

Original sponsor: Malone

Offered: 4/25/78  
Referred: Finance

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 456

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a contributory judicial 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 22 is amended by adding a new chapter to read:

10 CHAPTER 27. CONTRIBUTORY JUDICIAL RETIREMENT SYSTEM.

11 Sec. 22.27.010. APPLICATION. (a) Except as provided in (b) of  
12 this section, each justice or judge appointed before July 1, 1978 ac-  
13 crues benefits under the provisions of ch. 25 or ch. 28 of this title.  
14 Each justice or judge appointed after that date and all full-time  
15 magistrates accrue benefits under the system provided in this chapter.

16 (b) A justice or judge appointed before July 1, 1978, who receives  
17 an increase or increases in salary after July 1, 1978, equivalent to or  
18 greater than seven per cent of his salary as of July 1, 1978, accrues  
19 benefits under and is subject to the provisions of this chapter.

20 Sec. 22.27.020. ADMINISTRATION. The commissioner of administra-  
21 tion is responsible for the administration of the system.

22 Sec. 22.27.030. REGULATIONS. The commissioner may adopt regula-  
23 tions to implement the provisions of this chapter. Regulations adopted  
24 by the commissioner under this chapter relate to the internal management  
25 of state agencies and their adoption is not subject to the Administra-  
26 tive Procedure Act (AS 44.62).

27 Sec. 22.27.040. EMPLOYEE CONTRIBUTIONS. While participating in  
28 the system each justice, judge, and magistrate shall contribute seven  
29 per cent of his compensation to the retirement system.

1           Sec. 22.27.050. RETIREMENT OF JUSTICES AND JUDGES. (a) A justice,  
2 judge, or magistrate shall be retired on the date that he reaches the  
3 age of 70. He is eligible for retirement pay if he has had five or more  
4 years of service at the time of retirement as a justice, judge, or  
5 magistrate.

6           (b) A justice, judge, or magistrate may be retired for incapacity  
7 as provided by law. He is eligible for retirement pay if he has had two  
8 or more years of service at the time of retirement for incapacity. The  
9 effective date of retirement under this subsection is the first day of  
10 the month coinciding with or after the date upon which the governor with  
11 respect to a justice, or the supreme court with respect to a judge or  
12 magistrate, files with the commissioner of administration a written  
13 declaration to the effect that a designated justice, judge, or magis-  
14 trate was retired for incapacity. A duplicate copy of the declaration  
15 shall be filed with the judicial council.

16           (c) A justice, judge, or magistrate who served for a period of  
17 five years, and who believes that he has become so incapacitated as to  
18 prevent him from efficiently performing his judicial duties may file  
19 with the governor a written application for retirement which contains a  
20 sworn statement of his service and of his incapacity. When an applica-  
21 tion is filed, the governor shall appoint a board of three persons to  
22 inquire into the circumstances, and may, upon the board's recommenda-  
23 tion, retire the justice, judge, or magistrate. The effective date of  
24 the retirement shall be as provided in (b) of this section.

25           (d) A justice, judge, or magistrate may voluntarily retire at any  
26 time and has a vested right to his accrued retirement pay if he has  
27 served five or more years. Retirement pay shall not commence until he  
28 has reached age 60, except that an actuarially equivalent retirement pay  
29 may be commenced after he has reached age 55 or upon his serving 20

1 years as a justice, judge, or magistrate. The provisions of (b) of this  
2 section are an exception to this rule. A justice, judge, or magistrate  
3 desiring to retire under this subsection shall file with the commis-  
4 sioner of administration a notice of his desire. If a justice, judge,  
5 or magistrate is eligible to receive retirement pay at the time of his  
6 retirement, his retirement pay shall commence on the first day of the  
7 month coinciding with or after the date the notice is filed with the  
8 commissioner of administration. If a justice, judge, or magistrate is  
9 not eligible to receive retirement pay at the time of his retirement,  
10 his retirement pay shall commence on the first day of the month he  
11 reaches age 60 or the month he becomes eligible for an actuarial equiva-  
12 lent if he has applied for this option.

13 (e) In the computation of service for retirement under this  
14 chapter, the time served by a justice, judge, or magistrate of any court  
15 of the state is added to the time served by him, if any, on any other  
16 court of the state.

17 Sec. 22.27.060. RETIREMENT PAY. A retired justice, judge, or  
18 magistrate eligible for retirement pay shall receive from the date of  
19 his eligibility until his death monthly compensation equal to five per  
20 cent per year of service, to a maximum of 75 per cent, of the monthly  
21 salary authorized for justices, judges, and magistrates, respectively,  
22 at the time each retirement payment is made.

23 Sec. 22.27.070. SURVIVORS' BENEFITS. (a) Upon the death of a  
24 justice, judge, or magistrate who has served for at least two years, the  
25 surviving spouse is entitled to receive monthly compensation equal to 50  
26 per cent of the monthly retirement pay the justice, judge, or magistrate  
27 would thereafter have been entitled to receive if retired at the time of  
28 death. If at death the justice, judge, or magistrate was not yet en-  
29 titled to retirement pay, or was or would have been entitled to less

1 than 60 per cent of the monthly salary authorized for his office, the  
2 surviving spouse is entitled to monthly compensation equal to 30 per  
3 cent of the salary authorized for justices, judges, or magistrates,  
4 respectively, at the time each monthly payment is made.

5 (b) To be eligible for the survivors' benefits, the surviving  
6 spouse must have been married to the justice, judge, or magistrate for  
7 at least two years immediately preceding the death of the justice,  
8 judge, or magistrate. The benefits continue until the remarriage or  
9 death of the surviving spouse.

10 (c) If there is no surviving spouse, or if the surviving spouse  
11 does not meet the requirements of (b) of this section, or upon the  
12 remarriage or death of the surviving spouse, the surviving dependent  
13 child or children of the justice, judge, or magistrate are entitled to  
14 receive in equal shares 50 per cent of the amount of the survivors'  
15 benefits specified under (a) of this section.

16 (d) The surviving child or children are entitled to the survivors'  
17 benefits under (c) of this section during the period of their dependency.  
18 Dependency exists with respect to any child of a justice, or judge, or  
19 magistrate who is either (1) a minor under the laws of Alaska, (2) under  
20 the age of 23 and is a student attending on a full-time basis an ac-  
21 credited educational or technical institution recognized by the Depart-  
22 ment of Education, or (3) so mentally or physically incapacitated as to  
23 be unable to provide for self-care.

24 (e) If there are both an eligible surviving spouse and surviving  
25 dependent children, but who reside in separate households, the surviving  
26 spouse and dependent children are entitled to share equally in the  
27 benefits payable under (a) of this section.

28 Sec. 22.27.080. TAX EXEMPTION. Benefits paid under this chapter  
29 are exempt from state and municipal taxes.

1           Sec. 22.27.090. EMPLOYER CONTRIBUTIONS. (a) The employer shall  
2 make contributions to the system in accordance with the rate established  
3 by the commissioner of administration. That rate shall be based upon  
4 the results of an actuarial valuation of the system. The results of the  
5 actuarial valuation shall be based upon actuarial methods and assumptions  
6 adopted by the commissioner.

7           (b) The contribution rate shall be a percentage which, when  
8 applied to the covered compensation of all active members of the system,  
9 will generate sufficient contributions to properly support, in conjunc-  
10 tion with employee contributions, the benefits of the system.

11           Sec. 22.27.100. ACCOUNTING. (a) The contributory judicial  
12 retirement account is established to which all appropriations made for  
13 the purpose of funding the retirement system under this chapter shall be  
14 credited.

15           (b) An individual account shall be maintained for each justice,  
16 judge, or magistrate to which the amount of his mandatory contributions  
17 collected under this chapter shall be credited as of the date of deduc-  
18 tion or payment, as the case may be. On June 30 and December 31 of each  
19 year, beginning with June 30, 1979, this account shall be credited with  
20 interest by applying one-half of the prescribed rate of interest to the  
21 balance in the account as of that date.

22           (c) Upon commencement of retirement pay to a justice, judge, or  
23 magistrate, the balance in his individual account shall be transferred  
24 to the contributory judicial retirement account.

25           Sec. 22.27.110. REFUNDS. Upon termination of judicial service,  
26 application may be made for a refund of the balance in the individual's  
27 account. Upon withdrawal of the balance, all rights to benefits ter-  
28minate.

29           Sec. 22.27.120. PRIOR SERVICE CREDIT. If a justice, judge, or

1 magistrate who has withdrawn the balance of his individual account  
2 returns to permanent active service, he shall receive credit for his  
3 prior period or periods of service only if he repays within one year of  
4 the date of return all refunded contributions with interest at the  
5 prevailing prescribed rate.

6 Sec. 22.27.130. MEDICAL BENEFITS. Each person who is entitled to  
7 receive a monthly benefit from the retirement system under this chapter  
8 shall be provided with major medical insurance coverage. Coverage shall  
9 become effective on the same date as retirement benefits commence and  
10 cease when the retired employee or survivor is no longer eligible to  
11 receive a monthly benefit. The level of coverage for persons over age  
12 65 shall be the same as that available before reaching age 65 except  
13 that the benefits payable shall be supplemental to those afforded under  
14 the federal old age survivor and disability insurance program, if any.

15 Sec. 22.27.900. DEFINITIONS. In this chapter, unless the context  
16 clearly indicates otherwise,

- 17 (1) "commissioner" means the commissioner of administration;
- 18 (2) "judge" means a superior court or district court judge;
- 19 (3) "justice" means a supreme court justice;
- 20 (4) "magistrate" means a district court magistrate;
- 21 (5) "full-time magistrate" means a magistrate who receives  
22 remuneration for his services as a magistrate on the basis of no less  
23 than 37.5 hours per week.

24 \* Sec. 2. This Act takes effect July 1, 1978.