

1 IN THE SENATE

BY THE FREE CONFERENCE COMMITTEE

2 FREE CONFERENCE CS FOR HOUSE CS FOR SENATE BILL NO. 404

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the compensation and retirement
7 of judicial officers, legislators, and public officers
8 and employees; and legislative per diem; and providing
9 for an effective date."

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

11 * Section 1. AS 22.05.140(a) is amended to read:

12 (a) The annual salary for the chief justice and each associate
13 justice is 20 per cent above Step E, Range 28 of the salary schedule
14 established in AS 39.27.010 for Anchorage, Alaska [SHALL RECEIVE \$44,000
15 ANNUALLY AS COMPENSATION]. The compensation is payable monthly in 12
16 equal installments. Compensation of the chief justice or of an associate
17 justice shall not be diminished during his term of office, unless by
18 general law applying to all salaried officers of the state.

19 * Sec. 2. AS 22.10.190(a) is amended to read:

20 (a) The annual salary for each [EACH] superior court judge is 10
21 per cent above Step E, Range 28 of the salary schedule established in
22 AS 39.27.010 for Anchorage, Alaska [SHALL RECEIVE \$40,000 ANNUALLY, AS
23 COMPENSATION], payable monthly in 12 equal installments. The compensa-
24 tion of a judge shall not be diminished during his term of office, unless
25 by general law applying to all salaried officers of the state.

26 * Sec. 3. AS 22.15.220(a) is amended to read:

27 (a) The annual salary for each [EACH] district judge is 93 per
28 cent of Step E, Range 28 of the salary schedule established in AS 39.-
29 27.010 for Anchorage, Alaska [SHALL RECEIVE \$33,500 ANNUALLY AS COMPEN-

1 SATION], payable monthly in 12 equal installments.

2 * Sec. 4. AS 24.15.020 is amended to read:

3 Sec. 24.15.020. ANNUAL LEGISLATIVE SALARIES. The annual salary
4 for each member of the legislature is 33-1/3 per cent of Step E, Range
5 28 of the salary schedule established in AS 39.27.010 for Anchorage,
6 Alaska, [\$9,000] to be paid in approximately equal monthly payments.
7 The president of the senate and speaker of the house of representatives
8 are each entitled to an additional \$500 a year during tenure of office.

9 * Sec. 5. AS 39.20.080(a) is amended to read:

10 (a) The annual salary of the head of each principal executive
11 department of the state upon appointment and confirmation is 10 per cent
12 above Step E, Range 28 of the salary schedule established in AS 39.27.-
13 010 for Anchorage, Alaska [\$40,000]. This salary shall be paid in equal
14 monthly installments.

15 * Sec. 6. AS 24.15.010 is repealed and re-enacted to read:

16 Sec. 24.15.010. LEGISLATIVE PER DIEM. (a) For each day of the
17 legislative session and for each day on official legislative business
18 between sessions, legislators (1) on travel status and away from home
19 overnight shall be allowed, instead of their actual expenses for sub-
20 sistence a per diem allowance of \$48 for each day; (2) not away from
21 home overnight shall receive an allowance of \$35 for each day. The per
22 diem allowance is also payable for each day of necessary travel.

23 * Sec. 7. AS 22 is amended by adding a new chapter to read:

24 CHAPTER 28. CONTRIBUTORY JUDICIAL RETIREMENT SYSTEM.

25 Sec. 22.28.010. APPLICATION. Each justice or judge appointed
26 before January 1, 1976 shall accrue benefits under the provisions of
27 ch. 25 of this title. Each justice or judge appointed after that date
28 and who has not accrued benefits under ch. 25 of this title shall accrue
29 benefits under the system provided in this chapter.

1 Sec. 22.28.020. ADMINISTRATION. The commissioner of administra-
2 tion is responsible for the administration of the system.

3 Sec. 22.28.030. REGULATIONS. The commissioner may promulgate
4 regulations to implement the provisions of this chapter. Regulations
5 adopted by the commissioner under this chapter relate to the internal
6 management of state agencies and their adoption is not subject to the
7 Administrative Procedure Act (AS 44.62).

8 Sec. 22.28.040. CONTRIBUTIONS. While participating in the system
9 each justice and judge shall contribute seven per cent of his compensa-
10 tion to the retirement system.

11 Sec. 22.28.050. RETIREMENT OF JUSTICES AND JUDGES. (a) A justice
12 or judge shall be retired on the date that he reaches the age of 70. He
13 is eligible for retirement pay if he has had five or more years of
14 service at the time of retirement as a justice or judge.

15 (b) A justice or judge may be retired for incapacity as provided
16 by law. He is eligible for retirement pay if he has had two or more
17 years of service at the time of retirement for incapacity. The effec-
18 tive date of retirement under this subsection is the first day of the
19 month coinciding with or after the date upon which the governor with
20 respect to a justice, or the supreme court with respect to a judge files
21 with the commissioner of administration a written declaration to the
22 effect that a designated justice or judge was retired for incapacity.
23 A duplicate copy of the declaration shall be filed with the judicial
24 council.

25 (c) A justice or judge who served for a period of five years, and
26 who believes that he has become so incapacitated as to prevent him from
27 efficiently performing his judicial duties may file with the governor a
28 written application for retirement which contains a sworn statement of
29 his service and of his incapacity. When an application is filed, the

1 governor shall appoint a board of three persons to inquire into the
2 circumstances, and may, upon the board's recommendation, retire the
3 justice or judge. The effective date of the retirement shall be as
4 provided in (b) of this section.

5 (d) A justice or judge may voluntarily retire at any time and
6 shall have a vested right to his accrued retirement pay if he has served
7 five or more years. Retirement pay shall not commence until he has
8 reached age 60, except that an actuarially equivalent retirement pay may
9 be commenced after he has reached age 55 or upon his serving 20 years as
10 a justice or judge. The provisions of (b) of this section are an
11 exception to this rule. A justice or judge desiring to retire under
12 this subsection shall file with the commissioner of administration a
13 notice of his desire. If a justice or judge is eligible to receive
14 retirement pay at the time of his retirement, his retirement pay shall
15 commence on the first day of the month coinciding with or after the
16 date the notice is filed with the commissioner of administration. If
17 a justice or judge is not eligible to receive retirement pay at the
18 time of his retirement, his retirement pay shall commence on the first
19 day of the month he reaches age 60 or the month he becomes eligible
20 for an actuarial equivalent if he has applied for this option.

21 (e) In the computation of service for retirement under this
22 chapter, the time served by a justice or judge of any court of the
23 state is added to the time served by him, if any, on any other court of
24 the state.

25 (f) The word "justice" means a supreme court justice, and the
26 word "judge", unless the context clearly indicates otherwise, means a
27 superior court or district court judge.

28 Sec. 22.28.060. RETIREMENT PAY. A retired justice or judge
29 eligible for retirement pay shall receive from the date of his eligi-

1 bility until his death monthly compensation equal to five per cent per
2 year of service, to a maximum of 75 per cent, of the monthly salary
3 authorized for justices and judges, respectively, at the time each
4 retirement payment is made.

5 Sec. 22.28.070. SURVIVORS' BENEFITS. (a) Upon the death of a
6 justice or judge who has served for at least two years, the surviving
7 spouse is entitled to receive monthly compensation equal to one-half of
8 the monthly retirement pay the justice or judge would thereafter have
9 been entitled to receive if retired at the time of death. If at death
10 the justice or judge was not yet entitled to retirement pay, or was or
11 would have been entitled to less than 60 per cent of the monthly salary
12 authorized for his office, the surviving spouse is entitled to monthly
13 compensation equal to 30 per cent of the salary authorized for justices
14 or judges, respectively, at the time each monthly payment is made.

15 (b) To be eligible for the survivors' benefits, the surviving
16 spouse must have been married to the justice or judge for at least two
17 years immediately preceding the death of the justice or judge. The
18 benefits continue until the remarriage or death of the surviving spouse.

19 (c) If there is no surviving spouse, or if the surviving spouse
20 does not meet the requirements of (b) of this section, or upon the
21 remarriage or death of the surviving spouse, the surviving dependent
22 child or children of the justice or judge are entitled to receive in
23 equal shares 50 per cent of the amount of the survivors' benefits
24 specified under (a) of this section.

25 (d) The surviving child or children are entitled to the survivors'
26 benefits under (c) of this section during the period of their depend-
27 ency. Dependency exists with respect to any child of a justice or judge
28 who is either (1) a minor under the laws of Alaska, (2) under the age of
29 23 and is a student attending on a full-time basis an accredited educa-

1 tional or technical institution recognized by the Department of Educa-
2 tion, or (3) so mentally or physically incapacitated as to be unable to
3 provide for self-care.

4 (e) If there are both an eligible surviving spouse and surviving
5 dependent children, but who reside in separate households, the sur-
6 viving spouse and dependent children will share equally in the benefits
7 payable under (a) of this section.

8 Sec. 22.28.080. TAX EXEMPTION. Benefits paid under this chapter
9 are exempt from state and municipal taxes.

10 Sec. 22.28.090. APPROPRIATIONS. An estimated amount sufficient
11 to pay all benefits, including interest credited to individual accounts,
12 anticipated to be paid under this chapter in each fiscal year shall
13 be included in the annual appropriation to the Department of Adminis-
14 tration. If the actual authorized benefits necessary to be paid in
15 any fiscal year exceed the sum appropriated, the benefits due shall
16 nevertheless be paid from general funds of the state not otherwise
17 appropriated.

18 Sec. 22.28.100. ACCOUNTING. (a) The contributory judicial
19 retirement account shall be established to which all appropriations
20 under this chapter shall be credited.

21 (b) An individual account shall be maintained for each justice
22 or judge to which the amount of his mandatory contributions collected
23 under this chapter shall be credited as of the date of deduction or
24 payment, as the case may be. As of the last day of each calendar year
25 and each fiscal year beginning with June 30, 1976, this account shall
26 be credited with interest by applying one-half of the prescribed rate
27 of interest to the balance in the account as of that date.

28 (c) Upon commencement of retirement pay to a justice or judge,
29 the balance in his individual account shall be transferred to the

1 contributory judicial retirement account.

2 Sec. 22.28.110. REFUNDS. Upon termination of judicial service,
3 application may be made for a refund of the balance in the individual's
4 account. Upon withdrawal of the balance, all rights to benefits
5 terminate.

6 Sec. 22.28.120. PRIOR SERVICE CREDIT. In the event a justice
7 or judge who has withdrawn the balance of his individual account
8 returns to permanent active service, he shall receive credit for his
9 prior period or periods of service only if he repays within one year
10 of the date of return all refunded contributions with interest at the
11 prevailing prescribed rate.

12 * Sec. 8. AS 39 is amended by adding a new chapter to read:

13 CHAPTER 37. ELECTED PUBLIC OFFICERS RETIREMENT SYSTEM.

14 Sec. 39.37.010. APPLICATION. This chapter applies to persons
15 who are elected public officers on the effective date of this chapter
16 and to persons who become elected public officers after the effec-
17 tive date of the chapter.

18 Sec. 39.37.020. RETIREMENT OF ELECTED PUBLIC OFFICERS. An
19 elected public officer is eligible for retirement pay if he has had
20 five or more years of service at the time of retirement as an elected
21 public officer.

22 Sec. 39.37.030. RETIREMENT FOR INCAPACITY. An elected public
23 officer who has served for a period of five years, and who believes that
24 he has become so incapacitated as to prevent him from efficiently per-
25 forming his duties, may file a written application for retirement
26 which contains a sworn statement of his service and of his incapacity.
27 When an application is filed, a board of three persons to inquire into
28 the circumstances shall be appointed by the chief justice of the state
29 supreme court, and the commissioner of administration upon the board's

1 recommendation shall retire the elected public officer. The effective
2 date of the retirement shall be the first day of the month following
3 the recommendation of the board.

4 Sec. 39.37.040. VOLUNTARY RETIREMENT. (a) An elected public
5 officer may voluntarily retire at any time and shall have a vested right
6 to his accrued retirement pay if he has served five years or more.
7 Retirement pay shall not begin until he has reached age 60, except that
8 an actuarially equivalent retirement pay may be begun after he has
9 reached age 55 or upon attaining 20 years of creditable service. The
10 provisions of sec. 20 of this chapter are an exception to this rule.

11 (b) An elected public officer desiring to retire under this
12 section shall file with the commissioner of administration an applica-
13 tion for retirement.

14 (c) If an elected public officer is eligible to receive retire-
15 ment pay at the time of his retirement, his retirement pay shall begin
16 on the first day of the month following termination of office. If an
17 elected public officer is not eligible to receive retirement pay at
18 the time of his retirement, his retirement pay shall begin on the first
19 day of the month he reaches age 60 or at age 55 with an actuarially
20 reduced benefit.

21 Sec. 39.37.050. BENEFIT FORMULA. (a) A person retired under
22 the provisions of this chapter shall receive from the effective date
23 of his retirement until his death monthly compensation equal to a
24 per cent of either (1) the monthly salary and additional allowances
25 established under AS 24.15.030 authorized for the office from which he
26 retired at the time each retirement payment is made; or (2) his
27 average monthly compensation as defined in AS 39.35.680. At the
28 time the official applies for retirement, he shall elect to have
29 his benefits computed under either (1) or (2) of this subsection.

1 The election is irrevocable.

2 (b) The per cent shall be five per cent per year of membership
3 service and the per cent per year of other creditable service equal
4 to the benefit formula used for years of creditable service under
5 ch. 35 of this title prevailing at the time of retirement.

6 (c) The total percentage under (b) of this section shall not
7 exceed 75 per cent.

8 Sec. 39.37.060. SURVIVORS' BENEFITS. (a) Upon the death of
9 an elected public officer who has served at least two years, the
10 surviving spouse is entitled to receive monthly compensation equal
11 to one-half of the monthly retirement pay the elected public officer
12 would thereafter have been entitled to receive if retired at the time
13 of death. If at death the elected public officer was not yet entitled
14 to retirement pay, or was or would have been entitled to less than 60
15 per cent of the monthly salary authorized for his office, the surviving
16 spouse is entitled to monthly compensation equal to 30 per cent of the
17 monthly salary authorized for the office at the time each retirement
18 payment is made or 30 per cent of his average monthly compensation
19 as defined in AS 39.35.680.

20 (b) To be eligible for the survivors' benefits, the surviving
21 spouse must have been married to the elected public officer for at
22 least two years immediately preceding the death of the elected public
23 officer. The benefits continue until the remarriage or death of the
24 surviving spouse.

25 (c) If there is no surviving spouse, or if the surviving spouse
26 does not meet the requirements of (b) of this section, or upon the
27 remarriage or death of the surviving spouse, the surviving dependent
28 child or children of the elected public officer are entitled to receive
29 in equal shares 50 per cent of the amount of the survivors' benefits

1 specified under (a) of this section.

2 (d) The surviving child or children are entitled to the survivors'
3 benefits under (c) of this section during the period of their depend-
4 ency. Dependency exists with respect to any child of an elected
5 public officer who is either (1) a minor under the laws of Alaska;
6 (2) under the age of 23 and is a student attending on a full-time
7 basis an accredited educational or technical institution recognized
8 by the Department of Education; or (3) so mentally or physically
9 incapacitated as to be unable to provide for self-care.

10 (e) If there are both an eligible surviving spouse and surviving
11 dependent children, but who reside in separate households, the surviving
12 spouse will receive one-half of the benefits payable under (a) of this
13 section and the dependent children will share equally in the remainder
14 of the benefits.

15 Sec. 39.37.070. CONTRIBUTIONS. (a) Each elected public officer
16 shall contribute seven per cent of his compensation to the retirement
17 system.

18 (b) An elected public officer participating in the retirement
19 system established under this chapter is entitled to service credit
20 for creditable service to the state, territory, or political subdivi-
21 sion before the effective date of this chapter for each year of such
22 service for which he has accrued service credit under ch. 35 of this
23 title.

24 (c) An elected public officer participating in the retirement
25 system established under this chapter may become entitled to service
26 credit for creditable service to the state, territory or political
27 subdivision before the effective date of this chapter for which he has
28 not accrued service credit under ch. 35 of this title by complying
29 with the following:

1 (1) if the prior creditable service was covered under
2 ch. 35 of this title at the time it was rendered, he shall pay contri-
3 butions for each year of seven per cent of the compensation received
4 at the time service was rendered; or

5 (2) if the prior creditable service was not covered under
6 ch. 35 of this title at the time service was rendered, he shall pay
7 contributions of seven per cent of his compensation at the time he
8 makes application under (d) of this section;

9 (3) if the service was as an elected public officer, he
10 shall pay contributions at the rate of seven per cent of the amount
11 of salary actually paid during the period.

12 (d) To receive service credit under (c) of this section, an
13 elected public officer must make application within 60 days of becoming
14 a participant in the retirement system established under this chapter.

15 (e) Each public officer who has accrued five years or more of
16 membership service shall contribute to this retirement system seven
17 per cent of compensation received thereafter for all creditable service
18 and is entitled to benefits as provided in this chapter.

19 (f) The compensation applicable to a member of the legislature
20 making a contribution under (a) of this section is the sum of the legis-
21 lative salary and additional allowances established under AS 24.15.020
22 and 24.15.030.

23 (g) The contribution is made in the form of a payroll deduction
24 and is made notwithstanding that the compensation paid in cash to the
25 elected public officer is reduced below the minimum prescribed by law.
26 Each elected public officer is considered to consent to the deduction
27 made from his compensation. Payment of compensation less the deduction
28 prescribed in (a) of this section and other payroll deductions consti-
29 tutes a full and complete discharge and satisfaction of all claims and

1 demands for the services rendered by him during the period covered by
2 the payment, except as to the benefits provided for under this chapter.

3 Sec. 39.37.080. ADMINISTRATION. The commissioner of administra-
4 tion is responsible for the administration of the system.

5 Sec. 39.37.090. REGULATIONS. The commissioner may promulgate
6 regulations to implement the provisions of this chapter. Regulations
7 adopted by the commissioner under this chapter relate to the internal
8 management of state agencies and their adoption is not subject to the
9 Administrative Procedure Act (AS 44.62).

10 Sec. 39.37.100. TAX EXEMPTION. Benefits paid under this chapter
11 are exempt from state and municipal taxes.

12 Sec. 39.37.110. APPROPRIATIONS. An estimated amount sufficient
13 to pay all benefits, including interest credited to individual accounts,
14 anticipated to be paid under this chapter in each fiscal year shall
15 be included in the annual appropriation to the Department of Adminis-
16 tration. If the actual authorized benefits necessary to be paid in
17 any fiscal year exceed the sum appropriated, the benefits due shall
18 nevertheless be paid from general funds of the state not otherwise
19 appropriated.

20 Sec. 39.37.120. ACCOUNTING. (a) The elected public officers
21 retirement account shall be established to which all appropriations
22 under this chapter shall be credited.

23 (b) An individual account shall be maintained for each elected
24 public officer to which the amount of his mandatory contributions
25 collected under this chapter shall be credited as of the date of
26 deduction or payment, as the case may be. As of the last day of each
27 calendar year and each fiscal year beginning with June 30, 1976, this
28 account shall be credited with interest by applying one-half of the
29 prescribed rate of interest to the balance in the account as of that

1 date.

2 (c) Upon commencement of retirement pay to an elected public
3 officer, the balance in his individual account shall be transferred
4 to the elected public officers retirement account.

5 (d) Upon commencement of participation in this retirement system,
6 any balance in an elected public officer's individual account under
7 ch. 35 of this title is transferred to his individual account under
8 this section.

9 Sec. 39.37.130. REFUNDS. Upon termination of creditable service,
10 application may be made for a refund of the balance in the individual's
11 account. Upon withdrawal of the balance, all rights to benefits
12 terminate.

13 Sec. 39.37.140. PRIOR SERVICE CREDIT. In the event an elected
14 public officer who has withdrawn the balance of his individual account
15 returns to elected public office, he shall receive credit for his
16 prior period or periods of service only if he repays within one year
17 of the date of return all refunded contributions with interest at the
18 prevailing prescribed rate.

19 Sec. 39.37.150. DEFINITIONS. In this chapter

20 (1) "elected public officer" means the governor, lieutenant
21 governor, or a member of the legislature;

22 (2) "creditable service" means service as an elected public
23 officer and other service to the state, territory, or political sub-
24 division under which benefits presently accrue under ch. 35 of this
25 title;

26 (3) "membership service" means service as an elected public
27 officer.

28 * Sec. 9. AS 39.35.680(5)(B) is amended to read:

29 (B) means an elected official of a political subdivision

1 currently serving who elects to pay contributions required of an
2 employee and to be included in the system under sec. 125 of this
3 chapter; [FOR PURPOSES OF THIS PARAGRAPH A STATE LEGISLATOR IS
4 CONSIDERED TO BE A FULL-TIME ELECTED OFFICIAL;]

5 * Sec. 10. AS 39.35.680(5)(C)(v) is amended to read:

6 (v) justices and judges of the supreme, superior and
7 district courts of Alaska; or the governor and lieutenant
8 governor of Alaska; or the members of the Alaska State
9 Legislature;

10 * Sec. 11. AS 39.35.380(a) is amended to read:

11 (a) An employee [, OTHER THAN A PEACE OFFICER OF FIREMAN,] is
12 eligible for an early retirement pension on or after his 50th [55TH]
13 birthday and after he completes five or more years of credited service.
14 [A PEACE OFFICER OR FIREMAN IS ELIGIBLE FOR AN EARLY RETIREMENT PENSION
15 ON OR AFTER HIS 50TH BIRTHDAY AND AFTER HE COMPLETES FIVE OR MORE
16 YEARS OF CREDITED SERVICE AS A PEACE OFFICER OR FIREMAN.]

17 * Sec. 12. AS 39.35.380 is amended by adding a new subsection to read:

18 (d) An employee who previously retired under (a) of this section
19 shall be paid benefits computed under sec. 370(c) of this chapter from
20 the effective date of this Act.

21 * Sec. 13. AS 39.35.410(d) is amended to read:

22 (d) The monthly amount of an occupational disability pension for
23 a peace officer or a fireman shall be two-thirds of his gross monthly
24 compensation at the time of his disability. For any other employee
25 it shall be determined in accordance with sec. 370(c) of this chapter,
26 considering (1) the employee's compensation before his termination of
27 employment, and (2) either the credited service that would have been
28 accumulated if the employee's employment had continued until his 55th
29 [60TH] birthday after his disability or his actual credited service