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STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 1, 1984

SUBJECT: Retirement benefits for administrative
director of courts
(Work Order No. 13-1894)

TO: Representative Charlie Bussell

FROM: *LHA* Linn H. Asper
Legislative Counsel

I have redrafted the above-referenced work order to delete section 3 of the original draft, as you have requested. That section made the Act apply only to an administrative director employed after the effective date of the Act. I included the section for informational purposes because the result indicated in the section is the result that is dictated by the case of Hammond v. Hoffbeck, 627 P.2d 1052 (Alaska, 1981). In that case it was held that an employee's retirement benefits are guaranteed as a matter of contract and constitutional right and that the employee's retirement plan may not be changed in a way that disadvantages the employee without providing offsetting additional advantages. Thus, under the law, the benefits due an incumbent administrator of courts or an administrator who takes office before the Act becomes effective may not be changed in the way that this bill indicates, whether or not the bill contains a section similar to the one that you have requested be removed.

LHA:ojb
J3/038

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J3/038

Sec. 22.25.012. Retirement benefits of administrative director.

(a) An administrative director of the Alaska court system appointed under art. IV, sec. 16 of the state constitution is entitled to retirement benefits under this chapter on the terms and conditions applicable to a superior court judge appointed after July 1, 1978, except that an administrative director may receive retirement benefits only with service as administrative director for 10 or more years.

(b) An administrative director who vacates the office of administrative director for any reason and who has not at that time accrued 10 years of credited service under this chapter is entitled to a refund of contributions to the judicial retirement system together with interest.

(c) An administrative director who withdraws from the judicial retirement system under (b) of this section is eligible for membership in the public employees' retirement system (AS 39.35) and shall receive credited service in that system for service rendered as administrative director. To be eligible for membership in the public employees' retirement system under this subsection, the administrative director must contribute to the public employees' retirement system

(1) the amount that would have been contributed if the administrative director had been a member during the period of the membership in the judicial retirement system; and

(2) any contributions for service as administrative director refunded from the public employees' retirement system at the time the administrative director became a member of the judicial retirement system.
(§ 7 ch 146 SLA 1980)

Editor's notes. — This section was drafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.051(c) and § 4, Chapter 58, SLA 1982.

Section 50, ch. 146, SLA 1980 provides: "A person who is serving as administrative director of the Alaska court system on the effective date of AS 22.25.012 as enacted in sec. 7 of this Act [July 1, 1980] may receive prior service credit under AS 22.25 for service rendered as administrative director of the Alaska court system before the effective date of AS 22.25.012 if

he withdraws from the public employees' retirement system (AS 39.35), receives a refund of his contributions made under AS 39.35, elects to receive service credit under AS 22.25 for prior service as administrative director and makes retroactive contributions for prior service as administrative director including service before July 1, 1978. Retroactive contributions made under this section are calculated at seven percent of the base annual salary of a superior court judge in effect during the period for which contributions are made."

Sec. 22.25.020. Retirement pay. A retired justice or judge eligible for retirement pay shall receive from the date of eligibility until death a monthly compensation equal to five percent per year of service, to a maximum of 75 percent, of the monthly salary authorized for justices and judges, respectively, at the time each retirement payment is made.
(§ 1 ch 102 SLA 1963; am § 11 ch 83 SLA 1967)

Title 39
Public Officers

Editor's note. — The obsolete section was derived from § 4, ch. 52, SLA 1979.

Sec. 39.35.158. Administrative director of courts. An administrative director of the Alaska court system who withdraws from the judicial retirement system under AS 22.25.012 is eligible for membership in the system and shall receive credited service in the system for service rendered as administrative director. To be eligible for membership in the system under this subsection, the administrative director must contribute to the system

(1) the amount he would have contributed if he had been a member during the period of his membership in the judicial retirement system; and

(2) any contributions for services as administrative director refunded to him by the system at the time he became a member of the judicial retirement system. (§ 30 ch 146 SLA 1980)

Article 3. Contributions by Employees.

Section	Section
160. Amount of employee contributions	210. [Repealed]
170. Employment contributions mandatory	220. [Repealed]
180. Voluntary contributions by employee	230. Refund upon death of retired employee
190. [Repealed]	240. Withdrawal of voluntary contributions
200. Refund upon termination of employment for reason other than death	

Sec. 39.35.160. Amount of employee contributions. (a) While participating in the system each peace officer and each fireman shall contribute five per cent and every other employee shall contribute four and one-quarter per cent of his compensation to the public employees' retirement system.

(b) Repealed by § 6 ch 135 SLA 1980 and § 39 ch 146 SLA 1980. (§ 8a ch 143 SLA 1960; am § 2 ch 235 SLA 1968; am § 3 ch 35 SLA 1969; am § 5 ch 109 SLA 1970; am § 5 ch 159 SLA 1972; am § 2 ch 58 SLA 1979; § 6 ch 135 SLA 1980; § 39 ch 146 SLA 1980)

Effect of amendments. — The 1979 amendment substituted the language beginning "be considered to have agreed" for "pay the appropriate social security contribution" in subsection (b).

The first and second 1980 amendments, retroactive to January 1, 1980, repealed subsection (b).

Editor's note. — Section 2, ch. 123, SLA 1976, purported to amend subsection (a) of this section. Section 25, ch. 123, SLA 1976, provided: "Sections 2 and 3 of this Act become effective on July 1, 1976 if approved by a majority of the votes cast in

a special election conducted by the Public Employees Retirement Board to be held among active members of the retirement system. During the conduct of this election, the division shall remain impartial and take no position on the question." The amendment was rejected by the public employees.

Section 1, ch. 58, SLA 1979, purported to amend subsection (a) of this section. Section 9 of ch. 58 provided that the amendment take effect on January 1, 1980, if approved by a majority of the votes cast in a special election conducted before

Title 39
Public Officers

Sec. 39.35.680. Definitions. In this chapter, unless the context otherwise requires,

(1) "active member" means an employee who is employed by an employer, is receiving compensation for seasonal, permanent full-time, or permanent part-time services, and is making contributions to the system;

(2) "actuarial adjustment" means equality in value of the aggregate expected payments under two different forms of pension payments, considering expected mortality and interest earnings on the basis of tables adopted from time to time by the board;

(3) "administrator" means the person appointed by the commissioner of administration under AS 39.35.050;

(4) "average monthly compensation" means the result obtained by dividing the compensation earned by an employee during a considered period by the number of months, including fractional months, for which compensation was earned; the considered period consists of the three consecutive calendar years during the period of credited service which yields the highest average, or if the employee does not have three consecutive calendar years, his period of credited service; an employee must have at least 115 days of credited service in the last calendar year in order to be used as part of the three consecutive calendar years;

(5) "beneficiary" means a person designated by an employee to receive benefits that may be due from the system upon the employee's death;

(6) "board" means the Public Employees Retirement Board;

(7) "calendar year" means the period beginning on January 1 and ending on December 31;

(8) "compensation" means the total remuneration earned by an employee for personal services rendered, including cost-of-living differentials, but does not include retirement benefits, welfare benefits, per diem, expense allowances, or medical leave or annual leave not used by the employee;

(9) "credited service" means the number of years, including fractional years, recognized for computing benefits that may be due from the system;

(10) "deferred vested member" means an inactive member who meets the five-year credited service requirement to qualify for a retirement benefit;

(11) "dependent child" means an unmarried child of an employee, including one adopted, who is dependent upon the employee for support and who is either (A) under 19 years old or (B) under 23 years old and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education; age restrictions set out in this paragraph do not apply to a child.

Title 43
Executive and Taxation

Title 40
Public Records
and Records

Title 41
Public Resources

Title 42
Public Utilities
and Carriers

Title
Public C

(13) "early retirement" means retirement for a member who is at least 50 years old and has a minimum of five years credited service;

(14) [Effective until January 1, 1981] "elected official" means a member whose compensation results from personal services rendered as an elected representative and who elects coverage under AS 39.35.125;

[Effective January 1, 1981] "elected official" means a person whose compensation results from personal services rendered to an employer as an elected representative;

(15) "employee contribution account" means the account maintained by the system to record the mandatory contributions of each employee, including interest and adjustments to the account in accordance with AS 39.35.100;

(16) "employee savings account" means the account maintained by the system to record the voluntary contributions of each employee, including interest and adjustments to the account in accordance with AS 39.35.100;

(17) "employer" means the State of Alaska or a political subdivision or public organization of the state which participates in the system;

(18) "fiscal year" means the period beginning on July 1 and ending on June 30 of the following calendar year;

(19) "former member" means an employee who is terminated and who has received a total refund of the balance of his employee contribution account, or who has requested in writing a refund of the balance in his employee contribution account, or who is eligible for a refund under AS 39.35.200(b);

(20) "inactive member" means an employee who is terminated and who has not received a refund from the system or an employee on leave-without-pay status or layoff status;

(21) "member" or "employee"
(A) means a person eligible to participate in the system and who is covered by the system;

- (B) includes
 - (i) active member;
 - (ii) inactive member;
 - (iii) vested member;
 - (iv) deferred vested member;
 - (v) non-vested member;
 - (vi) disabled member;
 - (vii) retired member;
- (C) does not include
 - (i) former members;

Title 38
Public Laws

- (ii) persons compensated on a contractual or fee basis;
- (iii) casual or emergency workers or nonpermanent employees as defined in AS 39.25.200;
- (iv) persons covered by the Alaska Teachers' Retirement System;
- (v) employees of the division of marine transportation engaged in operating the state ferry system who are covered by a union or group retirement system to which the state makes contributions; and
- (vi) justices of the supreme court or judges of the court of appeals or of the superior or district courts of Alaska;
- (vii) the administrative director of courts appointed under art. IV, sec. 16 of the state constitution unless he becomes a member under AS 39.35.158;

(D) may include employees of the division of marine transportation excluded under (C)(v) of this paragraph provided that

(i) the State of Alaska formally agrees to their inclusion through the process of collective bargaining; and

(ii) no collective bargaining agreement has the effect of obligating contributions made by the state under AS 39.30.150 in the event the state resumes participation in the federal social security system;

(22) "military service" means active duty service in the armed forces of the United States;

(23) "nonoccupational disability" means a physical or mental condition which, in the judgment of the administrator, presumably permanently prevents an employee from satisfactorily performing his usual duties for his employer or the duties of another position or job which his employer makes available and for which the employee is qualified by training or education, not including a condition resulting from a cause which the board, in its regulations has excluded;

(24) "non-vested member" means an active or inactive member who does not meet the five-year credited service requirement to qualify for a retirement benefit;

(25) "normal retirement" means retirement for a member who is at least 55 years old and has a minimum of five years credited service, or who is any age and has 30 years or more of credited service, or a peace officer or fireman who is any age and has 20 years or more of credited service;

(26) "occupational disability" means a physical or mental condition which, in the judgment of the administrator, presumably permanently prevents an employee from satisfactorily performing his usual duties for his employer; however, the proximate cause of the condition must be a bodily injury sustained, or a hazard undergone, while in the performance and within the scope of the employee's duties and not the proximate result of the wilful negligence of the employee;

(27) "peace officer" means

Title 43
Revenue and Taxation

Title 40
Public Records
and Records

Title 41
Public Resources

Title 42
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and Carriers

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

(Page 1 of 2)

REQUEST

Bill/Resolution No.: HB 595
Title: "An Act relating to JRS"

FISCAL DETAIL

Agency Affected: Ak. Court System
Program Category Affected: JRS & PERS

Sponsor: Bussell
Requestor: _____
Date of Request: _____

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	-0-	-0-	-0-	-0-	(111.5)
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	(111.5)

CAPITAL

REVENUE

FUNDING: (Thousands of Dollars)

General Fund	-0-	-0-	-0-	-0-	-0-	(111.5)
Federal Funds						
Other						
Total						

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys *J.K. Humphreys* Phone 465-4460
Division: Retirement & Benefits Date: 2-22-84

Approved by Commissioner: Lisa Rudd *L.R.* Date: 2/22/84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor -
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

House Bill 595
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration

February 22, 1984

IV Analysis: This bill will replace the administrative director of the Alaska Court System in retirement coverage under the Public Employees' Retirement System (PERS). Even though the bill will take effect immediately, the incumbent would be entitled to continued coverage under the Judicial Retirement System (JRS).

We have assumed that the incumbent would remain in his position until June 30, 1988 when he would have approximately 15 years of JRS service. We have assumed that the present annual salary of \$79,600 will increase at a rate of 8% per year and that the contribution rates for the PERS and the JRS will remain constant through 1989 at the FY 85 level (13.80% PERS and 109.14% JRS).

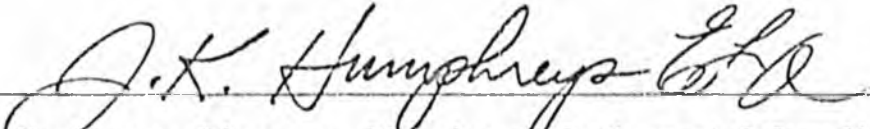
The savings shown represent the savings to the State under the JRS less the cost to the State under the PERS.

Position Paper

HB 595

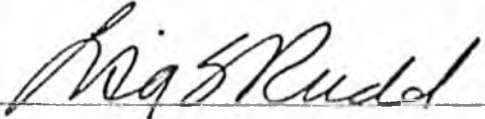
The Department of Administration supports passage of this legislation which would remove the position of Administrative Director of the Alaska Court System from the Judicial Retirement System and replace it in the Public Employees' Retirement System.

Even though it would not affect the status of the incumbent, the bill would ensure that, in future, only judges would enjoy the superior benefits of the judicial system.



J.K. Humphreys, Director, Division of Retirement & Benefits

2/22/84
Date



Lisa Rudd, Commissioner, Department of Administration

2/22/84
Date