR COURT JUDGE OF THE STATE SHALL BE FURTHER INCREASED BY AN AMOUNT EQUAL TO ONE-HALF PER CENT OF HIS AVERAGE MONTHLY COMPENSATION MULTIPLIED BY HIS YEARS OF CREDITED SERVICE, INCLUDING FRACTIONAL YEARS, AS A JUDGE, NOT TO EXCEED 20 YEARS OF SERVICE].

\* Sec. 3. AS 39.35.680(5) is amended to read:

(5) "employee" means a person who receives remuneration for full-time personal services regularly rendered to an employer or who would receive remuneration except for an authorized leave of absence, excluding (A) persons compensated on a contractual or fee basis, (B) casual or part-time workers in a position having duties which will not permit at least six months of service during a calendar year, (C) persons covered by the Alaska teachers' retirement system, [AND] (D) employees of the division of marine transportation engaged in operating the state ferry system who are covered by a union or group retirement system to which the state makes contributions, and (E) justices and judges of the supreme and superior courts of Alaska;

\* Sec. 4. This Act takes effect July 1, 1963.