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1 IN THE HOUSE

2 HOUSE BILL NO. 216

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an optional university retire-
7 ment program for certain employees of the University
8 of Alaska and certain community colleges; and provid-
9 ing for an effective date."

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

11 * Section 1. AS 14.25.040(a) is amended to read:

12 (a) Unless a teacher or member has elected to participate in the
13 optional university retirement program under AS 14.40.661 - 14.40.799,
14 a [A] teacher or member contracting for service with a participating
15 employer is subject to this chapter.

16 * Sec. 2. AS 14.25.115(a) is amended to read:

17 (a) A teacher in membership service on or after July 1, 1977,
18 who is appointed to retirement on or after July 1, 1978, may elect to
19 apply unused sick leave credit in computing the total number of years
20 of credited service under AS 14.25.110(d) except for sick leave earned
21 while participating in the optional university retirement program
22 under AS 14.40.661 - 14.40.799. To obtain service credit for unused
23 sick leave, a teacher must apply to the administrator no later than
24 one year after appointment to retirement. Unused sick leave shall be
25 credited on a day-for-day basis in accordance with the table for
26 service after July 1, 1969, contained in AS 14.25.220(43). Teacher
27 contributions may not be required for credited unused sick leave.

28 * Sec. 3. AS 14.40 is amended by adding new sections to read:

29 ARTICLE 5. OPTIONAL UNIVERSITY RETIREMENT PROGRAM.

1 Sec. 14.40.661. AUTHORITY OF BOARD. (a) The board may estab-
2 lish an optional university retirement program for eligible employees
3 in which retirement and death benefits are provided through the pur-
4 chase of annuity contracts, either fixed, variable, or a combination
5 of fixed and variable. Participation in the program is in place of
6 participation in a state retirement system.

7 (b) The board shall

8 (1) provide for the administration of the program, includ-
9 ing procedures for resolving complaints from participating employees;

10 (2) designate the company or companies to which payment of
11 the contributions required under AS 14.40.691 may be made, after
12 considering the

13 (A) nature and extent of the rights and benefits that
14 the contracts will provide to employees who elect to participate
15 and to their beneficiaries;

16 (B) relation of the contractual rights and benefits to
17 the contributions to be made under AS 14.40.661 - 14.40.799;

18 (C) suitability of the contractual rights and benefits
19 to the needs and interests of employees electing to participate
20 and to the interest of the university in the employment and
21 retention of employees;

22 (D) ability of the designated company or companies to
23 provide rights and benefits under the contracts; and

24 (E) efficacy of the contracts in the recruitment and
25 retention of faculty and administrators;

26 (3) take other actions required to ensure that the program
27 qualifies as a qualified trust under 26 U.S.C. 401(a) (Internal Reve-
28 nue Code).

29 Sec. 14.40.671. PARTICIPATION. (a) An employee in a partici-

1 participating position may elect to participate in the optional university
2 retirement program or to participate in the appropriate state retire-
3 ment system. Eligibility to participate in the program begins on an
4 employee's appointment to a participating position.

5 (b) An election to participate in the program is irrevocable.
6 The election shall be made in writing on a form provided by the board.
7 The form must be filed with the board no later than 30 days after the
8 date on which the employee first becomes eligible to participate in
9 the program. A copy of the form shall be delivered to the appropriate
10 state retirement system. The election becomes irrevocable on the date
11 it is received by the board.

12 (c) The election to participate in the program constitutes a
13 waiver of all rights and benefits under the state retirement systems
14 earned on or after the effective date of the election while the em-
15 ployee is participating in the program.

16 (d) Except as provided in (e) of this section, if a nonvested
17 member of a state retirement system elects to participate in the
18 program, the employee may choose to transfer the amount in the em-
19 ployee's contribution account to the program. If the employee chooses
20 to transfer the account, the appropriate state retirement system shall
21 pay to the university on behalf of the employee an amount equal to the
22 balance in the account. The payment must be made within 45 days after
23 the election is received by the state retirement system. The finan-
24 cial officer of the university shall immediately pay the amount re-
25 ceived to the designated company or companies for the benefit of the
26 employee.

27 (e) An employee whose rights to transfer assets out of a state
28 retirement system are subject to a qualified domestic relations order
29 is entitled to transfer assets from the state retirement system to the

1 program only if the requirements for receiving a refund under AS 14.-
2 25.150(b) or AS 39.35.200(c), as appropriate, are met.

3 (f) If a vested member of a state retirement system elects to
4 participate in the program, the employee ceases to be an active member
5 of the retirement system on the effective date of the participation in
6 the program. The employee retains all benefits accrued in the state
7 retirement system.

8 (g) An employee who does not elect to participate in the program
9 under this section becomes or remains a member of the appropriate
10 state retirement system.

11 Sec. 14.40.681. RETIREMENT SYSTEM MEMBERSHIP. An eligible
12 employee electing to participate in the program may not participate in
13 a state retirement system during the time the employee is employed in
14 a participating position. If the employee is later employed in a
15 position covered by a state retirement system that is not a partic-
16 ipating position, the employee may not continue to participate in the
17 program and shall begin to participate in the state retirement system.

18 Sec. 14.40.691. CONTRIBUTIONS. (a) The university shall con-
19 tribute on behalf of each employee participating in the program an
20 amount established by the board.

21 (b) An employee participating in the program shall contribute to
22 the program an amount established by the board.

23 (c) The board may specify that contributions required by this
24 section are made by a reduction in salary under 26 U.S.C. 414(h)(2)
25 (Internal Revenue Code).

26 (d) The financial officer of the university shall pay the con-
27 tributions authorized or required by this section to the designated
28 company or companies for the benefit of each participant.

29 Sec. 14.40.701. BENEFITS. Payment of benefits to participants

1 of the program is the responsibility of the company or companies
2 designated by the board and is not the responsibility of the board,
3 the university, or the state. The benefits are payable to partici-
4 pants or their beneficiaries in accordance with the terms of the
5 annuity contract or contracts. However, retirement benefits must be
6 paid in the form of a lifetime income. Except for death benefits, a
7 single-sum cash payment is not permitted under this section.

8 Sec. 14.40.799. DEFINITIONS. In AS 14.40.661 - 14.40.799,

9 (1) "appropriate state retirement system" means the state
10 retirement system that includes the employee's position;

11 (2) "board" means the Board of Regents of the University of
12 Alaska;

13 (3) "contribution account" means the member contribution
14 account under AS 14.25 and supplemental contributions made under
15 AS 14.25.055, if any, or the employee contribution account under
16 AS 39.35, whichever is appropriate;

17 (4) "employee" means an employee of the University of
18 Alaska or a community college under AS 14.40;

19 (5) "participating position" means a position that is a
20 permanent position that is at least a .5 full-time appointment as

21 (A) a faculty appointment; or

22 (B) an administrator and the position has been des-
23 igned by the board for inclusion in the program;

24 (6) "program" means the optional university retirement
25 program;

26 (7) "state retirement system" means the teachers' retire-
27 ment system under AS 14.25 or the public employees' retirement system
28 under AS 39.35.

29 * Sec. 4. AS 39.35.120 is amended to read:

1 Sec. 39.35.120. COMMENCEMENT OF PARTICIPATION. (a) Unless an
2 employee has elected to participate in the optional university retire-
3 ment program under AS 14.40.661 - 14.40.799, an [AN] employee of the
4 state shall be included in this system upon commencement of employment
5 with the state, or on January 1, 1961, whichever is later. An em-
6 ployee of a political subdivision or public organization that becomes
7 an employer shall be included in the system on the effective date of
8 the employer's participation or the date of the employee's commence-
9 ment of employment with the employer, whichever is later.

10 (b) Inclusion in the system is a condition of employment for an
11 employee except as otherwise provided for an elected official and for
12 an employee of the university who has elected to participate in the
13 optional university retirement program under AS 14.40.661 - 14.40.799.

14 * Sec. 5. AS 39.35.680(21) is amended to read:

15 (21) "member" or "employee"

16 (A) means a person eligible to participate in the
17 system and who is covered by the system;

18 (B) includes

19 (i) active member;

20 (ii) inactive member;

21 (iii) vested member;

22 (iv) deferred vested member;

23 (v) non-vested member;

24 (vi) disabled member;

25 (vii) retired member;

26 (C) does not include

27 (i) former members;

28 (ii) persons compensated on a contractual or fee

29 basis;

1 (iii) casual or emergency workers or nonpermanent
2 employees as defined in AS 39.25.200;

3 (iv) persons covered by the Alaska Teachers'
4 Retirement System or the optional university retirement
5 program;

6 (v) employees of the division of marine transpor-
7 tation engaged in operating the state ferry system who are
8 covered by a union or group retirement system to which the
9 state makes contributions;

10 (vi) justices of the supreme court or judges of
11 the court of appeals or of the superior or district courts
12 of Alaska;

13 (vii) the administrative director of courts ap-
14 pointed under art. IV, sec. 16 of the state constitution
15 unless the director becomes a member under AS 39.35.158; and

16 (viii) members of the elected public officers'
17 retirement system (former AS 39.37);

18 (D) may include employees of the division of marine
19 transportation excluded under (C)(v) of this paragraph provided
20 that

21 (i) the State of Alaska formally agrees to their
22 inclusion through the process of collective bargaining; and

23 (ii) no collective bargaining agreement has the
24 effect of obligating contributions made by the state under
25 AS 39.30.150 in the event the state resumes participation in
26 the federal social security system;

27 * Sec. 6. (a) Notwithstanding AS 14.40.671, added by sec. 3 of this
28 Act, an employee of the University of Alaska holding a permanent faculty
29 appointment that is at least a .5 full-time appointment on the date the

1 Board of Regents of the university establishes an optional university
2 retirement program may elect to participate in the program by filing an
3 election form with the board within 120 days after the date the program is
4 established.

5 (b) Notwithstanding AS 14.40.671, added by sec. 3 of this Act, an
6 employee of the University of Alaska holding, on the date the Board of
7 Regents establishes an optional university retirement program, an adminis-
8 trative appointment that has been designated by the Board of Regents for
9 inclusion in the optional university retirement program may elect to par-
10 ticipate in the program by filing an election form with the board within
11 120 days after the date the program is established or the date the position
12 is designated as a participating position, whichever comes later.

13 * Sec. 7. This Act takes effect July 1, 1989.