

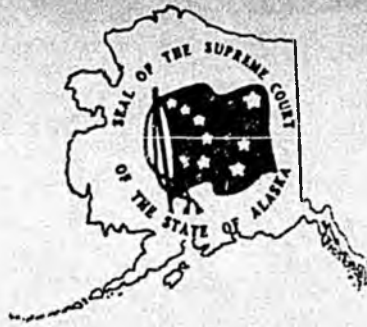
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Alaska Court System

State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

FRANK RAYE
Personnel Director

303 K Street
Anchorage, Alaska 99501

October 12, 1981

The Honorable Victor Fischer, Chair
Senate Affairs Committee
Pouch V
Juneau, AK 99811

Dear Senator Fischer:

In response to your memorandum of September 29, 1981, I have read the 16 bills concerning retirement now being considered by your committee.

The main reason I am commenting on these proposals is to urge re-writing of Chapter 35 of Title 39 to eliminate present discriminatory provisions. I also wish to speak against discriminatory provisions contained in SB 557, 143, 402 and 394 as well as supporting SB 196.

SB 557:

First I would like to point out that SB 557 is an effort to make some housekeeping corrections to ease administrative oversights. In that effort, the bill has some merit. The problem is that all of Chapter 35 of Title 39 needs to be re-written to comply with the state constitution and with Title 18 protections against discrimination on the basis of sex, marital status, and parenthood.

SB 557 proposes on page 15 to re-write AS 39.35.535 to give medical benefits only to retired employees, their spouses or children. Single retired persons are thereby precluded from naming a beneficiary of their own. Yet single employees pay into the retirement system at the same rate as married employees.

At this time, AS 39.35 provides married state employees and their spouses an opportunity to choose a type of financial security called a joint survivor option. However, single employees and their beneficiaries do not have this choice. Under AS 39.35.420 and 440, married employees may choose the joint survivor option once they have been employed for five years and have thereby "vested". However, single employees with five years of service are denied that choice.

Specifically, a single employee is not permitted to have his or her beneficiary receive that employee's retirement money through a joint survivor option. Only married employees have that choice under AS 39.35.420 and 440. However, AS 39.35.450 allows "a dependent approved by the administrator" to also be a beneficiary. Such restrictions are based on a false assumption that only spouses and dependent children can develop an economically dependent relationship. Yet both single and married employees pay into the retirement system at the same rate and do not have the same benefits. It is my position that denying single employees an option granted only to married employees is a form of discrimination violating AS 18.80.220 which states in part:

"It is unlawful for an employer to refuse employment to a person or to . . . discriminate against him in compensation or in a term, condition, or privilege of employment because of his . . . sex, marital status . . . or parenthood;"

Since retirement is a compensation, term, condition and privilege of employment, the retirement statutes as now constituted are, in my opinion, illegal.

Furthermore, the Division of Retirement and Benefits' procedures used to determine the amount of money given to employees' spouses under the joint survivor option, are based on outdated, separate male and female mortality tables which have been held illegally discriminatory in many recent court cases. See, for example, City of Los Angeles v. Manhart, 435 US 702 (1978). This discrimination on the basis of sex, in my opinion, is also a violation of Title 18 as quoted above.

Also under SB 557, a new section, AS 39.30.095, is proposed which gives the commissioner of administration complete power and authority over a newly established fund for health and life insurance benefits. Why is it necessary to establish this fund and why is there no check on the commissioner's control over this fund? Why is there no provision for input from affected persons?

SB 143:

SB 143 proposes to grant some state employees credit for unused sick leave upon retirement. On the face of it, there appears

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to be nothing wrong with this amendment to AS 39.35.315. The problem is that all state employees would not benefit from this proposed change. Several years ago AS 39.20.310 established a separate group of state employees who no longer have leave. Under Chapter 20, sick and annual leave were done away with and combined into personal leave with a "sick leave bank" established for emergency illnesses. SB 143 fails to speak to those employees, their personal leave and their sick leave bank. Therefore, passage of SB 143 in its present form would discriminate against about 3,000 of the 9,000 state employees who no longer have sick leave. In other words, this bill affects only about two thirds of permanent state employees and leaves the other one third without comparable benefits.

In order to avoid this discrimination, SB 143 should either not be passed out of committee or should be re-written to include employees who have personal leave and a sick leave bank.

SB 402:

Presently state employees who are veterans may buy back up to five years of their military service as credited time for state retirement. However, under present law this buy back cannot take place until the employee is vested or has worked for the state at least five years. SB 402 proposes to eliminate the requirement that an employee must work five years for the state (or be vested) before buying back the military time.

I oppose this bill because it would allow new employees who are veterans to vest their retirement immediately after being employed in state service. All other employees cannot vest until they have had five years of state service.

Furthermore, the formula which establishes the cost of buying back five years of military time amounts to about one third of the employee's annual salary at the time of his or her eligibility to buy back. That means that those veterans who have already bought back their time under this law, after having worked five years for the state, have paid more than a new employee would pay under this proposed law. The reason for this discrepancy is that a five year employee will earn more than a new employee because of annual step pay increases, and the greater probability of promotion.

SB 394

SB 394 proposes to give retirement credit to teachers only who have served in the peace corps. The philosophical base to this proposal is arguable when compared to preference for veterans

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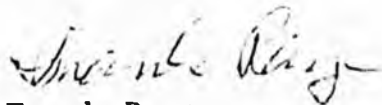
who have risked their lives for their country. What is not arguable is the gross inequity of the proposition to give retirement credit to one group of state employees (here teachers) and not to other state employees. This clearly discriminatory bill should not be passed out of committee.

SB 196:

I support SB 196 to mandate that at least one member of the retirement board be a retired person. It is a logical and equitable proposal since the greatest impact of decisions made by the board will be with regard to retired persons.

If you have any questions on the points raised in this letter, I'll be glad to answer them. Thank you for taking the time to consider these issues.

Sincerely,



Frank Raye
Personnel Director

FR/jb

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C

JUNEAU, ALASKA 99811
Ph: 465-2200

April 24, 1981

Honorable Vic Fischer
Chairman
Senate State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Fischer:

Senate Bill 402, in its present form, would allow employees to use their military service to vest in the PERS. The cost to the system would be 9.003% of payroll, or \$26.8 million in FY 82. Costs aside, it would serve no useful public purpose to allow the use of military service to vest in the system. Therefore, I suggest the bill be amended by adding the following language at the end of section 340 (a): "service credited under this section may not be used to satisfy the vesting requirements for retirement." If the bill was amended in this manner, the cost to the system in FY 82 would be reduced to \$243,000.

Additionally, the bill now covers all employees, including those who have already claimed their military service. You asked for the cost of the bill if it covered only those who have not yet claimed their military service. If the bill were amended to cover only future claimants, the cost to the system would be further reduced to \$188,350 in FY 82; however, for the purposes of equity, I suggest that it apply to all employees.

Please let me know if you need additional information.

Respectfully,


W. R. Hudson
Commissioner

WRH/cm

cc: Paul B. Arnoldt
Director
Division of Retirement & Benefits
Keith Specking