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Section

- 173. Adjustments
- 175. Waiver of adjustments
- 177. Effect of amendments
- 180. Custody and investment
- 190. Actuarial evaluations of the retirement fund

Section

- 200. Exemption from taxation and process
- 205. Time limit for application
- 210. Penalty for false statements
- 220. Definitions

Collateral references. — 60 Am. Jur. 78 C.J.S. Schools and School Districts, §§ 231-236.  
2d Pensions and Retirement Funds, §§ 39-72.

**Sec. 14.25.010. Retirement system established.** A joint-contributory retirement system for teachers of the state is created. (§ 1 ch 145 SLA 1955; am § 1 ch 89 SLA 1960)

**Sec. 14.25.012. Purpose and effective date.** (a) The purpose of this chapter is to encourage qualified teachers to enter and remain in service with participating employers by establishing a system for the payment of retirement, disability, and death benefits to or on behalf of the members.

(b) The system created became effective as of July 1, 1955, at which time contributions by the participating employers and members began. (§ 1 ch 13 SLA 1980)

**Sec. 14.25.015. Administrator.** The commissioner of administration shall appoint an administrator of the system. (§ 1 ch 13 SLA 1980)

Cross references. — For definition of "administrator," see AS 14.25.220(3).

**Sec. 14.25.020. Powers of the administrator.** (a) The administrator may

(1) formulate and recommend to the Alaska Teachers' Retirement Board regulations to govern the operation of the system;

(2) make expenditures from the retirement fund necessary to administer this chapter.

(b) The administrative expenditures permitted by (a) (2) of this section shall be included in the governor's budget for each fiscal year and are subject to appropriation by the legislature. (§ 4 ch 145 SLA 1955; am § 2 ch 142 SLA 1957; am § 3 ch 89 SLA 1960; am § 1 ch 137 SLA 1982)

Effect of amendments. — The 1982 amendment, in subsection (a), rewrote paragraph (1), which formerly read "promulgate and issue appropriate regulations having the force of law to implement this chapter and to cover matters not expressly touched upon or anticipated but implied by this chapter."

**Sec. 14.25.022. Regulations.** Regulations adopted by the Alaska Teachers' Retirement Board under this chapter relate to the internal

management of a state Administrative Procedure Act ch 137 SLA 1982)

Effect of amendment substituted "Alaska Teachers' Retirement"

**Sec. 14.25.030. D shall**

(1) establish and maintain a retirement fund;

(2) approve or disapprove

(3) serve as secretary and keep an official record

(4) publish annual report on retirement fund; and

(5) do whatever else may be necessary to carry out the purposes of this chapter. (§ 4 ch 89 SLA 1960; am

Effect of amendment substituted "secretary" in paragraph (2) and

**Sec. 14.25.035** established the Alaska Teachers' Retirement Board. One member shall be appointed by the governor a list of

(b) Members of the board shall determine the rate established for each member may

(c) The board shall determine and revenue regarding the Teachers' Retirement Fund. The board shall

(d) The board shall determine the administration of the information on

(e) The board shall determine at the request of the board on decisions made by the board. The board shall determine findings to the board. The board shall determine more public hearings. The board shall determine consider and adopt

management of a state agency and their adoption is not subject to the Administrative Procedure Act (AS 44.62). (§ 1 ch 13 SLA 1963; am § 2 ch 137 SLA 1982)

**Effect of amendments.** — The 1982 amendment substituted "adopted by the Alaska Teachers' Retirement Board under this chapter" for "promulgated by the administrator under AS 14.25.010 — 14.25.220."

**Sec. 14.25.030. Duties of the administrator.** The administrator shall

- (1) establish and maintain an adequate system of accounts for the retirement fund;
- (2) approve or disapprove claims for retirement benefits;
- (3) serve as secretary of the Alaska Teachers' Retirement Board and keep an official record of all proceedings;
- (4) publish annually a report showing the financial condition of the retirement fund; and
- (5) do whatever else may be necessary to carry out the purposes of this chapter. (§ 4 ch 145 SLA 1955; am § 2 ch 142 SLA 1957; am § 3 ch 89 SLA 1960; am § 2 ch 13 SLA 1980)

**Effect of amendments.** — The 1980 amendment substituted "benefits" for "salary" in paragraph (2) and added "serve as secretary of the Alaska Teachers' Retirement Board and" to the beginning of paragraph (3).

**Sec. 14.25.035. Teachers' Retirement Board.** (a) There is established the Alaska Teachers' Retirement Board consisting of five members appointed by the governor for overlapping three-year terms. One member shall be a resident who is receiving retirement benefits under this chapter. Statewide teacher organizations may submit to the governor a list of recommended nominees to serve on the board.

(b) Members of the board serve without compensation except that each member may be reimbursed for actual and necessary expenses at the rate established in AS 39.20.190.

(c) The board shall confer with the commissioners of administration and revenue regarding the administration and the investment policies of the Teachers' Retirement Fund and may make such recommendations to them as they consider necessary.

(d) The board shall be furnished reports relating to the condition and administration of the retirement fund which shall be distributed for the information of the members of the system.

(e) The board shall serve as an appeal board and shall hold hearings at the request of an employer, member, annuitant, or any beneficiary on decisions made by the administrator. The board shall submit its findings to the administrator. The board shall hold annually one or more public hearings to discuss proposed changes in the system and to consider and adopt resolutions which might apply to the system.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58,

SLA 1982.

Legislative history reports. — For report on ch. 83, SLA 1967 (HB 141), see 1967 House Journal, pp. 339-340.

**Sec. 22.25.025. Administration.** The commissioner of administration is responsible for the administration of the judicial retirement system. (§ 8 ch 146 SLA 1980)

**Sec. 22.25.027. Regulations.** The commissioner of administration may adopt regulations to implement this chapter. Regulations adopted by the commissioner under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act (AS 44.62). (§ 8 ch 146 SLA 1980)

**Sec. 22.25.030. Survivors' benefits.** (a) Upon the death of a justice or judge who has served for at least two years, the surviving spouse is entitled to receive monthly compensation equal to one-half of the monthly retirement pay the justice or judge would thereafter have been entitled to receive if retired at the time of death. If at death the justice or judge was not yet entitled to retirement pay, or was or would have been entitled to less than 60 percent of the monthly salary authorized for the office, the surviving spouse is entitled to monthly compensation equal to 30 percent of the salary authorized for justices or judges, respectively, at the time each monthly payment is made.

(b) To be eligible for the survivors' benefits, the surviving spouse must have been married to the justice or judge for at least two years immediately preceding the death of the justice or judge. The benefits continue until the remarriage or death of the surviving spouse.

(c) If there is no surviving spouse, or if the surviving spouse does not meet the requirements of (b) of this section, or upon the remarriage or death of the surviving spouse, the surviving dependent child or children of the justice or judge are entitled to receive in equal shares 50 percent of the amount of the survivors' benefits specified under (a) of this section.

(d) The surviving child or children are entitled to the survivors' benefits under (c) of this section during the period of their dependency. Dependency exists with respect to any child of a justice or judge who is either (1) a minor under the laws of Alaska, (2) under the age of 23 and is a student attending on a full-time basis an accredited educational or technical institution recognized by the state Department of Education, or (3) so mentally or physically incapacitated as to be unable to provide for self care.

(e) If there are both an eligible surviving spouse and surviving dependent children, but who reside in separate households, the surviving spouse and dependent children will share equally in the benefits payable under (a) of this section. (§ 1 ch 102 SLA 1963; am 12 ch 83 SLA 1967; am § 2 ch 160 SLA 1972)

Editor's notes. — redrafted by the revisor to remove personal pronouns with AS 01.05.031(c) and SLA 1982.

**Sec. 22.25.040. I**  
Repealed by § 16

Editor's note. — The derived from § 1, ch. 102 Legislative history 1

**Sec. 22.25.041. R**  
vacates office for any of creditable service of the total amount of the amount. If a judge contributions returns within one year the prevailing rate to rec AS 22.25.019(f). (§ 7

Editor's notes. — This redrafted by the revisor to remove personal pronouns

**Sec. 22.25.045. Ap**  
Repealed by § 42 cl

Editor's notes. — The derived from § 13, ch. 83, §

**Sec. 22.25.046. Em**  
tern shall contribute established by the commission rate shall be based on judicial retirement system be based on actuarial commissioner of administration  
(b) The contribution to the covered compensation system, will grow contributions from members system. (§ 8 ch 146 SLA

**Sec. 22.25.048. Acc**  
sioner of administrative general fund, a fund for certain accounts and records

(8) to waive the requirements of AS 39.35.520 in accordance with AS 39.35.522;

(9) to exercise the duties set out in AS 39.30.155 with respect to the supplemental employee benefit program (AS 39.30.150 — 39.30.180),

(10) to exercise the duties set out in AS 39.45.025 with respect to the deferred compensation program for state employees. (§ 32 ch 143 SLA 1960; am § 1 ch 235 SLA 1968; am § 1 ch 109 SLA 1970; am § 2 ch 159 SLA 1972; am §§ 1—4 ch 1 SLA 1974; am §§ 16, 17 ch 128 SLA 1977; am § 8 ch 174 SLA 1978; am § 24 ch 146 SLA 1980)

**Effect of amendments.** — The 1977 amendment substituted "surviving spouse" for "widow" in paragraph (4), and in paragraph (5), substituted "each employer" for "the state and each participating political subdivision and public organization" in two places in the introductory paragraph, deleted "participating" preceding "employers" in

subparagraph (A) and preceding "employer" in subparagraph (B), and substituted "actuarial" for "biennial" in subparagraph (B).

The 1978 amendment added paragraph (8).

The 1980 amendment added paragraphs (9) and (10).

**Sec. 39.35.041. Regulations.** Regulations adopted by the board under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act (AS 44.62). (§ 3 ch 13 SLA 1963)

**Sec. 39.35.050. Administrator.** (a) The commissioner shall appoint an administrator in charge of the public employees' retirement system and the supplemental employee benefit program (AS 39.30.150 — 39.30.180).

(b) Repealed by § 50 ch 13 SLA 1980. (§ 33 a ch 143 SLA 1960; am § 5 ch 1 SLA 1974; am §§ 26, 50 ch 13 SLA 1980; am § 25 ch 146 SLA 1980)

**Effect of amendments.** — The first 1980 amendment deleted "the detailed affairs of" preceding "the system" near the end of the former first sentence of subsection (a), deleted the former second sentence of subsection (a) which read: "The commissioner may appoint the personnel director of the personnel division of the Department of Administration as the administrator," and repealed subsection

(b), which read: "The administrator shall serve as secretary of the board. He shall administer the business of the system and is responsible for its proper operation."

The second 1980 amendment inserted "public employees' retirement" preceding "system" near the beginning of the section, and added "and the supplemental employee benefit program (AS 39.30.150—39.30.180)" at the end of the section.

**Sec. 39.35.060. Duties of the administrator.** The administrator shall:

(1) with the assistance of a technical actuarial advisor, submit to the board the required actuarial tables and the statistical data necessary for periodic actuarial surveys of the operating experience of the system;

(2) maintain records of the employees included in the system which are necessary for the proper administration of the system and furnish

**Sec. 44.62.040. Submitting regulations.** (a) Every state agency which by statute possesses regulation-making authority shall submit to the lieutenant governor for filing a certified original and one duplicate copy of every regulation or order of repeal adopted by it, except one which

(1) establishes or fixes rates, prices or tariffs;

(2) relates to the use of public works, including streets and highways, under the jurisdiction of a state agency if the effect of the order is indicated to the public by means of signs or signals; or

(3) is directed to a specifically named person or to a group of persons and does not apply generally throughout the state.

(b) Citation of the general statutory authority under which a regulation is adopted, as well as citation of specific statutory sections being implemented, interpreted or made clear, shall follow the text of each regulation submitted under (a) of this section. (§ 1 art II (ch 1) ch 143 SLA 1959; am § 1 ch 40 SLA 1969)

*Legislative history report.* — For report on ch. 40, SLA 1969 (HB 21 am S), see 1969 House Journal, p. 415.

Regulations adopted by the Commissioner of Natural Resources are subject to the rule-making provisions of the Administrative Procedure Act and must be adopted according to the procedures set forth therein. Among the required procedures for adoption of regulations are notice of the proposed adoption, a public hearing in which any interested person may submit statements to the agency, filing of the regulation, if adopted, with the secretary of state, and publication. *Kelly v. Zamarello*, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Regulations promulgated under AS 15.15.330, dealing with the early counting of election votes, are not exempt from the requirements of the Administrative Proce-

cedure Act (AS 44.62) by operation of this section and AS 44.62.640. *Coghill v. Boucher*, Sup. Ct. Op. No. 900 (File No. 1798), 511 P.2d 1297 (1973).

The lieutenant governor's supervision of personnel and activities relating to the conduct of a statewide election is not the same as the management of employees and internal affairs of a state agency. Executive organization of the election machinery goes well beyond the lieutenant governor's control of his own staff and their actions. *Coghill v. Boucher*, Sup. Ct. Op. No. 900 (File No. 1798), 511 P.2d 1297 (1973).

Failure to specify in regulation incorporating building code where copies of code could be obtained did not invalidate regulation. *Northern Lights Motel, Inc. v. Sweaney*, Sup. Ct. Op. No. 1386 (File No. 2476), 561 P.2d 1176 (1977).

**Sec. 44.62.050. Style and forms.** The Department of Law shall prepare and shall revise when necessary a drafting manual for administrative regulations which prescribes the style and forms for submitting regulations under AS 44.62.040. (§ 2 art II (ch 1) ch 143 SLA 1959; am § 3 ch 70 SLA 1966; am § 1 ch 57 SLA 1969; am § 1 ch 64 SLA 1978)

*Effect of amendment.* — The 1978 amendment substituted "Department of Law" for "Legislative Affairs Agency" near the beginning of the section.

**Sec. 44.62.060. Preparation and filing.** (a) Every state agency which by statute possesses regulation-making authority shall work

with the Department of Law, under AS 44.62.050, and revision of its regulations and shall submit to the Department of Law for administrative regulations prepared under AS 44.62.050.

(b) In the performance of duties under the Department of Law shall advise the agencies of the promulgation of regulations and may advise the agencies of the policy involved in particular department shall prepare a written statement of disapproval after each regulation has been promulgated.

(1) its legality, constitutionality of regulations;

(2) the existence of statutory authority required citation of statutory authority;

(3) its clarity, simplicity of expression and absence of misapplication;

(4) compliance with the drafting requirements of regulations.

(c) The lieutenant governor may not amend or order of repeal require a statement accompanied by the written statement and the statement approves the regulation or repeal. (§ 3 art II (ch 1) ch 143 SLA 1959; am § 4 ch 70 SLA 1966; am § 1 ch 53 SLA 1969)

*Effect of amendment.* — The 1978 amendment substituted "Department of Law" for "Legislative Affairs Agency" near the end of subsection (a).

Agency cannot adopt future amendments to code, etc., by reference. — According to the Legislative Affairs Agency (now Department of Law) drafting manual, an administrative agency may not adopt by reference a code or set of standards from another state, the federal government or a private organization and provide that future amendments as they become effective are being adopted also. *Northern Lights Motel, Inc. v. Sweaney*, Sup. Ct. Op. No. 1386 (File No. 2476), 561 P.2d 1176, aff'd on rehearing, 563 P.2d 256 (1977).

One reason for the prohibition against delegation of the future law-making power of the state to private groups is that when amendments are adopted by these groups the public does not necessarily receive

**Sec. 44.62.070. Fees.** No state officer shall receive a fee to perform an official act in connection with the Department of Law, under AS 44.62.050, and revision of its regulations and shall submit to the Department of Law for administrative regulations prepared under AS 44.62.050.

# ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



April 14, 1983  
3:00 p.m.

Butrovich Room  
Capitol Bldg.

## Members Present:

Senator Vic Fischer, Chair  
Senator Bill Ray, Vice Chair  
Senator Arliss Sturgulewski  
Senator Pat Rodey  
Senator Tim Kelly

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HB 79--Peremptory challenge of judges  
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Representative Fritz (prime sponsor) read a prepared statement in favor of the bill. He gave a history of peremptory challenge statute and discussed the situation in Homer where Judge Hornaday has been removed from up to 80% of his cases by defense attorneys, allegedly in response to tough drunk driving sentences handed down by Hornaday.

Senator Ray moved and asked unanimous consent that the bill be waived to the next committee of referral (Judiciary). There was no objection.  
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SB 220--Establishing a capital projects advisory commission  
-----

Senator Josephson (prime sponsor) testified in favor of the bill. He stated that this bill was modeled after a successful New Jersey statute. He observed that many legislators, the governor and the public have problems with the current method of allocating capital projects whereby each house of the legislature and the Governor have absolute discretion to pick projects equal to 1/3 of the revenues available. He read a letter from the Governor in support of the concept presented in the bill.

Senator Fischer commented that the time-frames in the bill did not mesh with the budget process. Senator Josephson said that he was not opposed to improving the mechanics of the legislation.

Senator Kelly was of the opinion that an appointed commission would not necessarily make better decisions than an elected 60 member legislature.

Senator Sturgulewski said that she felt that this bill was adding another patch to an already unworkable system.

Senator Ray felt that this bill is a "typical text book solution" that looks good on paper but wouldn't work in reality.

Senator Rodey said that he didn't see any other alternative for improving the present system.

Peter McDowell, Director of O.M.B. said that the Governor wholeheartedly supports this legislation in principle but that the details would have to worked out. He did not favor the creation of another Commission, however.

No action was taken on the bill.

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#### SB 218--Disclosure of Information

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Senator Kelly thinks this bill may open up legislative files for inspection. He suggested that the bill be amended to keep the existing disclosure law.

Senator Ray moved and asked unanimous consent to adopt a committee substitute which incorporated Sen. Kelly's suggestion and to move the CS with individual recommendations. There was no objection.

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#### SB 48--Adoption of state retirement regulations

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Ken Humphries, Director of the Division of Retirement and Benefits said that he thinks the bill is unnecessary since his division is promulgating regulations to address the problem, however, he doesn't object to the bill.

Senator Fischer proposed a committee substitute.

Senator Ray moved and asked unanimous consent to adopt the committee substitute and to pass the bill from committee with individual recommendations.

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SJR 22--Supporting establishment of a U.S. Academy of Peace

---

Senator Fischer suggested that the words "and conflict resolution" be stricken from the bill to conform to the language used in the congressional legislation which this resolution supports.

A general discussion followed concerning the sponsorship of the congressional legislation. Some committee members did not want to be associated with certain well known liberal senators and other committee members did not want to be associated with certain conservative senators. It was noted that Senator Murkowski is prime sponsor of the congressional legislation.

Senator Ray moved and asked unanimous consent that a committee substitute incorporating Sen. Fischer's suggestion be adopted and passed from the committee with individual recommendations. There was no objection.

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HCR 28--Establishing George A. Parks Day

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Senator Ray moved and asked unanimous consent that the bill pass from committee with a do pass recommendation. There was no objection.

The meeting was adjourned at 4:30 p.m.

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: Senate Bill 48 Date on Bill: 1-18-83  
 Title: An Act Relating to the Adoption of Regulations for State Retirement Systems  
 Sponsor: Senator Ray  
 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								

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

3. Assumptions:

4. Disclaimer:

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

*J. K. Humphreys*

Prepared By: J. K. Humphreys, Director  
 Division: Retirement & Benefits

Phone: 465-4460  
 Date: 2-23-83

Approved by Commissioner: [Signature]  
 Department: [Signature]

Date: 2/24/83

5. Distribution:

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

TEACHERS' RETIREMENT SYSTEM

Regulation No. 83-3

Procedures For Adoption of Regulations

- A. This regulation sets forth the procedures for adopting permanent and emergency regulations of the Teachers' Retirement Board (the "Board") pursuant to AS 14.25.022 and AS 14.25.035.
- B. The Board may adopt regulations by motion or by resolution to carry out the purposes of its authority under AS 14.25.
- C. The following steps will be taken prior to a Board meeting in which regulations are adopted, amended or repealed:
1. At least forty-five (45) days before the meeting, copies of all regulations upon which action will be taken will be distributed to all Board members and the Division of Retirement and Benefits (the "Division").
  2. At least forty-five (45) days before the meeting, copies of all regulations on which action will be taken will be circulated at least to (a) professional associations which represent or have an interest in retired or active teacher members and (b) retired or

active members of the Teachers' Retirement System; provided that such associations or members have requested that they be on mailing lists for the receipt of such information.

3. Copies of proposed regulations distributed pursuant to this subsection (C) will be accompanied by a brief explanation of and rationale for the proposed regulations and a brief statement describing the effect the proposed regulations will have on the Teachers' Retirement System. The explanation, rationale, and statement will be prepared by the agency or entity (i.e., the Board or the Division) originating the proposed regulation.

4. At least thirty (30) days before the meeting, the Board or the Division will give public notice of the proposed action by publishing a notice in at least three newspapers of general circulation in the State and by mailing a copy of the notice to every person who has filed a request for notice of proposed regulations with the Board or the Division. Public notice must include a statement of the time, place, and nature of the proceedings for the adoption, amendment or repeal of regulations and must include an informative summary of the proposed subject of the regulations upon which action will be taken.

D. Prior to or on the date and at the time designated in the notice set forth in (C)(3) of this regulation, the Board will give each interested person the opportunity to present statements, arguments or contentions in writing. On the date and at the time designated in the notice, the Board will give each interested person and members of

the public the opportunity to present statements, arguments or contentions orally. The Board will consider all relevant matters presented to it before adopting, amending, or repealing a regulation. At a hearing under this paragraph, the Board may continue or postpone the hearing to a time and place which it determines. A regulation which is adopted, or its amendment or repeal, may vary in content from the informative summary specified in (C)(3) of this regulation if the subject matter of the regulation, or its amendment or repeal, remains the same and the original notice is written so as to assure that members of the public are reasonably notified of the proposed subject of the Board's action in order for them to determine whether their interests could be affected by the Board's action on that subject.

- E. Notwithstanding the provisions of (C) of this regulation, a regulation or order of repeal may be adopted by unanimous vote of a quorum of the Board as an emergency regulation or order of repeal. To be so adopted, the Board must make a finding in its order of adoption or repeal, including the statement of the facts which constitute the emergency, that the adoption of the regulation or order of repeal is necessary for the immediate preservation of the orderly operation of the Teachers' Retirement System or the business of the Board. The requirements of (C) of this regulation do not apply to the initial adoption of an emergency regulation; however, upon adoption of an emergency regulation, the Board shall, within ten (10) days after adoption, give notice of the adoption pursuant to the provisions of (C) and

(D) of this regulation. No emergency regulation adopted under this regulation remains in effect past the date of the next regular Board meeting unless the Board substantially complies with the procedures of (C) and (D) of this regulation and adopts an emergency regulation as a permanent one in substantial compliance with those procedures.

F. A regulation adopted pursuant to the procedures of this regulation becomes effective immediately upon its adoption by the Board, unless otherwise specifically provided by the order of adoption.

G. Except for AS 44.62.310 and 44.62.312, regarding public meetings, the Administrative Procedure Act (AS 44.62) does not apply to regulations adopted pursuant to the procedures of this regulation. The Board shall make available to the public, through the Administrator, copies of its adopted regulations.

Approved: Harry Purdy

Harry Purdy, Chairman

Teachers' Retirement Board

Dated this 3<sup>rd</sup> day of April, 1983.

# STATE OF ALASKA

## DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT & BENEFITS

POUCH CR

JUNEAU, ALASKA 99811

Public Employees' Retirement System  
Teachers' Retirement System  
Judicial Retirement System  
Elected Public Officers Retirement System  
National Guard Retirement System  
Territorial Retirement System  
Retirees' Voluntary Dental-Vision-Audio Plan  
Supplemental Benefits System  
Group Health/Life Insurance Benefits  
Deferred Compensation Plan  
Public Employers Social Security Contributions

*Bill Sheffield, Governor*

(907) 465-4460

March 14, 1983

Honorable Vic Fischer  
Senator  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Senator Fischer:

This letter is in response to a recent telephone request by Susan Tryck of your office. The following are our comments on AS 14.25.022 and 39.35.042 which exempt TRS and PERS regulations, respectively, from the Administrative Procedure Act (AS 44.62).

Since the Division of Retirement and Benefits is complying with or is in the process of complying with most of the requirements of Senate Bill No. 48, the added burden imposed by making TRS and PERS regulations subject to the APA would not be great. It is not clear, however, why such action would be desirable. The attendant delays and additional red tape and paper work required by the APA appear somewhat counterproductive. For example, the additional 30-day delay after filing with the Lieutenant Governor seems unnecessary. We're not clear as to why a slightly wider distribution list for proposed regulations is necessary when the regulations are already distributed to anyone who wants them. Promulgating emergency TRS and PERS regulations according to the APA might prove difficult since it is not clear if the emergency requirement of the AAC--"a threat to the public peace, health, safety, or general welfare"--would apply.

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Regulation No. 82-5

Procedures For Adoption of Regulations

- A. This regulation sets forth the procedures for adopting permanent and emergency regulations of the Public Employees' Retirement Board (the "Board") pursuant to AS 39.35.040.
- B. The Board may adopt regulations by a motion or by resolution to carry out the purposes of its authority under AS 39.30, AS 39.35, or AS 39.45.
- C. Except as provided in (D) of this regulation, at least thirty (30) days before the adoption, amendment or repeal of a regulation, the Board shall give public notice of the proposed action by publishing the notice in at least three newspapers of general circulation in this state and by mailing a copy of the notice to every person who has filed a request for notice of proposed regulations with the Board or the Administrator. Public notice must include a statement of the time, place, and nature of the proceedings for the adoption, amendment, or repeal of the regulation and must include an informative summary of the proposed subject of the regulation. Prior to or on the date and at the time designated in the notice, the Board shall give each interested person the opportunity to present statements, arguments or contentions in writing; on the date and at the time designated in the notice, the Board shall give each interested person and members of the public the opportunity to present

statements, arguments or contentions orally. The Board shall consider all relevant matters presented to it before adopting, amending, or repealing a regulation. At a hearing under this subsection, the Board may continue or postpone the hearing to a time and place which it determines. A regulation which is adopted, or its amendment or repeal, may vary in content from the informative summary specified in this paragraph if the subject matter of the regulation, or its amendment or repeal, remains the same and the original notice is written so as to assure that members of the public are reasonably notified of the proposed subject of the Board's action in order for them to determine whether their interests could be affected by the Board's action on that subject.

- D. A regulation or order of repeal may be adopted as an emergency regulation or order of repeal if the Board makes a finding in its order of adoption or repeal, including the statement of the facts which constitute the emergency, that the adoption of the regulation or order of repeal is necessary for the immediate preservation of the orderly operation of the Public Employees' Retirement System or the business of the Board. The requirements of (C) of this regulation do not apply to the initial adoption of an emergency regulation; however, upon adoption of an emergency regulation, the Board shall, within ten (10) days after adoption, give notice of the adoption in accordance with (C) of this regulation. No emergency regulation adopted under this regulation remains in effect past the date of the next regular Board meeting unless the Board complies with the procedures of (C) of this regulation and adopts said emergency regulation as a permanent one according to those procedures.

E. A regulation adopted pursuant to the procedures of this regulation becomes effective immediately upon its adoption by the Board, unless otherwise specifically provided by the order of adoption.

F. Except for AS 44.62.310 and 44.62.312, regarding public meetings, the Administrative Procedure Act (AS 44.62) does not apply to regulations adopted pursuant to the procedures of this regulation. The Board shall make available to the public, through the Administrator, copies of its adopted regulations.

Approved and Adopted: C. R. "Steve" Hafling  
C.R. "Steve" Hafling, Chairman  
Public Employees' Retirement Board

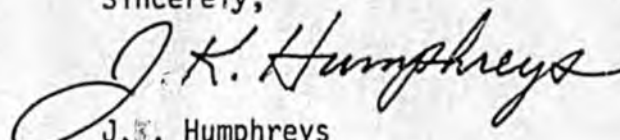
Dated this 1 day of Oct., 1982.

Senator Fischer  
March 14, 1983  
Page 2

TRS and PERS regulations are generally technical in nature, relate to matters of internal management, and do not affect the general public. Contrary to the regulations of other agencies, retirement regulations affect a specific, defined group of citizens and not the Alaskan populace as a whole. In short, although the issue is not weighty, I believe the exemptions from the APA to be appropriate in this case.

If I can provide additional information on this matter, please let me know.

Sincerely,

  
J. K. Humphreys  
Director

JKH,'sd  
cc: Eleanor Andrews  
Rebecca Burch

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

March 10, 1983

SUBJECT: Adoption of regulations for state retirement systems (SB 48)

TO: Senator Vic Fischer

FROM: *LHA* Linn H. Asper  
Legislative Counsel

You have requested a sectional analysis of SB 48.

Section 1 modifies the exclusion of the Alaska Teacher's Retirement Board (AS 14.25) from the operation of the Administrative Procedure Act (AS 44.62). Under the proposed amendment the retirement board would have to publish regulations that it adopts in the Alaska Administrative Register and Code. The retirement board would also have to give notice of the proposed adoption, amendment, or repeal of a regulation by posting, publishing, mailing to persons or groups that have requested notice, and by notifying the legislature. Failure to mail notice to a person who has requested notice would not invalidate the regulation. The retirement board could hold a hearing on the proposed regulation. An adopted regulation would take effect 30 days after its adoption.

Section 2 applies the provisions outlined above to the judicial retirement system (AS 22.25).

Section 3 applies the provisions outlined above to the public employee's retirement system (AS 39.35).

Section 4 applies the provisions outlined above to the elected public officers retirement system (former AS 39.37).

Section 5 requires that regulations that apply to the affected state retirement systems and that are in effect on the effective date of the Act be published in the Alaska Administrative Register and Code within six months after the effective date of the Act.

LHA:ljk  
1/029

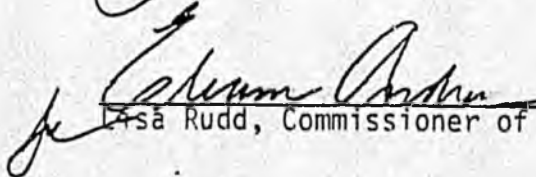
POSITION PAPER

SB 48

The Division of Retirement and Benefits is complying or is in the process of complying with most of the provisions of the bill. PERS Regulation 82-5 imposes substantially the same requirements as the bill and a similar regulation is proposed for the TRS. The Division is in the process of revising all of the existing regulations to conform with the style and format requirements of the AAC preparatory to having them published voluntarily in the Alaska Administrative Register and Code. There are no objections to the procedures the division is following or plans to follow being incorporated into the w; however, it appears unnecessary.

The Department is opposed to the bill in its present form as it makes no provisions for adopting emergency regulations to take effect without waiting 30 days after adoption in instances where it is warranted.

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

 3/15/83  
\_\_\_\_\_  
Lisa Rudd, Commissioner of Administration



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

January 25, 1983

TO: Senate State Affairs Committee

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

SUBJECT: Senate Bill 57 - Limiting the Adjustment of Retirement Benefits

On several occasions the Blue Ribbon Commission has heard testimony about problems created by overpayments 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.

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  
Line 9           The first section of the proposed legislation adds the 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  
Line 2           The fourth section of the bill contains an immediate effective date clause.

COMMITTEE REPORT  
SENATE

1/18/83

FURTHER: JUDICIARY

Date: 1/18/83

Mr. President:

The Committee on STATE AFFAIRS has had SENATE BILL NO. 48

"An Act relating to the adoption of regulations for state retirement system."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for SB-18  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

Tom Kelly

[Signature]

[Signature]

[Signature]

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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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[Signature]

CHAIRMAN