

HP

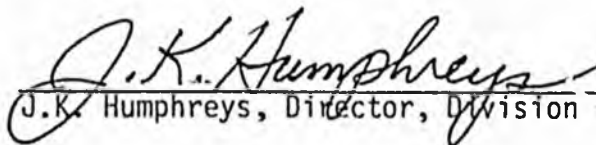
51

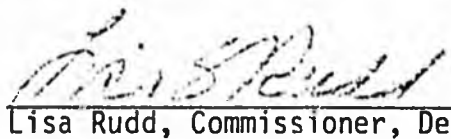
Position Paper

HB 51

Both the Public Employees' and Teachers' Retirement Board unanimously passed resolutions at their March meetings opposing passage of HB 51. The Department of Administration agrees that the existing mechanisms for granting waivers of adjustments (AS 39.35.522 and AS 14.25.175) are equitable and allow the boards to decide these cases on their own merits.

We are concerned that this bill would arbitrarily limit recovery of overpayments even in cases where the person receiving the overpayment knew or had reasonable grounds to know an error had been made. In addition, the bill makes no provision for oversight by the boards where adjustments are prohibited. Again, we are opposed to changing the existing law; however, the two specific objections mentioned above were addressed in the Senate State Affairs Committee substitute for SB 57.


J.K. Humphreys, Director, Division of Retirement & Benefits 5/2/83
Date


Lisa Rudd, Commissioner, Department of Administration 5/3/83
Date

Introduced: 1/18/83
Referred: Labor & Commerce,
State Affairs and Finance

CS SB 57

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
COUNCIL (for the Blue
Ribbon Commission on the
State Personnel Act)

1 IN THE HOUSE

2

HOUSE BILL NO. 51

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act limiting the adjustment of retirement bene-
7 fits; and providing for an effective date."

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

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

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

13 (1) the incorrect benefit was first paid two years or more
14 before the member or teacher or beneficiary was notified of the change
15 or error; and

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

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

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

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

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

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

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

1 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
2 10.070(c).

Bill No: House Bill 51 Date on Bill: 1-18-83
 Title: An Act Limiting the Adjustment of Retirement Benefits
 Sponsor: Rules Committee
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue	FY 83	FY 84	FY 85	FY 86

2. Source of funds to offset fiscal impact of bill:

3. Assumptions

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

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: J.K. Humphreys J.K. Humphreys, Director Phone: 465-4460
 Division: Retirement & Benefits Date: 2-23-83
 Approved by Commissioner: [Signature] Date: 2/24/83
 Department: [Signature]

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/8/83

MEMORANDUM

To: John
From: Brent

April 29, 1983

Re: HB 51 Limiting the Adjustment of Retirement Benefits

John, this bill was heard in Labor and Commerce on February 14. You voted a "do pass" along with Furnace, Uehling and Ringstad.

I talked with Ken Humphreys, the Director of Retirement this morning about this bill.

The division of Retirement is not in favor of this bill, because it feels the existing mechanism in place is adequate. (see his letter, Feb 14, to the L&C Committee)

Under HB 51, the board of Retirement would have no way of making sure that corruption of the system might happen.

QUESTION: Under HB 51, What checks would the board have to insure that nobody is corrupting the system? Is there any reporting to the board the cases of incorrect benefit?

Here is what would happen under HB 51.

Say a person received \$1000 benefit and should have received really only \$500. They are overpaid \$500 each month so overpaid \$6000 every year. If this goes unnoticed for two years, the beneficiary does not have to repay the overpaid amount.

Under current law, if the board discovers an overpayment, they can require the beneficiary to take a decrease in their monthly retirement check till the correct amount is balanced.

If you look at Humphrey's letter of Feb. 14, you will see that the Division of Retirement usually waives this pay back requirement. You will also notice that there really are so few people concerned or effected by this legislation

1 yr

1. adequate measures in place
- 2.



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

M E M O R A N D U M

April 14, 1983

TO: House State Affairs Committee

FROM: Teresa B. Cramer *Teresa Cramer*
Administrative Assistant

SUBJECT: House Bill 51 - Limiting the Adjustment of Retirement Benefits

Retired state employees may have substantial difficulties if they are required to repay retirement benefits improperly received because of errors made by the Division of Retirement and Benefits or because of a change in law. The commission is proposing legislation to limit the authority of the division to collect amounts paid improperly through no fault of the beneficiary or retired person if the error is not corrected within two years.

One woman testified to the commission that before she retired she asked the division to verify her years of credited service. Several years later a court-ordered change in retirement regulations reduced the number of years for which she received credit. Her employment with the University of Alaska could no longer be counted as credited service in PERS. As a result she had received more than \$5000 in benefits to which she was not entitled. The division reduced her benefit to the correct amount and began withholding an additional \$100 per month to be applied to the overpayment. She appealed to the Public Employees Retirement Board asking that collection of the overpayment be waived. The Board agreed.

Both the Public Employees' Retirement Board and the Teachers' Retirement Board have authority to waive collection of overpayments, but the uncertainty of an appeal can cause considerable stress to people on fixed incomes. Both boards are required to determine whether there would be undue hardship imposed by requiring repayment. AS 14.25.175 and AS 39.35.522. In establishing whether there is financial hardship, the entire family financial situation is considered, not just the resources of the petitioner.

The commission recommends that a two-year statute of limitations be placed on the collection of overpayments which resulted from errors which were not caused by the retired state employee. Two years provides ample opportunity for the division to audit its records and correct any errors. After that period, a retired person should not be required to repay benefits erroneously received if he or she did not cause the error. The division would still correct the amount of future benefits paid to the retired person.

Bill Analysis

- Page 1 The first section of the proposed legislation adds the
Line 9 two-year statute of limitations to the Teachers' Retirement System.
- Line 18 The second section adds the same provision to the Public Employees' Retirement System. The amendment to PERS is applied only to state employees because the Blue Ribbon Commission considered that requiring other participating employers to pay for errors made by the state was inappropriate.
- Line 29 The third section makes the bill effective retroactively to July 1, 1979, in order to apply to those individuals whose situations came to the commission's attention.
- Page 2 The fourth section of the bill contains an immediate
Line 2 effective date clause.