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Introduced: 1/18/83
Referred: State Affairs

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

1 IN THE SENATE

2 SENATE BILL NO. 57

(SB 195)

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.

never taken up in finance

1

2 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-

3 10.070(c).

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



Sectional Analysis CSSB57 State Affairs

April 18, 1983

Prepared by: Suzanne Tryck,
Senate State Affairs Committee

Section 1: Adds a two year statute of limitations for the state to collect overpayment of retirement benefits to TRS.

Section 2: makes the same provisions for PERS. Paragraph (3) states that other participating employers are not responsible for the payments due to the recipient because of errors made by the state.

Section 3: provides an immediate effective date.

CSSB 57 State Affairs does not contain the retroactive clause included in the original bill as there are no longer any outstanding cases where the state is trying to collect overpayment from recipients under TRS and PERS.

The other changes are minor, technical alterations.

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT & BENEFITS

FOUCH 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

February 16, 1983

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

Dear Senator Fischer:

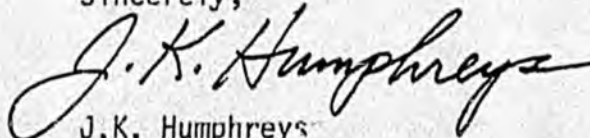
At the February 8 meeting of the Senate State Affairs Committee on SB 57, I was asked to provide information on appeals for a waiver of adjustment in the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS) over the last few years. The enclosed chart gives basic information on the seven appeals for waiver of overpayment that have come before the boards since July 1, 1979.

As you can see, more than two years had elapsed in every case before the error was discovered and in every case except one the board waived the adjustment of the overpayment. None of these errors occurred after 1976.

I have also been asked to prepare a draft committee substitute which would address the division's main concerns and still preserve the primary intent of SB 57. I have enclosed such a draft but suggest that the committee might wish to delay action briefly to provide members of the two retirement boards an opportunity to comment.

Please let me know if you have any further questions or would like more information.

Sincerely,


J.K. Humphreys
Director

JKH/jb
Enclosures

cc: Eleanor Andrews
Deputy Commissioner for
Personnel Management

Members of Senate State Affairs Committee

PERS and TRS board members

NOTE: Please Include Your Social Security Number In All Correspondence & Requests

TRS and PERS Board Appeals for a Waiver of Adjustment
of an Overpayment Since July 1, 1979

<u>APPELLANT</u>	<u>SYSTEM</u>	<u>MEETING</u>	<u>ERROR MADE</u>	<u>ERROR DISCOVERED</u>	<u>AMOUNT OF OVERPAYMENT</u>	<u>BOARD ACTION</u>
Katharina Riech	TRS	Fall, 1979	1971	1978	\$14,233	Request Denied
Ella Vaughn	TRS	Fall, 1979	1970	1979	\$ 3,535	Adj. of Overpayment Waived
Julie Isaac	PERS	Spring, 1980	1976	1979	\$ 5,055	Adj. of Overpayment and Service Credit Waived
Woodrow, Brown	PERS	Spring, 1981	1971	1980	\$ 6,242	Adj. of Overpayment Waived
Dean Bronson	PERS	Fall, 1981	1974	1981	\$ 2,517	Adj. of Overpayment Waived
Leo Likit	PERS	Fall, 1981	1974	1981	\$ 6,903	Adj. of Overpayment Waived
Evelyn Nowell	PERS	Fall, 1982	1976	1981	\$ 2,889	Adj. of Overpayment Waived

File
SB57

Burden shouldn't be on people
APA supported bill
included in 827

Board Authority

1) TERS PERS.

A) can make waiver

B) any error over two years
shall be waived.

C) shouldn't be forced to waive
it statutorily.

~~D) ...~~

~~Senate Pa~~

1 or 2 errors annually

a) set up as appeal procedure.

b) error must be corrected

c) virtually few old problems
surface.

Designed to protect retired
individual.

Board has authority to make ~~what~~
whatever kind of repayment.

Case cited in BRC. letter
April 7 case.

a) she got caught up in
procedure.

b) Board waived her appeal

~~§~~

Terry Cramer

a) emotional hardship

b) no new recent cases

~~§~~

Person appeals
1) by letter

Taken Back to Blue Ribbon Commission
to see whether or not
it is needed.

may work against retiree,
error against person might
actually benefit that person,
preclude any adjustment.
adjusts repayment of benefits.

~~Bob~~ Bob Cooksey,

- 1) 2 years adequate time to
discover error
- 2) relieves department also.

~~3) 3)~~

~~4)~~

Vic

- 1) no big waves
- 2) pass it out - no strong feeling
about the bill.

- 3) errors are made
- 4) person's retirement should be
checked out so they can be
secure.

Introduced: 1/18/83
Referred: State Affairs and
Judiciary

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

1 IN THE SENATE

2

SENATE BILL NO. 59

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to government interests in intellec-
7 tual work products developed at the expense of the
8 state."

9

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

10

* Section 1. AS 39 is amended by adding a new chapter to read:

11

CHAPTER 52. INTELLECTUAL PROPERTY DEVELOPED

12

AT THE EXPENSE OF THE STATE.

13

Sec. 39.52.010. RIGHT TO INTELLECTUAL WORK PRODUCT. (a) Except

14

as provided in AS 39.52.040 and AS 14.40.345, all right, title, and

15

interest in and to an intellectual work product of any kind that is

16

subject to the trademark, copyright, or patent laws of the United

17

States or this state or any foreign country that is developed by a

18

public officer or employee or a person under contract with the state

19

is the property of the state if developed *wholly in substantial part*

20

(1) during working hours;

21

(2) with the contribution of the state beyond what is

22

available to the public in general in the form of facilities, equip-

23

ment, materials, money, or information, or of time or services of

24

another public officer or employee in the course of state employment

25

or another person under contract with the state; or

26

(3) in connection with the official duties of the public

27

officer or employee or the person under contract, including but not

28

limited to circumstances in which the public officer or employee or

29

the person is employed or assigned to

- 1 (A) produce or improve an intellectual work product;
2 (B) conduct or perform research, development work, or
3 both;
4 (C) supervise, direct, coordinate, or review state
5 financed or conducted research, development work, or both; or
6 (D) act in a liaison capacity among governmental or
7 nongovernmental agencies or individuals engaged in such work.

8 (b) If a public officer or employee or a person under contract
9 with the state develops an intellectual work product that is the
10 property of the state, the developer is obligated to

11 (1) fully and promptly disclose the intellectual work
12 product to the Alaska Council on Science and Technology (AS 44.21.-
13 241);

14 (2) assign to the state the entire right, title, and inter-
15 est in and to the intellectual work product if not already waived by *(only if related to the reason for their employment)*
16 signing of a general waiver upon commencement of employment in accor-
17 dance with AS 39.05.160 or as part of a contract for services; and

18 (3) upon request by the council, execute and reasonably
19 assist in the prosecution of an application for a trademark, copy-
20 right, or patent.

21 (c) If the state has a right to an intellectual work product
22 under (a) of this section but the council decides that it is inadvis-
23 able to prosecute an application for trademark, copyright, or patent,
24 the council, on behalf of the state, may, after consultation with
25 affected state agencies,

26 (1) waive all right, title, and interest in and to the
27 intellectual work product; or

28 (2) waive all right, title, and interest in and to a trade-
29 mark, copyright, or patent but reserve a nonexclusive, irrevocable,

1 royalty-free license in the intellectual work product with power to
2 grant licenses for all ^{Alaska} governmental purposes.

3 Sec. 39.52.020. COUNCIL AUTHORIZED TO GRANT MONETARY RECOGNITION
4 FOR CREATION OF INTELLECTUAL WORK PRODUCT. (a) The council ^{in accordance with AS 39.52.010} is autho-
5 rized to give monetary ^{or other} recognition to a public officer or employee who
6 develops an intellectual work product that is the property of the
7 state and who discharges the obligations set out in AS 39.52.010.

8 (b) The council shall determine the guidelines, terms, and
9 conditions, as well as amount, source, distribution, and manner of
10 payments under (a) of this section. The council shall consider the
11 actual or potential value of the intellectual work product in terms of
12 revenue or reduced operating costs to the state. ^{1% of gross or net revenue or both? 10%?}

13 Sec. 39.52.030. ARBITRATION OF DISAGREEMENTS. (a) Disagree-
14 ments between a public officer or employee or a person under contract
15 with the state and the council pertaining to ownership of an intellec-
16 tual work product or obligations of the respective parties shall be
17 disposed of by

18 (1) voluntary arbitration of all relevant issues, if the
19 disagreeing parties agree to be bound by the decision upon arbitra-
20 tion;

21 (2) compulsory arbitration if that is provided for in any
22 applicable contract between the disagreeing parties; or

23 (3) recourse to the court if arbitration cannot be resorted
24 to.

25 (b) The council is authorized to make contracts for compulsory
26 arbitration on behalf of the state.

27 (c) If arbitration is used to settle disagreements, the provi-
28 sions of AS 09.43 (Uniform Arbitration Act) shall govern.

29 ^{(d) [below]} Sec. 39.52.040. EXCEPTIONS. The provisions of this chapter do

* (d) ~~Disagreements pertaining to the ownership of intellectual work product SB 59~~
or obligations of the respective parties are not subjects of collective bargaining,
and disagreement are not subject to resolution by means other than those provided
in this section.

Can they
arbitrate or
litigate the issue
of monetary
recognition on
joint property, etc.
and award?

Resolution
1 not apply to a public officer or employee associated with or a person
2 under contract with the University of Alaska. Those persons shall be
3 governed by the provisions of AS 14.40.345. The provisions of this
4 chapter do not apply to a member of the legislature.

5 Sec. 39.52.050. ADOPTION OF RULES. The council may adopt rules
6 implementing the provisions of this chapter in accordance with the
7 Administrative Procedure Act (AS 44.62).

8 Sec. 39.52.099. DEFINITIONS. As used in this chapter, unless
9 the context otherwise requires,

10 (1) "council" means the Alaska Council on Science and Tech-
11 nology established in AS 44.21.241;

12 (2) "intellectual work product" means any product of the
13 mind including but not limited to the following:

14 (A) discovery, invention, or idea;

15 (B) process, system, or method;

16 (C) machine, manufacture, or product;

17 (D) composition of matter;

18 (E) design or composition in letters, art, or graph-
19 ics;

20 (F) literary, dramatic, musical, educational, or
21 artistic work;

22 (G) certification mark, trademark, patent, or copy-
23 right.

24 * Sec. 2. AS 14.40 is amended by adding a new section to read:

25 Sec. 14.40.345. INTELLECTUAL PROPERTY DEVELOPED AT THE EXPENSE
26 OF THE UNIVERSITY. All right, title, and interest in and to an intel-
27 lectual work product developed by a public officer or employee asso-
28 ciated with or a person under contract with the University of Alaska
29 is the property of the university in accordance with a general policy

1 established by the university. The policy adopted by the University
2 of Alaska may provide for ownership, control, management, and disposal
3 of intellectual work products by an independent foundation created for
4 the purpose of obtaining intellectual work products, receiving gifts,
5 administering or disposing of interests in intellectual work products,
6 and promoting research.

7 * Sec. 3. AS 39.05 is amended by adding a new section to read:

8 ARTICLE 5. WAIVER OF RIGHT TO INTELLECTUAL PROPERTY.

9 Sec. 39.05.160. WAIVER OF RIGHT TO INTELLECTUAL PROPERTY. (a)
10 A public officer or employee of the state, before engaging in the
11 duties of the office or employment, shall sign a waiver of all right,
12 title, and interest in and to an intellectual work product that may be
13 developed by the officer or employee at the expense of the state as
14 set out in AS 39.52.

15 (b) Notwithstanding the requirement in (a) of this section, the
16 state, in accordance with AS 39.52.020, may share a portion of the
17 resulting revenue with or grant a cash award for resulting reductions
18 in operating costs to a public officer or employee who develops an
19 intellectual work product at the expense of the state.

20 (c) A public officer or employee may be required to sign, before
21 engaging in the duties of the office or employment, an acknowledgement
22 that the public officer or employee will not receive a share of the
23 revenue or reduction in operating costs attributable to an intellec-
24 tual work product developed as a duty of the office or employment.

25 (d) The waiver under (a) of this section and the acknowledgement
26 under (c) of this section are not considered terms and conditions of
27 employment that are subject to negotiation for purposes of collective
28 bargaining under the Public Employment Relations Act (AS 23.40).

29 * Sec. 4. AS 44.21.242(b) is amended by adding new paragraphs to read:

1 (9) consistent with the provisions of AS 39.52, retain,
2 assign, license, transfer, sell, or otherwise dispose of, in whole or
3 in part and upon terms that the council may direct, any and all rights
4 to, interests in, or income from intellectual work products acquired
5 by the council under AS 39.52;

6 (10) adopt rules implementing the provisions of AS 39.52.

7 * Sec. 5. AS 37.12.070(9) and AS 46.12.110(10) are repealed.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 57 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								
---------	--	--	--	--	--	--	--	--

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 Phone: 465-4460
 Division: Retirement & Benefits Date: 2/24/83
 Approved by Commissioner: [Signature] Date: 3/2/83
 Department: _____

5. Distribution:

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

2/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date 4/19, 1983

I. REQUEST

II. FISCAL DETAIL

Bill/Resolution No.: SB 59
Title: An act relating to... intellectual work products... at the expense of the state
Sponsor: Rules by request of the Legislative
Requestor: Council for the Blue Ribbon Commission

Agency Affected: Dept. of Administration
Program Category Affected: General Government
BRU, Program of Subprogram(s) Affected:
AK Council on Science & Technology

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		50.0	50.0	50.0	50.0	50.0
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		50.0	50.0	50.0	50.0	50.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		50.0	50.0	50.0	50.0	50.0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Christopher Noah, Executive Director
Division: Alaska Council on Science and Technology

Phone: 465-3510
Date: April 19, 1983

Approved by Commissioner: Commissioner Lisa Rudd
Department: Department of Administration

Date: April 19, 1983

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)



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 The first section of the proposed legislation adds the
Line 7 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.

COMMITTEE MINUTES RELATING TO SB 57

SENATE STATE AFFAIRS
STANDING COMMITTEE
February 8, 1983
3:00 p.m.

Members Present: Senator Victor Fischer, Chair
Senator Bill Ray
Senator Arliss Sturgulewski
Senator Pat Rodey
Senator Tim Kelly

COMMITTEE CALENDAR

SCR 3 Amended Title: Extending the life of the Blue Ribbon Commission on the state personnel act.

HCR 5 Relating to the seventeenth annual boys' state at camp carrol.

HCR 6 Relating to the fifteenth annual girls' state at the Sitka Public Safety Academy.

SB 55 An act relating to collective bargaining; and providing for an effective date.

~~SB 57 An act relating to the adjustment of retirement benefits; and providing for an effective date.~~

SB 83 An act relating to court leave for nonpermanent and temporary employees of the state.

WITNESS REGISTER

Terry Cramer
Blue Ribbon Commission on Personnel
Pouch YG
Juneau, Alaska 99811
465-4442
Position Statement: Spoke in reference to SB 55, SB 57, and SB 83.

Cherie Shelley
APEA
340 N. Franklin Street
Juneau, AK 99801
586-2334

Testified on SB 55, SB 57, SB 83, and SCR 3
Ken Humphreys, Director,
Division of Retirement Benefits
Department of Administration, Pouch CR
Juneau, AK 99811
465-2200
Position Statement: Answered questions on SB 57

Eleanor Andrews
Department of Administration
Pouch C
Juneau, AK 99811
465-2200
Position Statement: Testified in regards to SB 55

John Rubini
Department of Law
Pouch K
Juneau, AK 99811
465-3600
Position Statement: Testified on SB 55

ACTION NARRATIVE

TAPE# 1 of 02/08/83, Side 1 SB 57
Recording
Number 802

Senator V. Fischer: This bill was before the committee last year. Passed to finance where it died.

Number 812

Terry Cramer of the Blue Ribbon Commission: This bill addresses overpayments to retired employees. We now have the option to waive collection. But going through a hearing can be stressful for retirees. This bill allows the state only 2 years to make corrections and collect arrearages. The bill also applies to municipalities covered under PERA.

Number 849

Senator Ray: Relates a real life story of someone who was traumatized by the state collecting on a benefit error.

Number 866

Senator Sturgulewski: Are there other cases? (End of Side 1. Turn tape over)

Number 001

Senator Ray: Don't know of other cases recently. (Senator Ray excuses himself for a dentist's appointment)

Number 068

Senator Kelly: Wants to amend the bill by adding language which would deny excess

- benefits even after 2 years if person had knowledge of overpayment.
- Number 086 Cherie Shelley of APEA: Testifies strongly in favor of bill. Retirees often have no representation. Hearings are ordeals for old folks. Doesn't recommend intent language.
- Number 158 Senator Rodey: Intent is hard to prove. Have to have involved administrative hearings.
- Number 168 Rapid discussion on several related topics.
- Number 176 Ken Humphries, Director of the Division of Retirement Benefits: The Department of Administration has not yet formulated a position on this issue. Not sure he understands the retroactive provisions. The bill doesn't have a great fiscal impact. Bill doesn't provide any kind of oversight. Most, if not all, old overpayments have been waived. Necessary to show extreme hardship which is easy to prove in most cases. He prefers the board to make individual decisions based on the circumstances.
- Number 331 Senator Sturgulewski: Is the existing mechanism adequate?
- Number 350 Ken Humphreys: Answer: Existing mechanism is adequate.
- Number 400 Senator Sturgulewski: What is the magnitude of the problem?
- Number 416 Ken Humphries: Can provide data on number of overpayment cases and disposition.
- Number 433 Senator V. Fischer: Will hold the bill over.

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



Sectional Analysis CSSB57 State Affairs

April 18, 1983

Prepared by: Suzanne Tryck,
Senate State Affairs Committee

Section 1: Adds a two year statute of limitations for the state to collect overpayment of retirement benefits to TRS.

Section 2: makes the same provisions for PERS. Paragraph (3) states that other participating employers are not responsible for the payments due to the recipient because of errors made by the state.

Section 3: provides an immediate effective date.

CSSB 57 State Affairs does not contain the retroactive clause included in the original bill as there are no longer any outstanding cases where the state is trying to collect overpayment from recipients under TRS and PERS.

The other changes are minor, technical alterations.

I. REQUEST
 Bill/Resolution No. Work Draft Paper 13-0034 Asper 9-17
 Title An Act Limiting the Adjustment of Retirement Benefits
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected Administration - Division of Retirement & Benefits
 Program Category Affected Labor Services
 BRU, Program, or Subprogram(s) Affected 02-96-8-01-01 (PERS)
 (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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
100 RETIREMENT BENEFITS						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
700 STATE TRS MATCHING						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

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

John A. Lopez
 J.K. Humphreys, Director

IV. DATE 10-28-82 PREPARED BY J.K. Humphreys, Director
 AGENCY Division of Retirement & Benefits
 PHONE 465-4460
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 Office of the Governor (Keith Specking)

DRAFT



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

MEMORANDUM

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.

REPORT OF THE
BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
TO THE
TWELFTH ALASKA STATE LEGISLATURE
FIRST SESSION.

Senator Bill Ray
Chairman

February, 1981

SB 195

SB 57

SENATE BILL 195: LIMITING THE ADJUSTMENT OF RETIREMENT BENEFITS.

PURPOSE

This bill remedies a problem which the commission was advised of in testimony from a retired state employee. When the employee retired in 1976, she had been advised on four separate occasions by the staff of the Division of Retirement and Benefits that she was eligible for more than nine years of credited service with the state. Shortly after she retired the legislature amended the retirement laws and she was told that she would receive credit for an additional three years because of her military service. She began receiving retirement benefits on that basis.

In 1979 the division wrote to advise her that their original computations had been in error and that her years of employment with the University of Alaska could not be included in her credited service. Therefore, she had received over \$5000 in benefits which she would have to repay. They reduced the amount of her check by \$100 to be credited towards that overpayment, in addition to reducing the check to the amount she was actually entitled to receive. The basis for denying credit for the employee's period of service with the University of Alaska was a regulation adopted by the Division of Retirement and Benefits in 1978 -- two years after she had retired.

The employee appealed to the Public Employee Retirement Board, which can waive collection of overpayments in cases of hardship. In

determining whether there would be hardship to the employee, the board considered her family's financial situation and found that she was not entitled to the waiver.

Commission members discovered that this was not an isolated instance. A number of retired state employees have undergone similar experiences. They relied on assurances from the division of retirement and benefits only to discover a considerable time later that errors had been made and that their benefits would be reduced.

The commission recommends that a two-year statute of limitations be placed on the collection of overpayments. Two years gives the Division of Retirement and Benefits ample time to audit its records and find and correct any errors made. After that period of time, a retired person should be freed from the burden of having to pay back the state for mistakes of the state's employees. This protection should be available only in cases where the retired person did not contribute to causing the error. It should not apply to persons working for employers other than the state, since those employers may not be in a financial position to absorb the cost of errors made by state employees.

SECTION BY SECTION ANALYSIS

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

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

(1) the incorrect benefit was first paid two years or more before the member or teacher or beneficiary was notified of the change

or error; and

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

Comment

This section amends the Teachers Retirement System by prohibiting the Division of Retirement and Benefits from decreasing benefits in order to collect for a previous overpayment if two conditions are met. The first condition is that the overpayment began two years or more before the division told the retired teacher of the error. The second condition is that the teacher did not cause the error.

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

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

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

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

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

Comment

This section amends the Public Employee Retirement System in the same way that section 1 amends the TRS. However, in this section there is an additional condition. The error in computation must relate to the employee's credited

service with the state, and not with another participating employer.

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

Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Comment

Section 3 makes the Act retroactive in order to include the retired person who testified before the commission. Section 4 provides that the Act takes effect immediately in order to address the hardship to retired state employees.

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

February 16, 1983

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

Dear Senator Fischer:

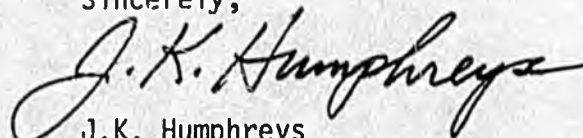
At the February 8 meeting of the Senate State Affairs Committee on SB 57, I was asked to provide information on appeals for a waiver of adjustment in the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS) over the last few years. The enclosed chart gives basic information on the seven appeals for waiver of overpayment that have come before the boards since July 1, 1979.

As you can see, more than two years had elapsed in every case before the error was discovered and in every case except one the board waived the adjustment of the overpayment. None of these errors occurred after 1976.

I have also been asked to prepare a draft committee substitute which would address the division's main concerns and still preserve the primary intent of SB 57. I have enclosed such a draft but suggest that the committee might wish to delay action briefly to provide members of the two retirement boards an opportunity to comment.

Please let me know if you have any further questions or would like more information.

Sincerely,



J.K. Humphreys
Director

JKH/jb
Enclosures

cc: Eleanor Andrews
Deputy Commissioner for
Personnel Management

Members of Senate State Affairs Committee

PERS and TRS board members

TRS and PERS Board Appeals for a Waiver of Adjustment
of an Overpayment Since July 1, 1975

<u>APPELLANT</u>	<u>SYSTEM</u>	<u>MEETING</u>	<u>ERROR MADE</u>	<u>ERROR DISCOVERED</u>	<u>AMOUNT OF OVERPAYMENT</u>	<u>BOARD ACTION</u>
Katharina Riech	TRS	Fall, 1979	1971	1978	\$14,233	Request Denied
Ella Vaughn	TRS	Fall, 1979	1970	1979	\$ 3,535	Adj. of Overpayment Waived
Julie Isaac	PERS	Spring, 1980	1976	1979	\$ 5,055	Adj. of Overpayment and Service Credit Waived
Woodrow, Brown	PERS	Spring, 1981	1971	1980	\$ 6,242	Adj. of Overpayment Waived
Dean Bronson	PERS	Fall, 1981	1974	1981	\$ 2,517	Adj. of Overpayment Waived
Leo Likit	PERS	Fall, 1981	1974	1981	\$ 6,903	Adj. of Overpayment Waived
Evelyn Nowell	PERS	Fall, 1982	1976	1981	\$ 2,889	Adj. of Overpayment Waived

Sec. 39.35.510. Voluntary waiver of benefits. A retired employee may, in writing, request the administrator to suspend, for any period of time, payment of all or part of the benefits to which he is entitled. The administrator shall grant the request and may not require the retired employee to disclose his reason for desiring the suspension. Amounts which are suspended pursuant to the request are forfeited. The retired employee may subsequently terminate the suspension by filing a written notice with the administrator which states his desire to revoke the suspension. Upon receipt of the notice, the administrator shall authorize resumption of the retired employee's regular pension payments. (§ 40 ch 143 SLA 1960; am § 49 ch 128 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "administrator" for "board" throughout the section.

Sec. 39.35.520. Adjustments. When a change or error is made in the records maintained by the system, or an error is made in computing a benefit, and as a result an employee or beneficiary receives from the system more or less than he would have been entitled to receive had the records been correct or had the error not been made, (1) the records or error shall be corrected and (2) as far as practicable, future payments shall be adjusted so that the actuarial equivalent of the pension or benefit to which the employee or beneficiary was correctly entitled shall be paid. If no future payment is due, a person who was paid any amount to which he was not entitled is liable for repayment of that amount, and a person who was not paid the full amount to which he was entitled shall be paid the balance of that amount. (§ 42 ch 143 SLA 1960; am § 4 ch 81 SLA 1976)

Effect of amendment. — The 1976 amendment added the second sentence.

Sec. 39.35.522. Waiver of adjustments. (a) Upon appeal by an affected member or beneficiary under (b) of this section, the board may waive an adjustment or any portion of an adjustment made under AS 39.35.520 if

(1) the adjustment or portion of the adjustment will, in the opinion of the board, cause undue hardship to the member or beneficiary;

(2) the member is retired or has submitted notification of impending retirement to his employer to be effective no later than 180 days after the adjustment was made, or the beneficiary was eligible to receive or was receiving benefits under this chapter before the adjustment;

(3) the adjustment will result in a loss of eligibility for benefits for the member or beneficiary or result in a reduction of benefits being received by the member or beneficiary of \$50 per month or more;

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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

MEMORANDUM

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.

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5657
SB 195 - died in S. France
reparments of benefits
good will

1) adjustment that requires
returned prisoners to repay benefits
received by the state, which
the state was in violation, may
no longer be made.
1A) 2 yr. statute of limitation
B) the division would still
pursue the amount of
future benefits.

minutes of each meeting
which had been heard

seen one in state affairs
1) know what came out
of state affairs.

2) help to have minutes
and help in preparation

Collective Bargaining
- announced on floor of
senate

10th floor - intensive
senate passed.

10th floor question



JUNEAU, ALASKA

Alaska State Legislature

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