

LEGISLATIVE INTENT

HB 862 An Act making the repeal of AS 39.35.545 retro-
active to July 1, 1968; and providing for an
effective date.

IT IS THE INTENT of this Act to make whole individuals
denied earned benefits in PERS during the period of July 1,
1968 to 1967. The specific, and only, group intended to be
covered are those individuals who have been forced to choose
between accepting their own earned benefit(s) or those
benefit(s) which they would receive on behalf of another
individual because of dependency or survivorship. It is not
the intent of this legislation to allow individuals to
pyramid individually accrued benefits.

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REPRESENTATIVE DICK RANDOLPH

APRIL 2, 1982

HB 862 - INFORMATION

HB 862 WAS INTRODUCED TO CORRECT INJUSTICE DONE TO A SMALL NUMBER OF RETIREES FROM THE PUBLIC EMPLOYEES RETIREMENT SYSTEM.

CHAPTER 235 SLA 1958 ENACTED AS 30.35.545 WHICH PROVIDED THAT IF PAYMENTS UNDER THE RETIREMENT SYSTEM ARE DUE AN EMPLOYEE, HIS SPOUSE OR A BENEFICIARY UNDER MORE THAN ONE PROVISION OF THE SYSTEM, THEN THE EMPLOYEE, SPOUSE, OR BENEFICIARY MUST MAKE A CHOICE AS TO WHICH BENEFIT TO RECEIVE. WHAT THIS MEANT WAS THAT IF A HUSBAND AND WIFE BOTH WORKED FOR THE STATE, AND IF ONE OF THEM DIED, THEN WHEN THE SURVIVING SPOUSE BEGAN RECEIVING RETIREMENT BENEFITS FROM THEIR OWN EMPLOYMENT, A CHOICE WOULD HAVE TO BE MADE WHETHER TO TAKE SURVIVOR BENEFITS OR RETIREMENT BENEFITS.

THE INHERENT UNFAIRNESS IN THIS DISCRIMINATION AGAINST MARRIED RETIREES CAUSED AS 39.35.545 TO BE REPEALED IN 1976, BUT ONLY WITH PROSPECTIVE APPLICATION. UNFORTUNATELY, THERE WERE SEVERAL EMPLOYEES WHO WERE UNFAIRLY DISCRIMINATED AGAINST WHILE AS 39.35.545 WAS IN EFFECT AND WHO HAVE BEEN DENIED THEIR BENEFITS OVER THE YEARS.

THIS MATTER WAS BROUGHT TO MY ATTENTION BY A RETIRED STATE EMPLOYEE WHOSE HUSBAND HAD DIED JUST PRIOR TO REPEAL OF AS 39.35.545. SHE WAS FORCED TO MAKE A CHOICE BETWEEN SURVIVOR BENEFITS OR HER OWN RETIREMENT. RETIREMENT AT THAT TIME WAS NOT NEARLY AS SUBSTANTIAL AS IT IS NOW, AND INFLATION HAS DETERIORATED THE VALUE OVER TIME. SINCE BOTH HAD CONTRIBUTED TO THE RETIREMENT SYSTEM, PROVISIONS REQUIRING A CHOICE ARE CLEARLY UNFAIR. IN FACT, APEA LEGAL COUNSEL AND OTHER LEGAL OPINION INDICATE THAT THOSE EMPLOYEES WHO WERE DISCRIMINATED AGAINST BY AS 39.35.545 WOULD BE SUCCESSFUL IN CHALLENGING ITS CONSTITUTIONALITY ON A DUE PROCESS AND EQUAL PROTECTION THEORY. SUCH A LEGAL CHALLENGE WOULD TAKE CONSIDERABLE TIME AND EXPENSE, HOWEVER, AND RETROACTIVE REPEAL OF THE STATUTE WOULD BE A MUCH PREFERRED COURSE OF ACTION.

COMMITTEE REPORT

HOUSE

FURTHER:

(11)

3/26/82

Date: 4-3-82

Mr. Speaker:

The Committee on FINANCE has had HB 862

"An Act making the repeal of AS 39.35.545 retroactive to July 1, 1968; and providing for an effective date."

under consideration and ~~(a majority of the committee)~~ ~~(the committee)~~ reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Small but good - good bill!

Stark

Adams

Montgomery

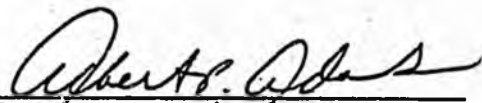
Adams

CHAIRMAN

HOUSE JOURNAL

HOUSE FINANCE COMMITTEE
LETTER OF INTENT
FOR
HB 862

It is the intent of this Act to make whole individuals denied earned benefits in PERS during the period of July 1, 1968-1967. The specific, and only, group intended to be covered are those individuals who have been forced to choose between accepting their own earned benefit(s) or those benefit (s) which they would receive on behalf of another individual because of dependency or survivorship. It is not the intent of this legislation to allow individuals to pyramid individually accrued benefits.



Representative Al Adams
Chairman, House Finance
Committee

Introduced: 2/16/82
Referred: Labor & Commerce and
Finance

1 IN THE HOUSE

BY RANDOLPH

2 HOUSE BILL NO. 862

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making the repeal of AS 39.35.545 retroactive
7 to July 1, 1968; and providing for an effective date."

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

9 * Section 1. The repeal of AS 39.35.545 in sec. 6, ch. 81, SLA 1976 is
10 retroactive to July 1, 1968.

11 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
12 070(c).

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I. REQUEST
 Bill/Resolution No. HB862
 Title An Act Making the Repeal of AS 39.35.545 Retroactive to July 1, 1968
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected Administration - Division of Retirement & Benefits
 Program Category Affected Centralized Administrative Services
 BRU, Program, or Subprogram(s) Affected Retirement & Benefits
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
100 RETIREMENT BENEFITS		44.0	44.0	44.0	44.0	44.0
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		44.0	44.0	44.0	44.0	44.0

FUNDING (Thousands of Dollars)

GENERAL FUND		36.0	36.0	36.0	36.0	36.0
FEDERAL FUNDS		2.0	2.0	2.0	2.0	2.0
VETERAN'S FUND		.1	.1	.1	.1	.1
FISH & GAME FUND		.3	.3	.3	.3	.3
HIGHWAY FUND		.6	.6	.6	.6	.6
AIRPORT FUND		1.3	1.3	1.3	1.3	1.3
CAPITAL FUND		3.7	3.7	3.7	3.7	3.7
PERS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

1. It is estimated that 10 people will qualify under this bill.
2. The total present value for retroactive and future benefit payments is estimated to be \$510,000; or \$44,000 per year, amortized over 25 years.

Paul B. Arnoldt

IV. DATE March 26, 1982 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 Randolph
 Office of the Governor (Keith Specking)