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Senator Pam

JB 526

OVERVIEW OF CSHB-116

1. Prior to 1978 teachers coming into Alaska were required to claim and were indebted to the TRS for outside service. Although these people had to pay into the fund that contribution did not count towards their twenty (20) years required to retire.
2. Since 1978 the law has been changed so that teachers coming into the system are not required to claim outside service and if they do claim it they must pay the full actuarial costs. Therefore HB 116 does not apply to these people.
3. This bill affects 540 teachers who have been in the system since before 1978.
4. The bill would save the TRS fund 110 Million over the period of benefits for these individuals because they would retire at 40% of a lower salary instead of 50% of a higher salary. The figures used below are conservative and the original salary based on the fiscal note.

<u>20 Year Retiree</u>		<u>25 Year Retiree</u>
\$37,000	estimated average salary	\$51,900
.40%	% rate	.50%
\$14,800	Annual benefit paid	\$25,950
X 30 yrs	Life expectancy	X 25 yrs
\$444,000	Pay-out to age 75	\$648,750
X 540	Max # persons affected	X 540
\$239,760,000		\$350,325,000

The estimated difference of \$110,565,000 is, by far, more than the fund would receive into the system in five years of additional service.

5. The law, as written at this time, is discriminatory to those 540 teachers and unconstitutional.
6. Passage of this law would therefore, save the fund money over a period of years and circumvent a possible court case challenging the discrimination factor of forcing those members to pay into the fund and not allow it to count towards their 20 years.

Eugene C. Kubina, President
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Members of the House HESS Committee

House bill #118 is designed to eliminate the inequities now inherent in the present teacher retirement law. a case in point:

Teacher A began teaching in Alaska in 1961 for a starting salary of \$8,000. She paid into the fund at the mandatory employee contribution rate each year until she retired in 1981. She retired with 20 years of service and began receiving full benefits according to retirement fund law at this time.

Teacher B began teaching in Minnesota in 1961. Five years later, she moved to Alaska, bought into the Alaska Teacher Retirement System and paid all reinstatement and arrearage fees plus interest for the years of service in Minnesota. (Payment for outside service is mandatory) However, Teacher B must teach twenty-five years before being eligible for retirement with full benefits.

Obviously, there is an inequity here and the law is not just as presently written.

Some persons have expressed fear that a 20 year retirement bill would not be actuarially sound. According to our figures, however this fear is unfounded. In fact, it can be noted that a 20 year retirement would actually save the system money. Ultimately, a teacher being able to retire with 20 years service will be less costly to the fund, as opposed to a teacher who must teach for 25 years.

In further consideration for passage of HB 118, another actuary condition should be contemplated. For example, the average life span (according to Metropolitan Life Insurance actuary table for men and women) is seventy-five years. Because of this long life expectancy, it is more reasonable from a fiscal viewpoint to allow a 20 year retiree to draw upon the fund for a period of 30 years at 40% (based upon the current formula for determining pension benefits) than to have a 25 year retiree draw for 25 years at 50%.

The following illustration bears out this point:

20 Year Retiree

25 Year Retiree

\$37,000	estimated average salary	\$51,900
.40%	% rate	.50%
<u>\$14,800</u>	Annual benefit paid	<u>\$25,950</u>
X 30 yrs	Life expectancy	X 25 yrs
<u>\$444,000</u>	Pay-out to age 75	<u>\$648,750</u>
X 540	# persons affected	X 540
<u>\$239,760,000</u>	Total cost to fund	<u>\$350,325,000</u>

The estimated difference of \$110,565,000 is, by far, more than the fund would receive into the system in five years of additional service.

In other areas, there are cases where employers find it financially sound to encourage employees to retire early.

An employer could hire two beginning teachers for what is now being paid one teacher with twenty plus years of service.

In reality, many teachers will not use the option of becoming twenty year retirees. Some cannot afford to retire; others are very comfortable and wish to teach far beyond the minimum years of service required for retirement. They have reached the top of the salary scale and greatly enhance their benefits by remaining within the system.

JERMAIN, DUNNAGAN & OWENS

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March 31, 1981

Alaska Federation of Teachers
Local No. 1175
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Dear Sirs and Mesdames:

In response to your request regarding AS 14.25.110(a)(4), this firm is pleased to state the following preliminary opinion after initial research of Alaska Statutes and case law:

The statute, by requiring greater years of service of teachers who began their careers outside Alaska, unjustifiably denies a benefit on the basis of the exercise of a fundamental constitutional right, and therefore violates the United States and Alaska Constitutions.

Analysis: The effect of the statute is to deny to teachers who began their teaching careers outside Alaska the right to full retirement benefits after 20 years of credited service, including five years of membership service. Teachers who move to Alaska must teach at least 25 years of credited service, of which the last five must be "membership service" in Alaska schools, while teachers who begin their careers in Alaska, and continue to teach for 20 years, may retire with full benefits after 20 years "membership service." Thus, a teacher who works five years in Wisconsin, moves to Alaska, buys into the Teachers Retirement system for the five years, must then teach a total of 20 years in Alaska. If a teacher begins work in Alaska the same day, and continues thereafter in Alaska, he or she will be eligible for full benefits five years earlier.

This scheme is affected by the requirement, prior to 1978, that teachers moving to Alaska were compelled to "buy into" the System by paying reinstatement, arrearages, and interest for each year taught outside Alaska.

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The Supreme Court of Alaska announced in State v. Wylie, 516 P2d 142 (AK 1973) that it recognized that the freedom to travel throughout the United States uninhibited by statutes, rules or regulations which unreasonably burden or restrict this movement is a fundamental right under the United States Constitution. (The right to interstate travel is itself a fundamental right and any classification which serves to penalize the exercise of that right must be subjected to strict judicial scrutiny. State v. Wylie at p.147. State v. Wylie concerned a durational residency requirement for state employment. The Supreme Court noted that although "there is no constitutional right to employment by the state, the state may not deny a benefit to a person on a basis that infringes his constitutionally protected interests." State v. Wylie at p.146. And, though the state has no duty to provide employment, it may not restrict the opportunity for it on the basis of an invidious distinction between classes of citizens. State regulation of public employment must accord with the Fourteenth Amendment. State v. Wylie at p.146, citing Purdy & Fitzpatrick v. State, 71 Cal 2d 566, 79 Cal Rptr 77, 456 P2d 645, 657 (CA 1969). Ultimately, the Supreme Court concluded that the state may not limit public employment to new residents as a means of saving money, or of reducing unemployment and "upgrading Alaska's human resources." These interests were not so substantial, so compelling, that they necessitated burdening the constitutionally protected right to travel.

More recently, in William v. Zobel, Op 2170 (AK 1980) and in Hicklin v. Orbeck, 565 P2d 159 (AK 1977), the Alaska Supreme Court rejected the imposition of durational residency requirements under a more relaxed test than "strict scrutiny." Hicklin concerned the Alaska Hire law, and in affirming Wylie the Court noted:

"The state also suggests that our scrutiny should be less strict because Alaska Hire does not bar nonresidents from employment, but merely gives a preference to residents. But as long as there are available Alaska residents, it is a bar to those who cannot meet the residency standards. Be it bar or preference, the appellants (have been penalized). 565 P2d 166.

And in "Zobel I" the Court stated that:

"When a law conditions the receipt of some right or benefit upon a period of residency, we will balance

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the importance of the denial of the right or benefit against those legitimate government objectives which make it justifiable to classify people on the basis of their length of residency." Williams v. Zobel, supra at p.13.

The Supreme Court has long rejected the state's interest in saving money as a justification for limiting the benefit of public employment to a classification of persons. This is the only legitimate state purpose that might be advanced in support of the present disparity in the Teachers Retirement System. If it could not, under the above cases, support disparate treatment in hire, it certainly cannot support disparate treatment in conditions of employment - particularly when they so severely penalize past exercise of a fundamental constitutional right.

If you have any further questions in this regard, please do not hesitate to contact this office.

Very truly yours,

JERMAIN, DUNNAGAN & OWENS



William K. Jermain

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Enclosures

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement & Benefits

Program: Category Affected Labor Services and Elementary & Secondary Education

TRU, 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		1,727.7	1,900.5	2,090.6	2,299.7	2,529.7
100 BENEFITS		312.4	343.6	378.0	415.8	457.4
TOTAL	-0-	2,040.1	2,244.1	2,468.6	2,715.5	2,987.1

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	2,040.1	2,244.1	2,468.6	2,715.5	2,987.1
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)

1. This bill does not affect deferred vested teachers.
2. Of the 7,300 active teachers, 2,916 teachers have outside service. Of these with outside service, 2,376 will qualify for retirement under existing provisions and will not be affected by this bill. The remaining 540 teachers will be affected by this bill.
3. The total present value of the benefits being granted under this bill is \$27,837,558.
4. To fund this bill, the TRS contribution rate must be increased by 1.32% of covered payroll (the TRS contribution rate is split 50/50 between the State matching contribution and the school district contribution).
5. Estimate FY 82 TRS covered payroll to be \$261,775,000, increasing 10% annually.

IV. DATE 3/11/81

PREPARED BY

AGENCY

PHONE

Paul B. Arnoldt

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Division of Retirement & Benefits

465-4460

Original: Legislative Finance