

Original sponsor: Miller and Duncan

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1 IN THE HOUSE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR CS FOR HOUSE BILL NO. 198

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the public employees' retirement  
7 system; and providing for an effective date."

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

9 \* Section 1. AS 39.35.340 is repealed and re-enacted to read:

10 Sec. 39.35.340. MILITARY SERVICE. (a) An employee is entitled  
11 to service credit for active military service in the armed forces of  
12 the United States, either by enlistment or induction, if the employee  
13 did not receive a dishonorable discharge. The service credit allowed  
14 may not exceed an aggregate period of five years. The service credit  
15 available to the employee under this section may not be granted until  
16 the employee becomes vested in the retirement system. Benefits are  
17 not payable on military service credit unless the employee makes  
18 retroactive contributions to the system for the period of time that  
19 service credit is claimed. However, if the employee was in the employ  
20 of an employer on the date of entry into the armed forces and returned  
21 to the employ of an employer within 90 days after the date of his  
22 discharge from military service, he is not required to make retroactive  
23 contributions under this system for the period of service credit.

24 (b) In order to obtain service credit under this section, an  
25 employee shall make an election to do so and shall verify his period  
26 of military service before July 1, 1977 or within one year following  
27 the date when the employee becomes vested under this chapter, if  
28 later. When eligibility for military service credit has been estab-  
29 lished, an indebtedness shall be determined as follows: (1) the

1 employee's actual compensation, or the calculated annual compensation  
2 for those employees working less than 12 months, during the calendar  
3 year 1976 or the year in which an employee first becomes vested under  
4 this chapter, whichever is later, multiplied by (2) six per cent, such  
5 product multiplied by (3) the number of years of military service  
6 credited under this section. Interest as prescribed by regulation  
7 accrues on such indebtedness commencing on July 1, 1977 or one year  
8 following the date a person first becomes vested, whichever is later.  
9 Any outstanding indebtedness which exists at the time a person is  
10 appointed to retirement will necessitate an actuarial adjustment to the  
11 benefits payable based upon such military service.

12 (c) A person receiving retirement benefits under this chapter on  
13 the effective date of this Act is eligible to receive increased benefits  
14 based upon military service as described in (a) of this section. To  
15 receive military service credit, a retired person must verify his  
16 military service before July 1, 1977. When such service has been  
17 verified for a retired person to receive military service credit, he is  
18 entitled to receive an increased benefit which shall be actuarially  
19 adjusted to reflect his indebtedness for such credit. The indebtedness  
20 shall be calculated in the same manner as described in (b) of this  
21 section except that it shall be based on the average monthly compen-  
22 sation used in calculating the retirement benefit. The effective date  
23 of this increased benefit is the beginning of the month following that  
24 in which eligibility has been established.

25 (d) The service credit granted under this section may not count  
26 years of service for the purpose of satisfying eligibility for normal  
27 retirement or as eligibility for normal retirement before reaching  
28 normal retirement age under this chapter.

29 \* Sec. 2. AS 39.35.160(a) is amended to read:

1 (a) While participating in the system each peace officer and each  
2 fireman shall contribute five per cent and every other employee shall  
3 contribute five [FOUR] and one quarter per cent of his compensation to  
4 the public employees' retirement system.

5 \* Sec. 3. AS 39.35.680(11) is amended to read:

6 (11) "normal retirement date" for a peace officer or a fireman  
7 means the first day of the month following either his 55th birthday and  
8 five years of credited service or his 20th year of credited service,  
9 whichever is earlier. For any other employee it means the first day of  
10 the month following either his 55th birthday and five years of credited  
11 service or his 25th [30TH] year of credited service, whichever is  
12 earlier.

13 \* Sec. 4. AS 39.35.400(b) is repealed and re-enacted to read:

14 (b) The nonoccupational disability pension benefits accrue begin-  
15 ning the first day of the month following termination of employment as a  
16 result of the disability. If a final determination granting the pension  
17 is not made in time to pay the first month's pension when due, a retro-  
18 active payment shall be made to cover the period of deferment. Benefits  
19 shall be continued after one year from the date of appointment to  
20 nonoccupational disability only if the disabled person fulfills the  
21 requirements set out in (e) of this section. The last payment shall be  
22 for the month in which (1) the death of the disabled employee occurs, or  
23 (2) the month in which the disabled employee recovers from disability,  
24 or (3) the month in which the disabled employee ceases to be eligible  
25 for disability benefits under the Social Security Act, or (4) the month  
26 the disabled employee reaches normal retirement age, whichever occurs  
27 first.

28 \* Sec. 5. AS 39.35.400(c) is amended to read:

29 (c) If the disabled [RETIRED] employee becomes ineligible to

1 receive [RECOVERS FROM THE] nonoccupational disability benefits, he is  
2 entitled to receive a normal or early retirement pension if he would  
3 have been eligible for the pension had his employment continued during  
4 the period of disability. However, the period of disability does not  
5 constitute credited service.

6 \* Sec. 6. AS 39.35.400(d) is amended to read:

7 (d) The monthly amount of the nonoccupational disability pension  
8 shall be determined in accordance with sec. 370(c) of this chapter,  
9 considering the employee's credited service and compensation before  
10 termination of employment. [HOWEVER, THE AMOUNT SHALL BE REDUCED  
11 BY WAGE CONTINUATION PAYMENTS WHICH ARE AVAILABLE TO THE EMPLOYEE  
12 AND WHICH ARE ATTRIBUTABLE TO THE EMPLOYERS. THE AMOUNT MAY NOT  
13 EXCEED THE BENEFIT DETERMINED IN ACCORDANCE WITH SEC. 410(d) OF THIS  
14 CHAPTER.]

15 \* Sec. 7. AS 39.35.400(e) is repealed and re-enacted to read:

16 (e) A disabled employee receiving a nonoccupational disability  
17 pension shall provide the administrator, one year after appointment  
18 to disability retirement and once each year thereafter until  
19 disability benefits cease, proof of continuing eligibility to receive  
20 disability payments under the Social Security Act. If a disabled  
21 employee is otherwise ineligible for social security, he shall pro-  
22 vide the administrator with sufficient medical evidence once each  
23 year to demonstrate that disability benefits under the Social Security  
24 Act would be payable had the employee been otherwise eligible. If  
25 the disabled employee fails to provide the administrator with evidence  
26 of continuing eligibility for disability payments under the Social  
27 Security Act or other medical evidence required by the administrator  
28 within 30 days following each anniversary date, the disability pay-  
29 ments from the system shall cease. If that information is subsequently

1 provided to the administrator, payments will resume beginning for  
2 the month following that in which the information is provided. When  
3 disability payments under the Social Security Act cease, it is the  
4 responsibility of the disabled employee to notify the administrator  
5 immediately. Upon notification, the administrator shall cease making  
6 disability payments.

7 \* Sec. 8. AS 39.35.400 is amended by adding a new subsection to read:

8 (f) A disabled employee's nonoccupational disability pension  
9 terminates when the employee first attains eligibility for normal re-  
10 tirement. At that time, his retirement benefits will be calculated  
11 under the provisions of sec. 370(c) of this chapter.

12 \* Sec. 9. AS 39.35.410(b) is repealed and re-enacted to read:

13 (b) The occupational disability pension benefits accrue begin-  
14 ning the first day of the month following termination of employment  
15 as a result of the disability. If a final determination granting the  
16 pension is not made in time to pay the first month's pension when  
17 due, a retroactive payment shall be made to cover the period of de-  
18 ferment. Benefits shall be continued after one year from date of  
19 appointment to occupational disability only if the disabled person  
20 fulfills the requirements set out in (g) of this section. The last  
21 payment shall be for the month in which (1) the death of the disabled  
22 employee occurs, or (2) the month in which the disabled employee re-  
23 covers from disability, or (3) the month in which the disabled employee  
24 ceases to be eligible for disability benefits under the Social Security  
25 Act, or (4) the month the disabled employee reaches normal retirement  
26 age, whichever occurs first.

27 \* Sec. 10. AS 39.35.410(c) is amended to read:

28 (c) If the disabled [RETIRED] employee becomes ineligible to  
29 receive [RECOVERS FROM THE] occupational disability benefits before his

1 normal retirement date, the disabled [RETIRED] employee shall then be  
2 entitled to receive an early retirement pension if he would have been  
3 eligible for the pension had his employment continued during the period  
4 of disability. The period of disability constitutes credited service  
5 [FOR ALL EMPLOYEES].

6 \* Sec. 11. AS 39.35.410(d) is repealed and re-enacted to read:

7 (d) The monthly amount of an occupational disability pension is 40  
8 per cent of the disabled employee's gross monthly compensation at the  
9 time of termination due to disability.

10 \* Sec. 12. AS 39.35.410(e) is repealed.

11 \* Sec. 13. AS 39.35.410(g) is repealed and re-enacted to read:

12 (g) A disabled employee receiving an occupational disability  
13 pension shall provide the administrator, one year after appointment to  
14 disability retirement and once each year thereafter until disability  
15 benefits cease, proof of continuing eligibility to receive disability  
16 payments under the Social Security Act. If a disabled employee is  
17 otherwise ineligible for social security, he shall provide the adminis-  
18 trator with sufficient medical evidence once each year to demonstrate  
19 that disability benefits under the Social Security Act would be payable  
20 had the employee been otherwise eligible. If the disabled employee  
21 fails to provide the administrator with evidence of continuing eligi-  
22 bility for disability payments under the Social Security Act or other  
23 medical evidence required by the administrator within 30 days following  
24 each anniversary date, the disability payments from the system shall  
25 cease. If that information is subsequently provided to the adminis-  
26 trator, payments will resume beginning for the month following that in  
27 which the information is provided. When disability payments under the  
28 Social Security Act cease, it is the responsibility of the disabled  
29 employee to notify the administrator immediately. Upon notification,

1 the administrator shall cease making disability payments.

2 \* Sec. 14. AS 39.35.420(a) is amended to read:

3 (a) If the death of an employee occurs from nonoccupational causes  
4 before appointment to [HIS] retirement, and [BUT] after completing [HE  
5 HAS COMPLETED] at least one year but less than five years of credited  
6 service, [AND THE EMPLOYEE'S SURVIVOR IS NOT ENTITLED TO A SURVIVING  
7 SPOUSE'S PENSION UNDER SEC. 430 OF THIS CHAPTER,] a lump sum death  
8 benefit shall be paid to the beneficiary of the employee. The amount of  
9 the lump sum death benefit shall be \$1,000 plus \$100 for each year of  
10 credited service. The lump sum death benefit is in addition to a refund  
11 of the balance of the employee contribution account of the deceased  
12 employee under sec. 210 of this chapter.

13 \* Sec. 15. AS 39.35.420(b) is amended to read:

14 (b) If the death of an [THE] employee or deferred vested member  
15 occurs from nonoccupational causes before appointment to [HIS] retire-  
16 ment and after completing [HE HAS COMPLETED] at least five years of  
17 credited service, [AND THE EMPLOYEE'S SURVIVOR IS NOT ENTITLED TO A  
18 SURVIVING SPOUSE'S PENSION UNDER SEC. 430 OF THIS CHAPTER,] the sur-  
19 living spouse [SURVIVOR] may at his or her discretion receive either the  
20 benefits described in (a) of this section or a 50 per cent joint and  
21 survivor option based upon credited service to the date of the employ-  
22 ee's death or termination and payable to the surviving spouse [SURVIVOR]  
23 commencing for [THE FIRST DAY OF] the month following the death of the  
24 employee.

25 \* Sec. 16. AS 39.35.430(a) is repealed.

26 \* Sec. 17. AS 39.35.430(b) is amended to read:

27 (b) If (1) the death of an employee [A PEACE OFFICER OR A FIREMAN]  
28 occurs before his retirement and before his normal retirement date, and  
29 (2) the proximate cause of death is a bodily injury sustained or a

1 hazard undergone while in the performance and within the scope of his  
2 duties, and (3) the injury or hazard is not the proximate result of  
3 wilful negligence of the employee, a monthly survivor's pension equal to  
4 40 per cent of his monthly compensation in the month in which he died  
5 shall be paid to his surviving spouse. If [HIS SURVIVING SPOUSE RE-  
6 MARRIES OR IF] there is no surviving spouse the monthly survivor's  
7 pension shall be paid in equal parts to the children of the employee,  
8 including those adopted, who are either under 19 [18] years old or under  
9 23 years old and registered at and attending on a full-time basis an  
10 accredited educational or technical institution recognized by the  
11 Department of Education. On the date the normal retirement of the  
12 employee would have occurred if he had lived, monthly payments shall  
13 equal the monthly amount of the normal retirement benefit to which the  
14 employee, had he lived and continued his employment [AS A PEACE OFFICER  
15 OR A FIREMAN] until his normal retirement date, would have been entitled  
16 with an average monthly compensation as existed at his death and the  
17 credited service to which he would have been entitled [HAD].

18 \* Sec. 18. AS 39.35.430(c) is amended to read:

19 (c) The first payment of the surviving spouse's pension or of the  
20 surviving child's [SURVIVOR'S] pension shall be made for [ON THE FIRST  
21 DAY OF] the month following the month in which the employee dies and the  
22 payment shall cease to be made for [AS OF THE FIRST DAY OF] the month in  
23 which there is no eligible surviving spouse or child [BENEFICIARY].

24 \* Sec. 19. AS 39.35.430(d) and (e) and 39.35.440(a) are repealed.

25 \* Sec. 20. AS 39.35.440(b) is amended to read:

26 (b) Upon the death of a retired employee who [WAS A PEACE OFFICER  
27 OR A FIREMAN ON THE DATE OF HIS RETIREMENT AND WHO] is receiving or is  
28 entitled to receive an occupational disability pension, a surviving  
29 spouse's pension equal to 40 per cent [TWO-THIRDS] of his average

1 monthly compensation shall be paid to his surviving spouse. If [HIS  
2 SURVIVING SPOUSE REMARRIES OR IF] there is no surviving spouse, the  
3 survivor's pension shall be paid in equal parts to the children of the  
4 employee, including those adopted, who are either under 19 [18] years  
5 old or under 23 years old and registered at and attending on a full-  
6 time basis an accredited educational or a technical institution recog-  
7 nized by the Department of Education. On the date the normal retire-  
8 ment of the employee would have occurred if he had lived, monthly  
9 payments shall equal the monthly amount of the normal retirement  
10 benefit to which the employee, had he lived and continued his employ-  
11 ment until his normal retirement date, would have been entitled with  
12 an average monthly compensation as existed at his death and the  
13 credited service to which he would have been entitled.

14 \* Sec. 21. AS 39.35.440(c) is amended to read:

15 (c) The first payment of the surviving spouse's pension or of  
16 the surviving child's [SURVIVOR'S] pension shall be made for [ON THE  
17 FIRST DAY OF] the month following the month in which the employee dies  
18 and the payments shall cease to be made for [AS OF THE FIRST DAY OF] the  
19 month in which there is no eligible surviving spouse or child [BENE-  
20 FICIARY].

21 \* Sec. 22. AS 39.35.680(10) is amended to read:

22 (10) "nonoccupational disability" means a physical or mental  
23 condition which, in the judgment of the administrator [BOARD], based  
24 upon medical reports and other evidence satisfactory to the adminis-  
25 trator [BOARD], presumably permanently prevents an employee from satis-  
26 factorily performing his usual duties for his employer or the duties of  
27 another position or job which his [AN] employer makes available and for  
28 which the employee is qualified by [HIS] training or education, not  
29 including a condition resulting from a cause which the board, in its

1 rules, has excluded;

2 \* Sec. 23. AS 39.35.680(12) is amended to read:

3 (12) "occupational disability" means a physical or mental  
4 condition which presumably permanently prevents an employee from satis-  
5 factorily performing his usual duties for his employer [, OR THE DUTIES  
6 OF ANOTHER POSITION OR JOB WHICH AN EMPLOYER MAKES AVAILABLE AND FOR  
7 WHICH THE EMPLOYEE IS QUALIFIED BY TRAINING OR EDUCATION]; however, the  
8 proximate cause of the condition must be a bodily injury sustained, or a  
9 hazard undergone, while in the performance and within the scope of the  
10 employee's duties and not the proximate result of the wilful negligence  
11 of the employee; a determination of whether occupational disability  
12 exists shall be made by the administrator [BOARD], based upon medical  
13 reports and other evidence satisfactory to the administrator [BOARD];

14 \* Sec. 24. AS 39.35.485(a) is amended to read:

15 (a) An employee [WHOSE TERMINATION OCCURRED BEFORE JULY 1, 1975  
16 AND] who is eligible for a benefit calculated in accordance with sec.  
17 370(c) of this chapter is entitled to a benefit of at least \$17.50  
18 [\$13.25] a month for each year of credited service, not including  
19 adjustments made under secs. 380, 410, 450, 475 and 480 of this chapter.

20 \* Sec. 25. Sections 2 and 3 of this Act become effective on July 1, 1976  
21 if approved by a majority of the votes cast in a special election conducted  
22 by the Public Employees Retirement Board to be held among active members of  
23 the retirement system. During the conduct of this election, the division  
24 shall remain impartial and take no position on the question.

25 \* Sec. 26. This Act, except for secs. 2 and 3, takes effect July 1, 1976.  
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