

HB

727

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 253

Amendment No. 2--Establishing
Magistrate Salaries. Further
Amending Order No. 9

IT IS ORDERED:

Supreme Court Order No. 253 is amended by (1) adding "Angoon" and "McGrath" to the list of Magistrate I positions; (2) removing "Cold Bay" from the list of Magistrate I positions and adding it to the list of Magistrate II positions; (3) adding a new Paragraph 4 and renumbering the old Paragraph 4 as Paragraph 5; (4) removing "Dillingham" and "Nenana" from the list of Magistrate II positions and transferring them to a new Paragraph 4; and (5) increasing the salary figures in Paragraphs 1 and 3 by five percent.

The amended Order in its entirety is as follows:

1. There are established three salary levels for magistrate posts. The base annual salary for each level is as follows:

Magistrate I	\$ 6,787
Magistrate II	\$13,917
Magistrate III	\$21,836

Geographic cost of living adjustments shall be provided in accordance with applicable statutes.

2. The following magistrate positions are allocated to the designated salary levels:

<u>Y016</u>	<u>Magistrate I</u>	
Angoon	Aniak	Buckland
Craig	Emmonak	Galena
Gambell	Hoonah	Hooper Bay
Kake	Kasigluk	Kiana
Mekoryuk	McGrath	Mt. Village
Noorvik	Pelican	Point Hope
Rampart	St. Mary's	St. Paul Island
Sand Point	Savoonga	Seldovia
Sitka	Tanana	Teller
Tununak	Unalakleet	Unalaska
Wainwright	Wales	Yakutat

*Whitney
Selawick*

Magistrate II

Cold Bay
Naknek

Fort Yukon
~~Selawik~~

Healy
Skagway
Nenana

Magistrate III

Barrow
Petersburg

Cordova
Seward

Haines
Tok
Wrangell

3. The annual base salary of the present incumbents of the following positions shall be \$28,175:

Delta Junction
Glennallen

Kenai
Kotzebue

Palmer

Geographic cost of living adjustments shall be provided in accordance with applicable statutes. At the time the present incumbent resigns from one of the above positions, the salary for that position will be re-evaluated.

4. The annual base salary of the present incumbents of the following positions shall be \$21,000:

Dillingham

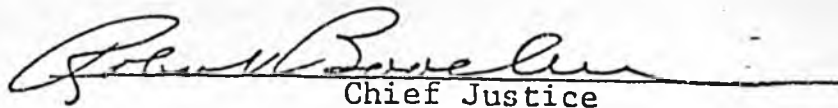
~~Nenana~~

Geographic cost of living adjustments shall not be provided. At the time the present incumbent resigns from one of the above positions, the salary for that position will be re-evaluated.

5. When any magistrate position listed above becomes vacant, the supreme court may provide for a salary higher than is herein provided for that position for an appointee whom the court determines possesses extraordinary qualifications or when the court determines other special circumstances exist justifying a departure from the salary provided herein for that position.

DATED: _____

EFFECTIVE DATE: Nunc pro tunc as of January 1, 1977


Chief Justice

Feb - 9 - 1978

Dear Leulak -

I'll try to call you again, but in the event I can't reach you - would you please appear on my behalf on HB 727 and HB 456 at the 3PM Feb 10th meeting.

My main concern is that this committee understand that magistrates are dedicated people with many hats to wear. We are at the grass roots of "the" system and meet the public on their first encounter of a problem. Other judges meet these same defendants, but usually only after they have had their first court contact. Thus missing the Superior Court judges and the justices.

As full time magistrates we deal with all types of problems - and people. We live with these people and their surroundings everyday.

As you can recall, I have been in this position for many years and have "made-do" and "done" without the beautiful plush surroundings that many "judges" have enjoyed for years. I now have a beautiful building and am proud of it. However, I recall the days of make-shift boxes too.

I have enjoyed and dedicated my life to my job and serving the public. This is so, and

come to me to ask for assistance
and guidance. Many of these are
legal people and attorneys of long
practice. Thus rewarding my
hours and years serving them!

Gov. Tony Diamond appointed me to
this position and said - "Never have
a case before you without putting
a little heart into it" I've tried
and trust I may have the
privilege of continuing to do what
the law says tempered with common
sense and love of my fellow beings.

Best wishes & Thanks Leulsh

Dorothy Sexton

Tell Al Ose - I sure appreciate
his help for us "bush" people!!

Memorandum

Alaska Court System

TO: [] The Hon Terry Gardiner, Ch.
State Legislature
Judiciary Committee
Pouch V, Juneau, Ak. 99811

DATE : March 15, 1978

FROM: Carl W. Heinmiller, Magistrate
Drawer D, Haines, Alaska 99827
Board Member; Alaska Magistrates Assn.

SUBJECT: HB 727

I wish to state the reason for my unhappiness at the hearing on March 14th at 3 pm regarding HB 727. I received a call from your office that the bill was coming up before your committee. Therefore, I told off a day's work, spent \$70 on airfare plus other expenses to find I was unable to testify.

The question seemed to be "what is a fulltime magistrate"? There are four classes of Magistrates:

Class I	in the \$28,000 range
Class II	in the \$22,000 range
Class III	in the \$15,000 "
Class IV	in the \$7,500 "

The first two classes, by order of our Presiding Superior Court judges requires them to work a min. of 37 1/2 hrs. per week. The Class III is 20 hrs. per week and Class IV is less. HOWEVER, the parttime Magistrates all have other jobs. I underlined minimum, as all magistrates are subject to call, 25 hrs a day, seven days a week. There is no such thing as compensatory time. I know of no other State jobs that has that kind of demand, except judges. There is no overtime, either.

I can see Paul Arnholdt's "problem", but why should Magistrate be required to be second class to judges when they have been declared judicial officers? If the problem exists in the court's retirement system, why defeat this bill as it will have no effect on the problem.

Should the bill come up again, I would like to be informed, however I do not want to spend \$200 to listen to someone present faulty information, or at least information that can become misunderstood.

CC: Mike Miller
Jim Duncan
Bill Miles
Lisa Rudd
Dick Eliason
Fred Brown

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

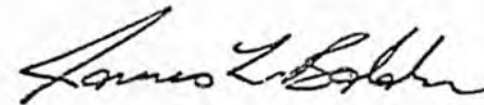
MEMORANDUM

March 13, 1978

SUBJECT: HB 727 - Retirement of magistrates

TO: House Judiciary Committee
ATTN: Bob Speed, A.A.

FROM: J.L. Baldwin, Legislative Counsel



I have reviewed HB 727 as requested in your undated memorandum (copy attached) and this correspondence is to confirm our telephone conversation of February 16, 1978. The questions raised concerning this bill could be resolved by making the following changes:

(1) repeal AS 22.25.010(g); and

(2) delete section 1 of HB 727 and replace it with the following new material:

* Section 1. AS 22.25 is amended by adding a new section to read:

Sec. 22.25.100. Definitions. In the chapter, unless the context clearly indicates otherwise,

(1) "justice" means a supreme court justice; and

(2) "judge" means a superior court or district court judge or a full-time magistrate who has not retired before July 1, 1978.

You are correct in your assumption that AS 22.28 was repealed by referendum. If the Committee directs, I will prepare a committee substitute for their review.

JLB:hjd

Attachment



Official Business

file 195 127
Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

February 14, 1978

Legislative Board of Retirement
Benefits
c/o Legislative Affairs Agency
Pouch Y
Juneau, Alaska 99811

Dear Sirs:

The Committee has under consideration HB 727, which provides for inclusion of full-time magistrates under the judicial retirement systems. Testimony was given on this bill on Feb. 10. Further consideration is not foreseen before March 1.

According to the Session Laws of Alaska, 1977, it is the responsibility of the Legislative Board of Retirement to prepare a detailed fiscal analysis of legislation which would make changes in the retirement system (SLA 130, section 24.20.540).

The session laws of 1977 also give the Retirement Board the responsibility for preparation of fiscal notes of bills affecting the retirement system (SLA 130, section 24.30.037).

The Committee would like to have this information ready at the time they next consider the bill, which will be sometime after March 1.

Please do not hesitate to contact this office if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Bob Speed".

Robert Speed, Administrative
Assistant



Alaska State Legislature

House of Representatives

Committee on Judiciary

Baldwin

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Bill Berrier

FROM: House Judiciary,
Bob Speed, A.A.

RE: HB 727, including magistrates in the judicial retirement system.

We need information on the impact of the changes this bill would make in regard to two statutes:

AS 22.25.020 and

AS 22.28.060, the latter of which we hear may have been repealed last year.

What would the impact be? And, would a change imposed by HB 727 or a similar bill necessitate changes in the statutes cited?

#

Send memo
Telcon 2-16-78

House Bill No. 727

The board submits the attached fiscal note as an update of its previous comments on the fiscal impact of HB 727.

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. HB 727
 Title Inclusion of Full-Time Magistrates Under the Judicial Retirement System
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected Administration - Division of Retirement & Benefits
 Program Category Affected Retirement and Benefits
 Budget Request Unit(s) Affected Non-Contributory Judicial/Full-Time Magistrate

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
100 BENEFITS		279.6	293.6	303.3	323.7	339.9
TOTAL	-0-	279.6	293.6	303.3	323.7	339.9

FUNDING (Thousands of Dollars)

GENERAL FUND		279.6	293.6	303.3	323.7	339.9
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

- Fiscal note represents cost on a funded basis for the inclusion of past and future service for existing full-time magistrates under Non-Contributory Judicial Retirement System (AS 22.25).
- Fiscal note does not include the cost on a funded basis for the existing Judicial System (AS 22.25) (these costs identified in fiscal note for SB 91--first year cost equals \$1,832.7).
- The Alaska Court System cannot provide a definition for "full-time" magistrate (see attachment), so for purposes of this fiscal note all magistrates earning \$15,000 or more per year were considered full-time (16 out of 50) with an average salary of \$24,939.
- Assume salaries for full-time magistrates increase at 5% per year.
- Employer contribution rate of 70.03% of covered payroll is required.
 FY 79 covered payroll for full-time magistrate \$399,020
 Employer contribution rate .7003
 FY 79 employer cost for full-time magistrates \$279,633

IV. DATE 3/01/78 PREPARED BY Paul B. Arnoldt
 AGENCY Division of Retirement & Benefits
 PHONE 465-4460

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) Representative Schaeffer
 Office of the Governor (Keith Spackling)

Paul B. Arnoldt

Gardiner

FE

this page

HOUSE JOURNAL
SUPPLEMENT

March 7, 1978

No. 17

HB
727

February 24, 1978

Legislative Board of Retirement Benefits analysis and recommendations
in:

House Bill No. 727

No detailed fiscal analysis is possible at this time.

The board unanimously recommends that HB 727 do not pass; one member was absent.

The board feels that the long term costs of the judicial retirement system cannot be properly assessed by the board or the taxpayers of the state until the system is placed on a funded basis similar to the PERS and the TRS. The board is unwilling to recommend increasing the liabilities of a system which is unfunded. The board questions whether the inclusion of magistrates within the judicial retirement system is consistent with the purposes for which the system was established.

SUMMARY OF HOUSE BILL NO. 727

Retirement system affected: PERS

Amends the noncontributory judicial retirement system by adding coverage for full-time magistrates, removes full-time magistrates retiring after July 1, 1978 from the public employees' retirement system, and refunds all employee contributions to PERS of affected full-time magistrates, and restores employer contributions to the general fund.

The Act takes effect July 1, 1978.



Alaska Court System

State of Alaska

303 K STREET
ANCHORAGE, ALASKA 99501

SUSAN BURKE
DEPUTY ADMINISTRATIVE DIRECTOR

OFFICE OF ADMINISTRATIVE DIRECTOR

(907) 274-9611

February 24, 1978

Hon. Terry Gardiner
Chairman, House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Re: HB 727

Dear Representative Gardiner:

This is in response to your Committee's request for (1) a description of our existing system for distinguishing between full time and part time magistrates for purposes of leave benefits, and (2) a definition of "full time" magistrates for purposes of retirement benefits under House Bill 727.


During 1975, our personnel office conducted a survey of all magistrate posts in order to develop a standard schedule of salaries for magistrates. This survey included on-site visits to most of the magistrate posts. As a result of this undertaking, baseline 1975 data was developed which included, among other things, the number of hours each magistrate was required to spend in his or her office. Those who were required to keep regular office hours of 8:00 to 4:30 were considered "full time" for purposes of applying leave benefits under AS 39.20. (It should perhaps be noted that the number of hours worked was not ultimately used as one of the criteria for salary setting.)

Having established baseline data, we now merely update it to reflect any changes in circumstances that would have a bearing on salary level. Through this process we can also determine whether the workload has increased or decreased to the point that a change is warranted in the application of leave benefits.

After having some time to reflect on your request for a definition of "full time magistrate" that might be used in House Bill 727, we find that it is impossible to do so. As you know, we consider all magistrates as full time for purposes of retirement benefits. Unless all magistrates are to be included in House Bill 727, then a definition of "full time magistrate" necessarily involves including some magistrates and excluding others. The basis for making this distinction involves a policy determination that we believe only the Legislature can make. The Judiciary has already made a policy determination that all magistrates should be treated equally for retirement purposes, and has expressed the view that no magistrates should be included in the existing judicial retirement system.

I realize that this response does not provide much assistance toward developing an accurate fiscal analysis of the bill, but I hope you understand the inherent limitations we face. If there is any other information we can provide, please let me know.

Sincerely,


Susan Burke
Staff Counsel

Box 271 Haines,
Alaska 99827

Feb. 28, 1978

The Hon. Terry Gardiner, Ch.
Judiciary Committee of the House
Pouch V
Juneau, Alaska 99811

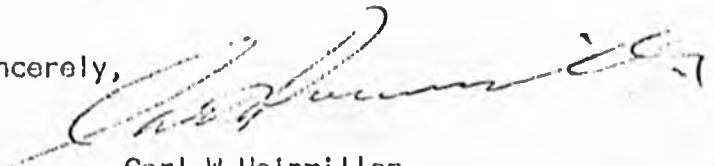
Dear Terry:

As some members of the "legal society" do not agree with HB 727, in that Magistrates are not to be classified as Judges, i.e. District Judges, I am enclosing an excerpt from a recent ruling by Judge Rowland of the Superior Court in Anchorage. Of course, the plaintiff might appeal this judgment to the Supreme Court who could reverse Judge Rowland's opinion.

The Magistrate's Association had understood that the the Court administration would neither support our request or opposed it as far as what HB 727 is intended to do, however, they have not remained silent, as you know.

Please advise as to the status of HB 727. If there is to be further hearings, we would be glad to attend and testify. It is vital that this bill be passed by this Legislature.

Sincerely,



Carl W. Heinmiller
Haines Magistrate

CC: Malone
Schaeffer
Miller
Duncan
Miles
Eliason
Magistrates.

Supreme court justices and superior court judges shall be citizens of the United States and of the State, licensed to practice law in the State, and possessing any additional qualifications prescribed by law. Judges of other courts shall be selected in a manner, for terms, and with qualifications prescribed by law. [Emphasis added.]

The defendants have not argued, and it cannot be maintained, that magistrates are not judges and, therefore, are excluded from the purview of Article IV, Section 4. The functions

Feb. 17, 1978

Holloway v. Judge Buckalew, et al.
No. 77-8145

Page 2 of 4

and responsibilities of magistrates are judicial in character.
Their duties are in large measure coextensive with, and in no respect different than, those of district court judges.

AS 22.15.100; AS 22.15.110; AS 22.15.120. Magistrates are statutorily defined along with justices of the supreme court and other judges as "judicial officers." AS 22.20.010. Magistrates are granted the same judicial powers and prerogatives necessary to carry out their judicial responsibilities as all other judicial officers. AS 22.20.030.

The aforementioned constitutional mandate, requiring a term for a judge of any court, is consistent with the idea, universal in American jurisprudence, that an independent judiciary is not only desirable, but indispensable. This notion of judicial independence extends, not only to freedom from executive and legislative interference with the decision-making process, but to all unwarranted pressure. Our concepts of justice and due process of law require that a judge, when

... of a particular cause or considering

Rt. 6, Box 4136
Juneau, Alaska
February 28, 1978

Robert Speed, Administrative Assistant
Judiciary Committee
House of Representatives
Pouch V
Juneau, Alaska

Dear Mr. Speed:

In answer to your inquiry, HB 727 does not appear to conflict with the Salary Commission, since the compensation and benefits for magistrates are not under our review.

You also ask "if we change the law, will that bring magistrates under state retirement system?" Your question indicates it may not be clear to you that the state retirement system and the judicial retirement system are 2 different systems. Magistrates are now members of the state retirement system, PERS (a contributory system). The judicial retirement system, as it applies to judges, is non-contributory with better benefits than PERS. HB 727 would move them to this better system.

There has been some movement in the past to alter the non-contributory part of the judicial retirement system, and this may surface again in the future. Because of the constitutional provision against reducing compensation for judges, it is our understanding that the judicial retirement system cannot be made contributory unless accompanied by a raise of an amount at least equal to the first contribution, or some similar arrangement. I assume magistrates are not covered by the constitutional prohibition. Would that create any special problems if the judicial retirement system were to become contributory?

Thank you for asking the opinion of the Salary Commission on HB 727 and your offer to inform me when you will next be considering it.

Sincerely,



Kathleen W. Diebels, Chairman
Alaska State Salary Commission

Rt. 6, Box 4136
Juneau, Alaska
February 28, 1978

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Judiciary Committee
House of Representatives
Pouch V
Juneau, Alaska

Dear Mr. Speed:

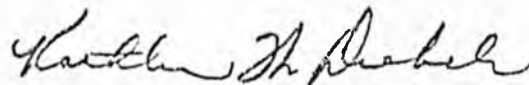
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Thank you for asking the opinion of the Salary Commission on HB 727 and your offer to inform me when you will next be considering it.

Sincerely,



Kathleen W. Diebels, Chairman
Alaska State Salary Commission

Introduced: 2/3/78
Referred: Judiciary and Finance

1 IN THE HOUSE

BY SCHAEFFER

2 HOUSE BILL NO. 727

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the inclusion of full-time
7 magistrates under the judicial retirement system; and
8 providing for an effective date."

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

10 * Section 1. AS 22.25.010(g) is amended to read:

11 (g) In this chapter the [THE] word "justice" means a supreme court
12 justice, and the word "judge," unless the context clearly indicates
13 otherwise means a superior court or district court judge or a full-time
14 magistrate who has not retired before July 1, 1978.

15 * Sec. 2. AS 39.35.680(21)(C)(vi) is amended to read:

16 (vi) justices of the supreme court or judges of the
17 superior or district courts of Alaska and full-time magis-
18 trates except those magistrates who retired before July 1,
19 1978;

20 * Sec. 3. Within 90 days after the effective date of this Act, all
21 amounts contributed by a full-time magistrate toward retirement under AS 39.-
22 35 shall be refunded. Amounts credited to retirement accounts of full-time
23 magistrates by reason of employer contributions under AS 39.35 shall be re-
24 stored to the general fund.

25 * Sec. 4. This Act takes effect July 1, 1978.

26
27 11 full time magistrates

28
29 22,250,020 retirement pay
27,280,060 reported by
referees

30
31 Refutation —



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

FEB. 10, 1978

HB 727

bill scheduled for consideration feb. 10, 1978

Kellus Sewell, department of administration, called in regard to this bill, saying that a schedule conflict prevented him from being at committee this date, and asking that consideration be postponed.

Sewell also said a fiscal note has not been prepared yet on the bill.

He also requested several days for consideration of the bill.

At least two people, both from out of town, are scheduled to testify today on this bill. They are Carl Heinmiller, magistrate in Haines, and Sheldon Spraker of Glenallen. Mr. Heinmiller has to leave early today, and has asked that his testimony be considered early in the meeting.

Others may testify.

Mrs. Ose will testify

B

Susan Burke - Alaska Court System

Mike Miller (phone)

HOUSE
JOURNAL SUPPLEMENT

March 7, 1978

Tuesday

No. 17

LEGISLATIVE BOARD OF RETIREMENT BENEFITS

ANALYSES OF STATE RETIREMENT BILLS

"February 28, 1978

TO: The Honorable Hugh Malone
Speaker of the House

Pursuant to the requirements of Ch. 130, SLA 1977, the Legislative Board of Retirement Benefits submits the enclosed recommendations and analyses of bills affecting state retirement systems. The board will make further reports and recommendations periodically. The next meeting of the board is scheduled for March 6 at 9:00 a.m. in the Treasury Conference Room on the 11th floor of the State Office Building in Juneau.

Bills included in this report are: HB 7, SCS CSHB 10, CSHB 25, HB 161, HB 267, HB 634, HB 635, HB 636, HB 660, CSHB 637, HB 695, HB 698, HB 723, HB 727, SB 62, SB 91, SB 377, SB 380, SB 461.

Members:

Mr. Francis (Jerry) Gerardy
Mr. Frank Homan
Dr. Stanley Knedlik
Mr. Michael J. Murray
Dr. Merritt Olson

Frank Homan, Chairman

Frank Homan
J.K.H.

B. B. Allen, Commissioner
Department of Administration

Paul Arnoldt, Director
Division of Retirement & Benefits

this page

HOUSE JOURNAL
SUPPLEMENT

March 7, 1978

No. 17

IB
127

February 24, 1978

Legislative Board of Retirement Benefits analysis and recommendations
in:

House Bill No. 727

No detailed fiscal analysis is possible at this time.

The board unanimously recommends that HB 727 do not pass; one member was absent.

The board feels that the long-term costs of the judicial retirement system cannot be properly assessed by the board or the taxpayers of the state until the system is placed on a funded basis similar to the PERS and the IRS. The board is unwilling to recommend increasing the liabilities of a system which is unfunded. The board questions whether the inclusion of magistrates within the judicial retirement system is consistent with the purposes for which the system was established.

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The Act takes effect July 1, 1978.

See

HB 456

amendment being drafted
~~to~~ in regard to contrib
retirement for judges & magis.

received

see HB 456

Memorandum

Alaska Court System

file - copies to member

TO: [The Hon Terry Gardiner, Ch.
State Legislature
Judiciary Committee
Pouch V, Juneau, Ak. 99811

DATE : March 15, 1978

FROM: Carl W. Heinmiller, Magistrate
Drawer D, Haines, Alaska 99827
Board Member; Alaska Magistrates Assn.

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CC: Mike Miller
Jim Duncan
Bill Miles
Lisa Rudd
Dick Ellason
Fred Brown



Official Business

file 1978 127
Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

February 14, 1978

Legislative Board of Retirement
Benefits
c/o Legislative Affairs Agency
Pouch Y
Juneau, Alaska 99811

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Robert Speed, Administrative
Assistant

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3600

LEGISLATIVE AFFAIRS AGENCY

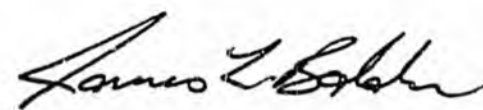
MEMORANDUM

March 13, 1978

SUBJECT: HB 727 - Retirement of magistrates

TO: House Judiciary Committee
ATTN: Bob Speed, A.A.

FROM: J.L. Baldwin, Legislative Counsel



I have reviewed HB 727 as requested in your undated memorandum (copy attached) and this correspondence is to confirm our telephone conversation of February 16, 1978. The questions raised concerning this bill could be resolved by making the following changes:

(1) repeal AS 22.25.010(g); and

(2) delete section 1 of HB 729 and replace it with the following new material:

* Section 1. AS 22.25 is amended by adding a new section to read:

Sec. 22.25.100. Definitions. In the chapter, unless the context clearly indicates otherwise,

(1) "justice" means a supreme court justice; and

(2) "judge" means a superior court or district court judge or a full-time magistrate who has not retired before July 1, 1978.

You are correct in your assumption that AS 22.28 was repealed by referendum. If the Committee directs, I will prepare a committee substitute for their review.

JLB:hjd

Attachment



Alaska State Legislature

House of Representatives

Committee on Judiciary

Baldwin

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Bill Berrier

FROM: House Judiciary,
Bob Speed, A.A.

RE: HB 727, including magistrates in the judicial retirement system.

We need information on the impact of the changes this bill would make in regard to two statutes:

AS 22.25.020 and
AS 22.28.060, the latter of which we hear may have been repealed last year.

What would the impact be? And, would a change imposed by HB 727 or a similar bill necessitate changes in the statutes cited?

#

Send memo
Telcon 2-16-78

House Bill No. 727

The board submits the attached fiscal note as an update of its previous comments on the fiscal impact of HB 727.

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 727
Title Inclusion of Full-Time Magistrates Under the Judicial Retirement System
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement & Benefits
Program Category Affected Retirement and Benefits
Budget Request Unit(s) Affected Non-Contributory Judicial/Full-Time Magistrate

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
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700 GRANTS, CLAIMS, ETC.						
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TOTAL	-0-	279.6	293.6	308.3	323.7	339.9

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GENERAL FUND		279.6	293.6	308.3	323.7	339.9
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

- Fiscal note represents cost on a funded basis for the inclusion of past and future service for existing full-time magistrates under Non-Contributory Judicial Retirement System (AS 22.25).
- Fiscal note does not include the cost on a funded basis for the existing Judicial System (AS 22.25) (these costs identified in fiscal note for SB 91--first year cost equals \$1,832.7).
- The Alaska Court System cannot provide a definition for "full-time" magistrate (see attachment), so for purposes of this fiscal note all magistrates earning \$15,000 or more per year were considered full-time (16 out of 50) with an average salary of \$24,939.
- Assume salaries for full-time magistrates increase at 5% per year.
- Employer contribution rate of 70.08% of covered payroll is required.
FY 79 covered payroll for full-time magistrate \$399,020
Employer contribution rate .7008
FY 79 employer cost for full-time magistrates \$279,633

IV. DATE 3/01/78 PREPARED BY Paul B. Arnoldt
AGENCY Division of Retirement & Benefits
PHONE 465-4460
Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) Representative Schaeffer
Office of the Governor (Keith Specking)

Gardiner

FB

this page

HOUSE JOURNAL
SUPPLEMENT

No. 17

March 7, 1978

LB
127

February 24, 1978

Legislative Board of Retirement Benefits analysis and recommendations
in:

House Bill No. 727

No detailed fiscal analysis is possible at this time.

The board unanimously recommends that HB 727 do not pass; one member was absent.

The board feels that the long-term costs of the judicial retirement system cannot be properly assessed by the board or the taxpayers of the state until the system is placed on a funded basis similar to the PERS and the TRS. The board is unwilling to recommend increasing the liabilities of a system which is unfunded. The board questions whether the inclusion of magistrates within the judicial retirement system is consistent with the purposes for which the system was established.

SUMMARY OF HOUSE BILL NO. 727

Retirement system affected: PERS

Amends the noncontributory judicial retirement system by adding coverage for full-time magistrates, removes full-time magistrates retiring after July 1, 1978 from the public employees' retirement system, and refunds all employee contributions to PERS of affected full-time magistrates, and restores employer contributions to the general fund.

The Act takes effect July 1, 1978.

file HB 727

Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811



Official Business

February 14, 1978

Legislative Board of Retirement
Benefits
c/O Legislative Affairs Agency
Pouch Y
Juneau, Alaska 99811

Dear Sirs:

The Committee has under consideration HB 727, which provides for inclusion of full-time magistrates under the judicial retirement systems. Testimony was given on this bill on Feb. 10. Further consideration is not foreseen before March 1.

According to the Session Laws of Alaska, 1977, it is the responsibility of the Legislative Board of Retirement to prepare a detailed fiscal analysis of legislation which would make changes in the retirement system (SLA 130, section 24.20.540).

The session laws of 1977 also give the Retirement Board the responsibility for preparation of fiscal notes of bills affecting the retirement system (SLA 130, section 24.30.037).

The Committee would like to have this information ready at the time they next consider the bill, which will be sometime after March 1.

Please do not hesitate to contact this office if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Bob Speed".

Robert Speed, Administrative
Assistant



Alaska Court System

State of Alaska

SUSAN BURKE
DEPUTY ADMINISTRATIVE DIRECTOR

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K STREET
ANCHORAGE, ALASKA 99501

(907) 274-9811

February 24, 1978

Hon. Terry Gardiner
Chairman, House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Re: HB 727

Dear Representative Gardiner:

This is in response to your Committee's request for (1) a description of our existing system for distinguishing between full time and part time magistrates or purposes of leave benefits, and (2) a definition of "full time" magistrates for purposes of retirement benefits under House Bill 727.


During 1975, our personnel office conducted a survey of all magistrate posts in order to develop a standard schedule of salaries for magistrates. This survey included on-site visits to most of the magistrate posts. As a result of this undertaking, baseline 1975 data was developed which included, among other things, the number of hours each magistrate was required to spend in his or her office. Those who were required to keep regular office hours of 8:00 to 4:30 were considered "full time" for purposes of applying leave benefits under AS 39.20. (It should perhaps be noted that the number of hours worked was not ultimately used as one of the criteria for salary setting.)

Having established baseline data, we now merely update it to reflect any changes in circumstances that would have a bearing on salary level. Through this process we can also determine whether the workload has increased or decreased to the point that a change is warranted in the application of leave benefits.

After having some time to reflect on your request for a definition of "full time magistrate" that might be used in House Bill 727, we find that it is impossible to do so. As you know, we consider all magistrates as full time for purposes of retirement benefits. Unless all magistrates are to be included in House Bill 727, then a definition of "full time magistrate" necessarily involves including some magistrates and excluding others. The basis for making this distinction involves a policy determination that we believe only the Legislature can make. The judiciary has already made a policy determination that all magistrates should be treated equally for retirement purposes, and has expressed the view that no magistrates should be included in the existing judicial retirement system.

I realize that this response does not provide much assistance toward developing an accurate fiscal analysis of the bill, but I hope you understand the inherent limitations we face. If there is any other information we can provide, please let me know.

Sincerely,


Susan Burke
Staff Counsel

Box 271 Haines,
Alaska 99827

Feb.28,1978

The Hon.Terry Gardiner,Ch.
Judiciary Committee of the House
Pouch V
Juneau,Alaska 99811

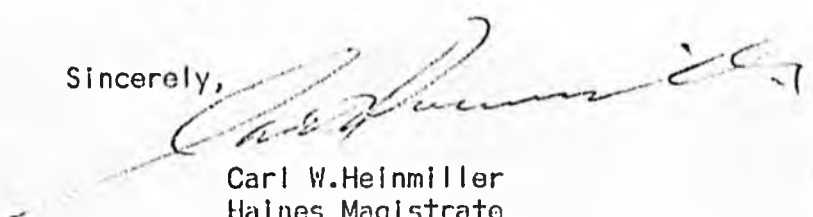
Dear Terry:

As some members of the "legal society" do not agree with HB 727, in that Magistrates are not to be classified as Judges, i.e. District Judges, I am enclosing an excerpt from a recent ruling by Judge Rowland of the Superior Court in Anchorage. Of course, the plaintiff might appeal this judgment to the Supreme Court who could reverse Judge Rowland's opinion.

The Magistrate's Association had understood that the the Court administration would neither support our request or opposed it as far as what HB 727 is intended to do, however, they have not remained silent, as you know.

Please advise as to the status of HB 727. If there is to be further hearings, we would be glad to attend and testify. It is vital that this bill be passed by this Legislature.

Sincerely,



Carl W. Heinmiller
Haines Magistrate

CC:Malone
Schaeffer
Miller
Duncan
Miles
Eliason
Magistrates.

controlling. That section provides as follows:

Supreme court; justices and superior court judges shall be citizens of the United States and of the State, licensed to practice law in the State, and possessing any additional qualifications prescribed by law. Judges of other courts shall be selected in a manner, for terms, and with qualifications prescribed by law. [Emphasis added.]

The defendants have not argued, and it cannot be maintained, that magistrates are not judges and, therefore, are excluded from the purview of Article IV, Section 4. The functions

Feb. 17, 1978

Holloway v. Judge Buckalew, et al.
No. 77-8145

Page 2 of 4

and responsibilities of magistrates are judicial in character. Their duties are in large measure coextensive with, and in no respect different than, those of district court judges.

AS 22.15.100; AS 22.15.110; AS 22.15.120. Magistrates are statutorily defined along with justices of the supreme court and other judges as "judicial officers." AS 22.20.010. Magistrates are granted the same judicial powers and prerogatives necessary to carry out their judicial responsibilities as all other judicial officers. AS 22.20.036.

The aforementioned constitutional mandate, requiring a term for a judge of any court, is consistent with the idea, universal in American jurisprudence, that an independent judiciary is not only desirable, but indispensable. This notion of judicial independence extends, not only to freedom from executive and legislative interference with the decision-making process, but to all unwarranted pressure. Our concepts of justice and due process of law require that a judge, when

of a particular cause or considering

Rt. 6, Box 4136
Juneau, Alaska
February 28, 1978

Robert Speed, Administrative Assistant
Judiciary Committee
House of Representatives
Fouch V
Juneau, Alaska

Dear Mr. Speed:

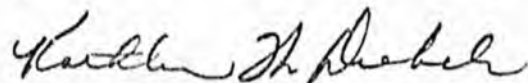
In answer to your inquiry, HB 727 does not appear to conflict with the Salary Commission, since the compensation and benefits for magistrates are not under our review.

You also ask "if we change the law, will that bring magistrates under state retirement system?" Your question indicates it may not be clear to you that the state retirement system and the judicial retirement system are 2 different systems. Magistrates are now members of the state retirement system, PERS (a contributory system). The judicial retirement system, as it applies to judges, is non-contributory with better benefits than PERS. HB 727 would move them to this better system.

There has been some movement in the past to alter the non-contributory part of the judicial retirement system, and this may surface again in the future. Because of the constitutional provision against reducing compensation for judges, it is our understanding that the judicial retirement system cannot be made contributory unless accompanied by a raise of an amount at least equal to the first contribution, or some similar arrangement. I assume magistrates are not covered by the constitutional prohibition. Would that create any special problems if the judicial retirement system were to become contributory?

Thank you for asking the opinion of the Salary Commission on HB 727 and your offer to inform me when you will next be considering it.

Sincerely,



Kathleen W. Diebels, Chairman
Alaska State Salary Commission



Alaska Court System

State of Alaska

SUSAN BURKE
DEPUTY ADMINISTRATIVE DIRECTOR

OFFICE OF ADMINISTRATIVE DIRECTOR

303 K STREET
ANCHORAGE, ALASKA 99501

(907) 274-9811

February 24, 1978

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Chairman, House Judiciary Committee
Pouch V
Juneau, Alaska 99811

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I realize that this response does not provide much assistance toward developing an accurate fiscal analysis of the bill, but I hope you understand the inherent limitations we face. If there is any other information we can provide, please let me know.

Sincerely,

Susan Burke
Staff Counsel

House Bill No. 727

The board submits the attached fiscal note as an update of its previous comments on the fiscal impact of HB 727.

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 727
Title Inclusion of Full-Time Magistrates Under the Judicial Retirement System
Requested by _____ Date _____

II. FISCAL DETAIL
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Program Category Affected Retirement and Benefits
Budget Request Unit(s) Affected Non-Contributory Judicial/Full-Time Magistrate

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Employer contribution rate	.7008
FY 79 employer cost for full-time magistrates	\$279,633

IV. DATE 3/01/78 PREPARED BY Paul B. Arnoldt
AGENCY Division of Retirement & Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) Representative Schaeffer
Office of the Governor (Keith Specking)

Paul B. Arnoldt

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

FOUCH Y. STATE CAPITOL
JUNE 11, ALASKA 99811
907-465-3800

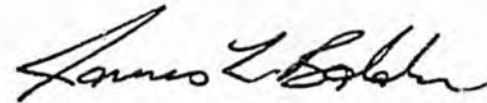
MEMORANDUM

March 13, 1978

SUBJECT: HB 727 - Retirement of magistrates

TO: House Judiciary Committee
ATTN: Bob Speed, A.A.

FROM: J.L. Baldwin, Legislative Counsel



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Feb.28,1978

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Juneau, Alaska
February 23, 1978

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Judiciary Committee
House of Representatives
Pouch V
Juneau, Alaska

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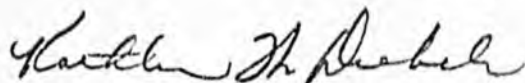
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Alaska Court System

State of Alaska

303 K STREET
ANCHORAGE, ALASKA 99501

SUSAN BURKE
DEPUTY ADMINISTRATIVE DIRECTOR

OFFICE OF ADMINISTRATIVE DIRECTOR

(907) 274-8811

February 24, 1978

Hon. Terry Gardiner
Chairman, House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Re: HB 727

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House Bill No. 727

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THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

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Bill/Resolution No. HB 727
Title Inclusion of Full-Time Magistrates Under the Judicial Retirement System
Requested by _____ Date _____

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Program Category Affected Retirement and Benefits
Budget Request Unit(s) Affected Non-Contributory Judicial/Full Time Magistrate

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FY 79 employer cost for full-time magistrates \$279,633

IV. DATE 3/01/78 PREPARED BY Paul B. Arnoldt
AGENCY Division of Retirement & Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) Representative Schaeffer
Office of the Governor (Keith Specking)

Paul B. Arnoldt