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TO: ALL MEMBERS, SENATE STATE AFFAIRS COMMITTEE

FROM: CATHERINE J. LARSON, SR BOX 2096 R, ANCHORAGE 99507  
PRESIDENT, AK STATE RETIRED TEACHER'S ASSOCIATION

THE ALASKA STATE TEACHER'S RETIREMENT ASSOCIATION SUPPORTS  
SB 195 AS A FAIR AND EQUITABLE WAY TO DEAL WITH ADJUSTMENTS OF RETIREMENT  
BENEFITS.

REPORT OF THE  
BLUE RIBBON COMMISSION ON THE  
STATE PERSONNEL ACT  
TO THE  
TWELFTH ALASKA STATE LEGISLATURE  
FIRST SESSION

Senator Bill Ray  
Chairman

February, 1981

SB 195

SENATE BILL 195: LIMITING THE ADJUSTMENT OF RETIREMENT  
BENEFITS.

PURPOSE

This bill remedies a problem which the commission was advised of in testimony from a retired state employee. When the employee retired in 1976, she had been advised on four separate occasions by the staff of the Division of Retirement and Benefits that she was eligible for more than nine years of credited service with the state. Shortly after she retired the legislature amended the retirement laws and she was told that she would receive credit for an additional three years because of her military service. She began receiving retirement benefits on that basis.

In 1979 the division wrote to advise her that their original computations had been in error and that her years of employment with the University of Alaska could not be included in her credited service. Therefore, she had received over \$5000 in benefits which she would have to repay. They reduced the amount of her check by \$100 to be credited towards that overpayment, in addition to reducing the check to the amount she was actually entitled to receive. The basis for denying credit for the employee's period of service with the University of Alaska was a regulation adopted by the Division of Retirement and Benefits in 1978 -- two years after she had retired.

The employee appealed to the Public Employee Retirement Board, which can waive collection of overpayments in cases of hardship. In

determining whether there would be hardship to the employee, the board considered her family's financial situation and found that she was not entitled to the waiver.

Commission members discovered that this was not an isolated instance. A number of retired state employees have undergone similar experiences. They relied on assurances from the division of retirement and benefits only to discover a considerable time later that errors had been made and that their benefits would be reduced.

The commission recommends that a two-year statute of limitations be placed on the collection of overpayments. Two years gives the Division of Retirement and Benefits ample time to audit its records and find and correct any errors made. After that period of time, a retired person should be freed from the burden of having to pay back the state for mistakes of the state's employees. This protection should be available only in cases where the retired person did not contribute to causing the error. It should not apply to persons working for employers other than the state, since those employers may not be in a financial position to absorb the cost of errors made by state employees.

#### SECTION BY SECTION ANALYSIS

Section 1. AS 14.25.173 is amended by adding a new subsection to read:

(b) An adjustment which requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or teacher or beneficiary was notified of the change

or error; and

(2) the change or error was not caused by the member or teacher or beneficiary.

Comment

This section amends the Teachers Retirement System by prohibiting the Division of Retirement and Benefits from decreasing benefits in order to collect for a previous overpayment if two conditions are met. The first condition is that the overpayment began two years or more before the division told the retired teacher of the error. The second condition is that the teacher did not cause the error.

Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

(b) An adjustment which requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the employee or beneficiary was notified of the change or error;

(2) the change or error was not caused by the employee or beneficiary; and

(3) the change or error relates to the employee's credited service with the state and not with another participating employer.

Comment

This section amends the Public Employee Retirement System in the same way that section 1 amends the TRS. However, in this section there is an additional condition. The error in computation must relate to the employee's credited

service with the state, and not with another participating employer.

Sec. 3. This Act is retroactive to July 1, 1979.

Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Comment

Section 3 makes the Act retroactive in order to include the retired person who testified before the commission. Section 4 provides that the Act takes effect immediately in order to address the hardship to retired state employees.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. \_\_\_\_\_ Senate Bill No. 105  
 Title An Act Limiting the Adjustment of Retirement Benefits  
 Requested by Senator Vic Fischer Date \_\_\_\_\_

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits  
 Program Category Affected Labor Services  
 BRU, Program, or Subprogram(s) Affected 02-96-8-01-01 (PERS)

(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 81	FY 82	FY 83	FY 84	FY 85	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 STATE TRS MATCHING						
100 BENEFITS						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

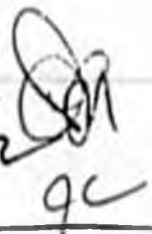
GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

Undoubtedly there will be some costs to the retirement system, but they cannot be measured. In most instances the individual adjustment would be small.

*Ken Humphreys, for* 

IV. DATE 4/02/81 PREPARED BY Paul A. Arnoldt, Director  
 AGENCY Division of Retirement & Benefits  
 PHONE 465-4460  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named) Senator Ray

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. Senate Bill No. 195  
 Title An Act Limiting the Adjustment of Retirement Benefits  
 Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL  
 Agency Affected Administration - Division of Retirement & Benefits  
 Program Category Affected Labor Services and Elementary & Secondary Education  
 BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-02 (TRS) 02-11-8-02-01-00 (TRS MATCH)  
 (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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 STATE TRS MATCHING						
100 BENEFITS						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

Undoubtedly there will be some costs to the retirement system, but they cannot be measured. In most instances the individual adjustment would be small.

IV. DATE 4/02/81 PREPARED BY Paul B. Arnoldt, Director  
 AGE? ✓ Division of Retirement & Benefits  
 PHONE 465-4460  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 Office of the Governor (Keith Specking)

*Ken Humphreys, for*