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Sec. 14.25.110. Retirement benefits.

NOTES TO DECISIONS

Applied in Casperson v. Alaska No. 2677 (File No. 6198), 664 P.2d 583  
Teachers' Retirement Bd., Sup. Ct. Op. (1983).

Sec. 14.25.115. Unused sick leave credit.

NOTES TO DECISIONS

Applied in Casperson v. Alaska Teachers'  
Retirement Bd., Sup. Ct. Op. No. 2677  
(File No. 6198), 664 P.2d 583 (1983).

Sec. 14.25.130. Disability benefits.

NOTES TO DECISIONS

"Membership years." — Teachers' Re- of service" as defined in AS 14.25.220(16).  
tirement Board erred when it interpreted Casperson v. Alaska Teachers' Retirement  
the term "membership years" in subsec- ment Bd., Sup. Ct. Op. No. 2677 (File No.  
tion (a) as being the equivalent of "years 6198), 664 P.2d 583 (1983).

Sec. 14.25.168. Medical benefits. (a) The following persons are  
entitled to major medical insurance coverage:

- (1) a person receiving a monthly benefit from the system;
- (2) the spouse of a person receiving a monthly benefit from the system;
- (3) a natural or adopted child of a person receiving a monthly benefit, if the child is a dependent child as defined in AS 14.25.220(12).

(b) Major medical insurance coverage takes effect on the same date as retirement benefits begin and stops when the retired person or survivor is no longer eligible to receive a monthly benefit. The coverage for persons over age 65 is the same as that available for persons under age 65. The benefits payable to those persons age 65 or older supplement any benefits provided under the federal old age, survivors and disability insurance program. (§ 18 ch 151 SLA 1966; am § 1 ch 200 SLA 1975; am § 22 ch 137 SLA 1982)

Revisor's notes. — In 1984, the word "under" was inserted in the last sentence of subsection (b) to correct a manifest error of omission in § 22, ch. 137, SLA 1982.

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the retirement system. An employee may not (1) receive duplicate credit under this system for the same period of service, (2) receive more than one year of service credit in the course of any calendar year, or (3) receive a benefit while accruing service credit under this system, except as provided in this section. (§ 42 ch 143 SLA 1960; am § 61 ch 137 SLA 1982)

Effect of amendments. - The 1982 amendment added the second and third sentences.

Sec. 39.35.535. Medical benefits. (a) The following persons are entitled to major medical insurance coverage:

- (1) a person receiving a monthly benefit from the system;
- (2) the spouse of a person receiving a monthly benefit from the system;
- (3) a natural or adopted child of a person receiving a monthly benefit from the system, if the child is a dependent child under AS 39.35.680(11).

(b) Major medical insurance coverage takes effect on the same date as retirement benefits begin, and stops when the retired employee or survivor is no longer eligible to receive a monthly benefit. The coverage for persons age 65 or older is the same coverage available for a person under 65. The benefits payable to those persons age 65 or older supplement any benefits provided under the federal old age, survivors and disability insurance program. (§ 2, ch 200 SLA 1975; am § 62 ch 137 SLA 1982)

Effect of amendments. - The 1982 amendment rewrote this section. Editor's notes. - Provisions relating to federal old-age, survivors, and disability insurance benefits may be found in 42 U.S.C. 301-1397f (Social Security Act).

Sec. 39.35.540. Minimum benefit. [Repealed, § 75 ch 137 SLA 1982.]

Sec. 39.35.541. Actuarial reduction of benefit. If, as a result of service credit claimed for which there is a corresponding indebtedness existing at retirement, the member's retirement benefit is actuarially reduced and the resultant benefit is less than it would have been if the service credit had not been claimed, the retirement benefit shall be equal to the amount it would have been had the service credit not been claimed. (§ 63 ch 137 SLA 1982)

Sec. 39.35.545. Duplicate benefits. [Repealed, § 6 ch 81 SLA 1976.]

Sec. 39.35.546. Tax exemption. Benefits of this chapter are exempt from Alaska state and municipal income taxes. (§ 17 ch 109 SLA 1970; am § 50 ch 128 SLA 1977)

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§ 22.25.080

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**Sec. 22.25.080. Tax exemption.** Benefits paid under this chapter are exempt from state and municipal income taxes. (§ 4 ch 160 SLA 1972)

**Sec. 22.25.090. Medical benefits.** (a) The following persons are entitled to major medical insurance coverage:

(1) a person receiving a monthly benefit under this chapter;

(2) the spouse of a person receiving a monthly benefit under this chapter;

(3) a natural or adopted child of a person receiving a monthly benefit under this chapter, if the child is a dependent child under (c) of this section.

(b) Major medical insurance coverage takes effect on the same date as retirement benefits begin, and stops when the retired person or survivor is no longer eligible to receive a monthly benefit. The coverage for persons age 65 or older is the same as that available for persons under 65. The benefits payable to those persons age 65 or older supplement any benefits provided under the federal old age, survivors, and disability insurance program.

(c) In this section, "dependent child" means an unmarried child of a justice, judge, or administrative director who is dependent on the justice, judge, or administrative director for support and who is either (1) less than 19 years old, or (2) less than 23 years old and registered at and attending on a full-time basis an accredited educational or technical institution recognized by the Department of Education. The age limits set out in this subsection do not apply to a child who is totally and permanently disabled. (§ 4 ch 245 SLA 1976; am § 32 ch 137 SLA 1982)

**Effect of amendments.** — The 1982 amendment, effective July 1, 1982, rewrote this section, which formerly read "Each person who is entitled to receive a monthly benefit from the retirement system under this chapter shall be provided with major medical insurance coverage. Coverage shall become effective on the same date as retirement benefits com-

mence and cease when the retired employee or survivor is no longer eligible to receive a monthly benefit. The level of coverage for persons over age 65 shall be the same as that available before reaching age 65 except that the benefits payable shall be supplemental to those afforded under federal Old Age Survivor and Disability Insurance Program, if any."

## Chapter 28. Contributory Judicial Retirement System.

22.28.010 — 22.28.130. Application; administration; regulations; contributions; retirement and retirement pay of justices and judges; survivors' benefits; tax exemptions; appropriations; accounting; refunds; prior service credits; medical benefits.

Rejected at referendum.

Alaska Women's Commission

HB 237 - Pension Reform

TESTIMONY

Kathy Marshall

Senate State Affairs Committee

March 5, 1986

THE ALASKA WOMEN'S COMMISSION REQUESTED THE GOVERNOR TO INTRODUCE THIS LEGISLATION BECAUSE OF OUR CONCERN FOR OLDER WOMEN. ONE OF THE UNHAPPY FACTS OF LIFE FOR OLDER PEOPLE IN THIS COUNTRY IS THAT AT RETIREMENT THEIR INCOME IS REDUCED BY HALF. THE SITUATION IS EVEN WORSE FOR OLDER WOMEN. IN ALASKA, OLDER WOMEN HAVE THE HIGHEST INCIDENCE OF POVERTY OF ANY GROUP. THEIR MEDIAN ANNUAL INCOME IS \$4700. HARDEST HIT ARE THOSE WHO ARE NO LONGER MARRIED.

ONE IMPORTANT FACTOR CONTRIBUTING TO THESE SHOCKING STATISTICS IS THE FACT THAT THE ONLY SOURCE OF INCOME FOR MOST OLDER WOMEN IS SOCIAL SECURITY. ONLY ONE IN FIVE WOMEN RECEIVE ANY TYPE OF PRIVATE OR PUBLIC PENSION. RECOGNIZING THE PLIGHT OF OLDER WOMEN THE RETIREMENT EQUITY ACT WAS PASSED IN 1984. THIS LAW, HOWEVER, IMPACTS ONLY PRIVATE PENSION PLANS.

HB 237 PROVIDES THE SAME RIGHTS AND PROTECTION OFFERED TO THE PRIVATE SECTOR TO PUBLIC EMPLOYEES IN OUR STATE. ALTHOUGH THE LEGISLATION APPEARS LENGTHY IT AMENDS ONLY THESE GENERAL AREAS OF THE STATE'S RETIREMENT SYSTEM:

- 1) SPOUSES BECOME THE AUTOMATIC BENEFICIARIES OF SURVIVOR BENEFITS.

CURRENT LAW DOES NOT REQUIRE A MARRIED EMPLOYEE TO SELECT SURVIVOR BENEFITS NOR IS THE EMPLOYEE REQUIRED TO INFORM THE SPOUSE THAT SURVIVOR BENEFITS WERE NOT SELECTED. UNFORTUNATELY, MOST PUBLIC EMPLOYEES SELECT A HIGHER MONTHLY RETIREMENT AND FOREGO THE SURVIVOR BENEFITS. IN FACT, LAST YEAR ONLY 20 PERCENT OF PUBLIC EMPLOYEES SELECTED SURVIVOR BENEFITS.

THE SECOND PROVISION OF THE BILL:

- 2) REQUIRES CONSENT OF THE EMPLOYEES SPOUSE IN WRITING IF AN EMPLOYEE CHOOSES TO WAIVE SURVIVOR BENEFITS.
- MOST SPOUSES ARE UNAWARE THAT RETIREMENT BENEFITS WILL NOT CONTINUE UPON THE DEATH OF THEIR SPOUSE. THIS PROVISION ENSURES THAT THEY WILL HAVE ADEQUATE INFORMATION AND TIME TO PREPARE IN THE EVENT THEIR SPOUSE WERE TO DIE.

THE THIRD REQUIREMENT:

- 3) PERMITS RETIREMENT BENEFITS TO BE ASSIGNED IF ORDERED IN A DIVORCE DECREE.
- PENSIONS ARE LIKE WAGES IN THAT THEY ARE PART OF WHAT WORKERS EARN DURING MARRIAGE. HOWEVER, THEY ARE DEFERRED

COMPENSATION BECAUSE THEY ARE PAID IN THE FUTURE RATHER THAN THE PRESENT. PENSIONS ARE INCREASINGLY BEING RECOGNIZED AS PART OF THE JOINT PROPERTY ACQUIRED DURING MARRIAGE, AND AS PART OF THE ASSETS TO BE DIVIDED UPON DIVORCE. IN LONGER MARRIAGES, THEY MAY BE THE MOST VALUABLE ASSET A COUPLE OWNS. HOWEVER, UNDER CURRENT LAW, IF A PORTION OF THE RETIREMENT IS AWARDED IN A DIVORCE THE ONLY OPTION AVAILABLE IS TO "CASH-OUT" THAT VALUE. THIS CAN CAUSE PROBLEMS FOR BOTH SPOUSES. IF THE RETIREMENT ASSET IS WORTH VERY MUCH, THERE MAY NOT BE SUFFICIENT ASSETS TO TRADE. SECONDLY, THE EMPLOYEE IS FORCED TO PAY OFF THE OTHER SPOUSE IN A LUMP SUM AT THE TIME OF THE DIVORCE. THIS PROVISION WOULD ALLOW AN EMPLOYEE TO DELAY DIVISION OF THE RETIREMENT BENEFIT UNTIL ACTUAL RETIREMENT.

THE WOMEN'S COMMISSION BELIEVES THIS BILL WILL BE A CONCRETE STEP FORWARD IN IMPROVING THE LIKELIHOOD THAT WOMEN WILL RECEIVE PENSION INCOME IN THEIR RETIREMENT YEARS.



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### Background

Retirement age represents a time of economic uncertainty for most women whether they have worked outside the home or have spent most of their lives as homemakers. At age 65 most people experience a reduction in their income by 44 percent. As a group, older women's incomes are yet smaller since most exist only on Social Security benefits. Older women have the highest incidence of poverty in the state as well as in the nation. The median annual income for older women in Alaska is \$4,700 which is about one-half that for older Alaskan men.

Today more women work outside the home than ever before. In Alaska, women's participation in the labor force increased by over 500% in thirty years and presently hold over 40 percent of the jobs in Alaska. Yet, the incomes of women are not keeping pace with that of their male counterparts. In fact, Alaska women earn only 58 cents for every dollar a man earns and over one-quarter of Alaska families headed by women were in poverty which is triple that for all families. Additionally, women over the age of 65 had the highest incidence of poverty of any age group of either sex.

Alaska's situation is not unique. The disparity in the economic status of men and women is nationally recognized and formed the basis for a package of federal legislation known as the Economic Equity Act. A major portion of this package passed Congress and was signed by President Reagan in 1984. Called the Retirement Equity Act, it brought equitable treatment and important protections to members and their spouses of private retirement plans.

The authors of the federal Retirement Equity Act recognized the significance that pensions play toward insuring a viable future for retired persons. At age 65 most people experience a reduction in their income by nearly half. As a group, older women's incomes are even smaller since many pension plans do not consider the rights or needs of

spouses. Thousands of homemakers unknowingly were excluded as beneficiaries to their husbands' pensions or were not eligible because their husbands died before reaching the earliest retirement age. Many of these women were left to survive only on social security. In the state's retirement plans for public employees and teachers, only 20 percent and 30 percent, respectively, of the married members have chosen survivor benefits for their spouses.

The new federal law recognized that the member and the spouse both have an interest in the member's retirement benefits and tightened the law to protect those interests. The Act requires pension plans to provide automatic survivor benefits and pre-retirement survivor benefits for spouses. These benefits can be waived, however only with the the written consent of the spouse. The Act also lowered the number of years to one that a spouse must be married to a member in order to qualify for survivor benefits.

The Act also addressed the rights of former spouses to retirement benefits. Under the new provision, retirement benefits are considered marital property in which both partners to the marriage have an interest. Private pension plans were previously protected from assignment of any type. Consequently, when marital property was divided during divorce, the courts could do nothing more than establish a value to the retirement benefit and adjust for its value from other assets if they existed. Since retirement benefits are often times the only asset and one of the most valuable, equitable distribution was very often inequitable. The Retirement Equity Act now permits assignment of retirement benefits to satisfy marital property rights, child support or alimony payments to the extent that a qualified domestic relations order sets out. Retirement benefits remain protected from all other assignments.

#### HB 237 - Pension Equity for Public Employees

In comparing the federal legislation which impacts only private plans to the state's retirement plans which cover employees from state and local governments and the legislature, many of the federal reforms currently exist in our state's retirement plans. However, certain rights and protections must be strengthened in order to conform with federal standards to insure equity in the state's retirement plans. HB 237 corrects these shortcomings. While the proposed legislation appears lengthy, the bill amends only five general areas of the state's retirement systems:

1. Spouses become the automatic beneficiaries in retirement plans and for death benefits.
2. Consent of the employee's spouse is required in writing if an employee chooses to waive survivor benefits for retirement or death benefits. Consent in writing must also be obtained if a vested employee wishes to obtain a refund upon termination of employment.

3. Former spouses may share in survivor benefits, to the extent that a qualified domestic relations order sets out. A qualified domestic relations order is also defined in this legislation.
4. Prohibition against assignment of the Teachers and Public Employees Retirement Systems are removed for the purposes of satisfying marital property rights, spousal support and child support. The plans remain protected, however, from all other assignments.
5. The eligibility requirement for a spouse to become a beneficiary under the Judicial Retirement System is changed from a minimum of two years to one year that the spouse be married prior to the death of the member. This change conforms with the Public Employee's Retirement System definition of surviving spouse and the Retirement Equity Act requirements for eligibility as a surviving spouse.

It is important to note that the state's Supplemental Benefits System Plan has already been amended to comply with the Retirement Equity Act to provide a joint and survivor benefit unless the spouse waives that form of benefit. The plan also requires payment of a pre-retirement survivor benefit for the spouse unless the spouse waives that form of benefit. These amendments to SBS were necessary to maintain the plan's tax deferred status under IRS.

A M E N D M E N T

Offered in the JUDICIARY COMMITTEE

By Rodey

TO: SCS CSHB 237 (SA)

Page 8, after line 21, insert new bill sections to read:

"\* Sec. 16. AS 14.25.168 is amended to read:

Sec. 14.25.168. MEDICAL BENEFITS. (a) Except as provided in (c) of this section, the [THE] following persons are entitled to major medical insurance coverage:

(1) a person receiving a monthly benefit from the system;

(2) the spouse of a person receiving a monthly benefit from the system;

(3) a natural or adopted child of a person receiving a monthly benefit, if the child is a dependent child as defined in AS 14.25.220(12).

(b) Except as provided in (c) of this section, major [MAJOR] medical insurance coverage takes effect on the same date as retirement benefits begin and stops when the retired person or survivor is no longer eligible to receive a monthly benefit. The coverage for persons over age 65 is the same as that available for persons under age 65. The benefits payable to those persons age 65 or older supplement any benefits provided under the federal old age, survivors and disability insurance program.

\* Sec. 17. AS 14.25.168 is amended by adding an new subsection to read:

(c) Receipt under a qualified domestic relations order of a

monthly benefit from the system does not entitle a person or the person's spouse or child to insurance coverage under (a) of this section. However, a member's former spouse who receives a monthly benefit under a qualified domestic relations order is entitled to receive major medical insurance coverage if the former spouse

(1) elects the coverage within 60 days after the first monthly benefit paid under the order is mailed first class or otherwise delivered; and

(2) pays the premium established by the administrator for the coverage."

Renumber remaining bill sections accordingly.

Page 10, after line 17, insert new bill sections to read:

"\* Sec. 23. AS 22.25.090(a) is amended to read:

(a) Except as provided in (d) of this section, the [THE] following persons are entitled to major medical insurance coverage:

(1) a person receiving a monthly benefit under this chapter;

(2) the spouse of a person receiving a monthly benefit under this chapter;

(3) a natural or adopted child of a person receiving a monthly benefit under this chapter, if the child is a dependent child under (c) of this section.

\* Sec. 24. AS 22.25.090(b) is amended to read:

(b) Except as provided in (d) of this section, major [MAJOR]

medical insurance coverage takes effect on the same date as retirement benefits begin, and stops when the retired person or survivor is no longer eligible to receive a monthly benefit. The coverage for persons age 65 or older is the same as that available for persons under 65. The benefits payable to those persons age 65 or older supplement any benefits provided under the federal old age, survivors, and disability insurance program.

\* Sec. 25. AS 22.25.090 is amended by adding a new subsection to read:

(d) Receipt under a qualified domestic relations order of a monthly benefit from the system does not entitle a person or the person's spouse or child to insurance coverage under (a) of this section. However, a member's former spouse who receives a monthly benefit under a qualified domestic relations order is entitled to receive major medical insurance coverage if the former spouse

(1) elects the coverage within 60 days after the first monthly benefit paid under the order is mailed first class or otherwise delivered; and

(2) pays the premium established by the administrator for the coverage."

Renumber remaining bill sections accordingly.

Page 22, after line 16, insert new bill sections to read:

\*\* Sec. 48. AS 39.35.535 is amended to read:

Sec. 39.35.535. MEDICAL BENEFITS. (a) Except as provided in (c) of this section, the [THE] following persons are entitled to major

medical insurance coverage:

- (1) a person receiving a monthly benefit from the system;
- (2) the spouse of a person receiving a monthly benefit from the system;
- (3) a natural or adopted child of a person receiving a monthly benefit from the system, if the child is a dependent child under AS 39.35.680(11).

(b) Except as provided in (c) of this section, major [MAJOR] medical insurance coverage takes effect on the same date as retirement benefits begin, and stops when the retired employee or survivor is no longer eligible to receive a monthly benefit. The coverage for persons age 65 or older is the same coverage available for a person under 65. The benefits payable to those persons age 65 or older supplement any benefits provided under the federal old age, survivors and disability insurance program.

\* Sec. 49. AS 39.35.535 is amended by adding a new subsection to read:

(c) Receipt under a qualified domestic relations order of a monthly benefit from the system does not entitle a person or the person's spouse or child to insurance coverage under (a) of this section. However, a member's former spouse who receives a monthly benefit under a qualified domestic relations order is entitled to receive major medical insurance coverage if the former spouse

(1) elects the coverage within 60 days after the first monthly benefit paid under the order is mailed first class or otherwise delivered; and

(2) pays the premium established by the administrator for

the coverage."

Renumber remaining bill sections accordingly.

Page 23, line 27, delete "45" and insert "52"

Page 23, line 29, delete "44" and insert "51"

# MEMORANDUM

HB 237  
State of Alaska

TO: Terry Cramer  
Legal Division  
Legislative Affairs Agency

DATE: April 18, 1986

FILE NO:

TELEPHONE NO: 465-3600

FROM: Harold M. Brown  
Attorney General

SUBJECT: CSHB 237(R1s),  
retirement bill

By: Virginia B. Ragle  
Assistant Attorney General  
Governmental Affairs-Juneau

At the Senate State Affairs Committee hearing yesterday on CSHB 237(R1s), the committee adopted the committee substitute dated March 14, 1986, with the following changes:

In secs. 7 and 39, substitute the following language for the current language:

A former spouse shall be treated as a spouse or surviving spouse to the extent required by a qualified domestic relations order. Rights under the order do not take effect until the order is filed with the administrator.

In sec. 20, substitute the following language for the current language:

A former spouse who was married to the justice or judge for at least one year and who has not remarried shall be treated as a spouse or surviving spouse to the extent required by a qualified domestic relations order. Rights under the order do not take effect until the order is filed with the administrator.

In addition, the committee voted to amend all pertinent provisions of the bill to include a provision that consent of the spouse is not required if the administrator determines that the member and the spouse have been married for two years or less and if the member establishes that the member and spouse are no longer cohabiting. We suggest that this provision be included in the March 14, 1986 committee substitute as follows:

On page 3, line 6, delete "or."

On page 3, line 7, insert a new paragraph (4) to read "(4) the member and spouse have been married for two years or less and the member establishes that the member and

Terry Cramer  
Legislative Affairs Agency  
Re: CSHB 237(Rls), retirement bill

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spouse are no longer cohabiting; or" and renumber current paragraph (4) as "(5)."

On page 5, line 13, after "order" insert a semicolon and "consent of the present spouse is not required if the member establishes that the member and spouse have been married for two years or less and are not cohabiting as of the date the revocation is filed and if the member and present spouse were not married for more than two years as of the date of the member's death."

On page 7, lines 17-21, delete the current language and insert the following language in its place:

(2) the spouse if

(A) the member is not married;

(B) the member was not married to the spouse during any period of the member's employment with an employer;

(C) the spouse has no rights to the option because of the terms of a qualified domestic relations order;

(D) the spouse cannot be located;

(E) the member and the spouse have been married for two years or less and the member establishes that the member and spouse are no longer cohabiting; or

(F) for other reasons established by the administrator by regulation."

On page 12, line 25, after "department," insert a semicolon and "consent of the present spouse is not required if the member establishes that the member and present spouse have been married for two years or less and are not cohabiting as of the date the revocation is filed and if the member and present spouse were not married for more than two years as of the date of the member's death."

On page 14, line 27, delete "or."

On page 14, line 28, insert a new paragraph (4) to read "(4) the employee and spouse have been married for two

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Legislative Affairs Agency  
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April 18, 1986  
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years or less and the member establishes that the member and spouse are no longer cohabiting; or" and renumber current paragraph (4) as "(5)."

On page 18, line 19, delete "reason" and insert "reasons" in its place.

On page 18, lines 20-25, delete the current language and insert the following language in its place:

(2) the spouse if

(A) the employee is not married;

(B) the employee was not married to the spouse during any period of the employee's employment with an employer;

(C) the spouse has no rights to the option because of the terms of a qualified domestic relations order;

(D) the spouse cannot be located;

(E) the employee and the spouse have been married for two years or less and the employee establishes that the member and spouse are no longer cohabiting; or

(F) for other reasons established by the administrator by regulation."

On page 20, line 9, after "order" insert a semicolon and "consent of the present spouse is not required if the employee establishes that the employee and spouse have been married for two years or less and are not cohabiting as of the date the revocation is filed and if the member and present spouse were not married for more than two years as of the date of the employee's death."

In addition to these changes, in accordance with the committee's instructions at a previous hearing and for the sake of consistency, on page 5, line 12, insert "present" between "the" and "spouse."

Terry, I am not positive that the changes I have suggested in this memo concerning revocation of the present spouse as beneficiary for death benefits (secs. 10, 25, and 40) exactly

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Re: CSHB 237(Rls), retirement bill

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effectuate the intent of the committee. The committee's expressed concern in amending provisions of the bill that require spousal consent under certain circumstances was that an estranged spouse who has only been married to a member for a short time should not have the right to withhold consent to disposition of the contribution account or benefits in accordance with a member's wishes. The problem is somewhat one of timing. A member's decision to withdraw the contribution account or to choose a benefit other than a joint and survivor option occurs at or after termination, when it can be determined exactly how long the marriage has lasted and what the status is of the marriage as of the date the account is refunded or a normal or early retirement benefit is paid. Revocation of a present spouse as beneficiary for death benefits, on the other hand, must take place sometime before the member dies, when the member may still be working and when there is no way to tell how long the marriage will last or whether there will be a reconciliation before the member dies. If a married couple remains married or even reconciles after revocation is filed without the spouse's consent and remains married for a period of time, especially if additional benefits are accrued during that period, it seems that allowing the revocation to stand would not effectuate either the basic underlying purposes of this bill or the intent of the committee in adopting amendments to the bill.

I would like to discuss with you alternate language to accomplish the committee's purpose in amending the bill. The committee indicated that it would consider this bill again after the committee substitute is prepared.

VBR/pjg

cc: Kathy Marshall, Executive Director  
Alaska Women's Commission

Ken Humphreys, Director  
Division of Retirement & Benefits  
Department of Administration



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

May 09/

HIB 237

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to pension reform. This bill amends statutes pertaining to the state's retirement systems to include provisions similar to those enacted by the U.S. Congress in the Retirement Equity Act of 1984 (P.L. 98-397).

The bill amends a number of sections of the public employees' retirement system and teachers' retirement system statutes to require consent of an employee's spouse before the employee may waive a joint and survivor benefit, obtain a refund of contributions if the employee has a vested interest in benefits, or revoke a designation of the spouse as the employee's beneficiary for various death benefits. Consent of the spouse is also required by this bill for revocation of a designation of the spouse as beneficiary for death benefits under AS 26.05.224. Until consent is obtained, the joint and survivor benefit and designation of the spouse as beneficiary are required. The judicial retirement system statute is amended to allow the spouse of a justice or judge to receive survivors' benefits if the spouse was married to the justice or judge for one year before death, instead of the current two years.

The bill allows former spouses to share in survivor's benefits, to the extent provided in a "qualified domestic relations order," as defined in secs. 16, 18, 23, and 39 of the bill.

Prohibitions against assignment of retirement benefits are removed with respect to assignments of those benefits made to satisfy marital property rights, spousal support, and child support under a qualified domestic relations order.

The commissioner of administration is required to inform retirement system participants and their spouses of the changes accomplished by this bill, and effective dates are established to assure an orderly transition to the provisions of this pension reform bill.

This bill recognizes, as does the federal Retirement Equity Act of 1984, that rights to benefits accrued during a marriage are property rights in which both partners to the marriage have an interest. The bill has been drafted to require the joint and survivor option, and spousal consent for revocation of designation of the spouse as beneficiary for benefits, only if the spouse was married to the employee during a period when rights to those benefits were being accrued.

I note that the state's Supplemental Benefits System (SBS) plan has already been amended to comply with the Retirement Equity Act requirements that the plan require a joint and survivor benefit unless the spouse waives that form of benefit, and that the plan require payment of a preretirement survivor benefit to the spouse unless the spouse waives that form of benefit. These amendments to the SBS were necessary to maintain the plan's tax-deferred status under the Internal Revenue Code.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield  
Governor

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
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**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

March 12, 1986

Honorable Mitch Abood, Chairman  
Senate State Affairs Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Re: CSHB 237(Rls), retirement bill

Dear Senator Abood:

You have requested a section-by-section analysis of CSHB 237(Rls), relating to the rights of spouses to be beneficiaries under the state's pension systems. The sections of that bill provide:

Sec. 1. Amends AS 14.25.110(a). Makes eligibility for a normal teacher's retirement benefit subject to the requirements of amended AS 14.25.167. See secs. 13-15.

Sec. 2. Amends AS 14.25.110(b). Makes eligibility for an early teacher's retirement benefit subject to the requirements of amended AS 14.25.167. See secs. 13-15.

Sec. 3. Amends AS 14.25.125(a). Makes a teacher's eligibility for a normal conditional service retirement benefit subject to the requirements of amended AS 14.25.167. See secs. 13-15.

Sec. 4. Amends AS 14.25.125(b). Makes a teacher's eligibility for an early conditional service retirement benefit subject to the requirements of amended AS 14.25.167. See secs. 13-15.

Sec. 5. Amends AS 14.25.150. Makes current provisions into subsection (a); makes terminated teacher's entitlement to refund of contribution account subject to provisions of new AS 14.25.150(b). See sec. 6.

Sec. 6. Amends AS 14.25.150. Adds new subsection (b) that makes terminated teacher's entitlement to refund of contribution account subject to consent of the teacher's spouse and of each person entitled to benefits under a "qualified domestic re-

lations order" if the teacher is vested, deferred vested, or entitled to a conditional service retirement benefit. Consent of the spouse may be waived by the administrator if the teacher was not married to the spouse during the teacher's employment with an employer; if the spouse has no rights to benefits under AS 14.25 because of the terms of a qualified domestic relations order (see sec. 17); if the spouse cannot be located; or for other reasons established by regulation.

Sec. 7. Amends AS 14.25. Adds a new section 14.25.153 which establishes a person's priority of rights to benefits of under a qualified domestic relations order over rights of a spouse, surviving spouse or dependent child. Establishes right of a person to be treated as a spouse or surviving spouse to the extent required by a qualified domestic relations order. See sec. 17. Provides that the person's rights do not take effect until the order is filed with the administrator.

Sec. 8. Amends AS 14.25.155(c). Makes teacher's designation of person other than spouse as beneficiary for nonoccupational death benefits subject to requirements of amended AS 14.25.166. See secs. 10-12.

Sec. 9. Amends AS 14.25.157(a). Makes teacher's designation of person other than spouse as beneficiary for occupational death benefits subject to requirements of amended AS 14.25.166. See secs. 10-12.

Sec. 10. Amends AS 14.25.166(a). Makes teacher's spouse at time of death automatically the teacher's designated beneficiary for death benefits, unless the spouse was not married to the teacher during a period of the teacher's employment with an employer. The spouse is the automatic designated beneficiary except to the extent that a qualified domestic relations order requires payment to a former spouse or dependent of the teacher. The designation of the spouse as beneficiary can be revoked if the spouse consents in writing to revocation. A person's entitlement under a qualified domestic relations order can be revoked if the person consents in writing to revocation.

Sec. 11. Amends AS 14.25.166(b). Makes teacher's right to revoke beneficiary subject to requirements of amended AS 14.25.166(a). See sec. 10.

Sec. 12. Amends AS 14.25.166. Adds new subsection (d) that requires persons who claim entitlement to death benefits under AS 14.25 to provide the administrator with evidence of entitlement, such as a marriage certificate, divorce or dissolution

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judgment, or other evidence. Marriage certificates and divorce or dissolution decrees may be filed with the administrator immediately after the teacher is married or divorced. A person who claims entitlement to death benefits under AS 14.25 is not entitled to receive from the division of retirement and benefits any death benefits already paid by the administrator if the administrator does not receive notification of a claim before 10 days after the teacher's death.

Sec. 13. AS 14.25.167(a) is repealed and reenacted. The new provisions of AS 14.25.167(a) require a teacher who retires or who becomes eligible for retirement under AS 14.25.130-(e) to designate his or her spouse at the time of appointment to retirement as the contingent beneficiary for a joint and survivor benefit, unless the designation is revoked under AS 14.25.167(c). See sec. 14. If the designation is revoked, the teacher may choose normal or early retirement benefits under AS 14.25.110 or 14.25.125.

Sec. 14. Amends AS 14.25.167(c). Permits a teacher to revoke a joint and survivor option only by filing a revocation and a written consent to the revocation signed by the teacher's spouse and each person entitled to benefits under a qualified domestic relations order. See sec. 17. The administrator may waive the requirement of written consent from a person entitled under a qualified domestic relations order if the person cannot be located or for other reasons established by regulation. The administrator may waive the requirement that the teacher file written consent to a revocation signed by the teacher's spouse if the teacher is not married, if the teacher was not married to the spouse during any period of the teacher's employment with an employer, if the spouse has no right to be contingent beneficiary because of the terms of a qualified domestic relations order, if the spouse cannot be located, or for other reasons established by regulation.

Sec. 15. Amends AS 14.25.167. Adds a new subsection (f) which requires the teacher and any person who claims to be a contingent beneficiary to file with the administrator evidence necessary to determine the identity of any contingent beneficiary. New subsection (g) limits the liability of the Teachers' Retirement System if the administrator determines that a teacher may choose a benefit other than a joint and survivor option and no contrary evidence is presented to the administrator within 60 days after the teacher's retirement. Under those circumstances, no claim of a spouse or former spouse may be paid if payment would result in an increase in actuarial liability to the system. Under new subsection (h), if the teacher fails to specify which

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of the three joint and survivor options is elected, the 50 percent option provided in AS 14.25.167(a)(2) is considered elected.

Sec. 16. Amends AS 14.25.200(a). Provides that a teacher's right to receive benefits under AS 14.25 may be assigned under a qualified domestic relations order. See sec. 17.

Sec. 17. Amends AS 14.25.220. Adds a new paragraph (43), defining "qualified domestic relations order." A qualified domestic relations order is a divorce or dissolution judgment, including an order approving a property settlement, that recognizes the right of an alternate payee to receive all or a portion of a benefit payable with respect to a teacher. The order must set out the names and addresses of the member and of each alternate payee covered by the order. It must set out the amount or percentage (or manner of determining the amount or percentage) of any benefit to be paid to the alternate payee and the number of payments or period to which the order applies.

A qualified domestic relations order may not require any type or form of benefit or option not otherwise provided by AS 14.25, nor may it require an increase, based on actuarial value, of benefits in excess of the amount provided by AS 14.25. A qualified domestic relations order may not require the payment to an alternate payee of benefits that are required to be paid to another alternate payee under an order previously determined to be a qualified domestic relations order. An example of the effect of these provisions is that, since the systems do not provide for any form of partial health benefit for a spouse of a member and since provision of a full health benefit to more than one spouse would require an increase of benefits in excess of the amount provided by AS 14.25, a qualified domestic relations order cannot require that more than one person is entitled to the health benefits provided to the spouse of a retiree.

Sec. 18. Amends AS 22.25.030(b). Reduces from two to one the number of years a spouse must have been married to a judge for the spouse to be eligible for a survivors' benefit under the Judicial Retirement System (JRS).

Sec. 19. Amends AS 22.25.030. Adds a new subsection (f), providing that the rights of a surviving spouse or dependent to JRS survivors' benefits are subject to the rights of a previous spouse or a dependent under a qualified domestic relations order. See sec. 21.

Sec. 20. Amends AS 22.25. Adds a new section 22.25.-035 which provides that a person who was married to a judge for

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at least one year and has not remarried may be treated as the spouse or surviving spouse of a judge to the extent required by a qualified domestic relations order. See sec. 21.

Sec. 21. Amends AS 22.25. Adds a new section 22.25.-900, defining "qualified domestic relations order." See sec. 17.

Sec. 22. Amends AS 25.24.160. Adds a new subsection (b), providing that, in order to distribute Teachers', Judicial, Public Employees' or Alaska National Guard and Naval Militia retirement or death benefits to an alternate payee, a divorce judgment must meet the requirements of a qualified domestic relations order. See secs. 17, 21, 26, 43.

Sec. 23. Amends AS 25.24.230. Adds a new subsection (g), providing that, in order to distribute Teachers', Judicial, Public Employees' or Alaska National Guard and Naval Militia retirement or death benefits to an alternate payee, a dissolution judgment must meet the requirements of a qualified domestic relations order. See secs. 17, 21, 26, 43.

Sec. 24. Amends AS 26.05.224(d). Makes Alaska National Guard or Naval Militia member's right to revoke designation of spouse as beneficiary for death benefits subject to requirements of new AS 26.25.224(e). See sec. 25. If no beneficiary is designated or if the designated beneficiary does not survive the member, the Department of Military and Veterans' Affairs is required to pay the death benefit to the member's surviving spouse, except as required by a qualified domestic relations order. See sec. 26.

Sec. 25. Amends AS 26.05.224. A new subsection (e) is added which makes Alaska National Guard or Naval Militia member's spouse at time of death automatically the member's designated beneficiary, unless the spouse was not married to the member during a period of the member's service. The spouse is the automatic designated beneficiary except to the extent that a qualified domestic relations order requires payment to a former spouse or dependent of the member. See sec. 26. Designation of the spouse as beneficiary can be revoked if the spouse consents in writing to revocation. A person's entitlement under a qualified domestic relations order can be revoked if the person consents in writing to revocation. A new subsection (f) requires persons who claim entitlement to death benefits under AS 26.05.224 to provide the department with evidence of entitlement, such as a marriage certificate, divorce or dissolution judgment, or other evidence. Marriage certificates and divorce or dissolution decrees may be filed with the department immediately after the member is married

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or divorced. A person who claims entitlement to death benefits under AS 26.05.224 is not entitled to receive from the Departments of Administration or Military and Veterans' Affairs any death benefits already paid by the department if the department does not receive notification of a claim before 10 days after the member's death.

Sec. 26. Amends AS 26.05.227. Adds a new paragraph (4), defining "qualified domestic relations order." See sec. 17.

Sec. 27. Amends AS 39.35.200(a). Makes terminated employee's right to refund of contribution account subject to requirements of new AS 39.35.200(c). See sec. 28.

Sec. 28. Amends AS 39.35.200. Adds new subsection (c) that makes terminated employee's entitlement to refund of contributions subject to consent of spouse and each person entitled to benefits under a "qualified domestic relations order" (see sec. 43 if the employee is vested, deferred vested, or entitled to a conditional service retirement benefit. Consent of the spouse may be waived by the administrator if the employee was not married to the spouse during any period of the employee's employment with an employer; if the spouse has no rights to benefits under AS 39.35 because of the terms of a qualified domestic relations order; if the spouse cannot be located; or for other reasons established by regulation.

Sec. 29. Amends AS 39.35.370(a). Makes employee's eligibility for a normal retirement benefit subject to the requirements of amended AS 39.35.450. See secs. 36-38.

Sec. 30. Amends AS 39.35.370(b). Makes employee's eligibility for an early retirement benefit subject to the requirements of amended AS 39.35.450. See secs. 36-38.

Sec. 31. Amends AS 39.35.385(a). Makes an employee's eligibility for a normal conditional service retirement benefit subject to the requirements of amended AS 39.35.450. See secs. 36-38.

Sec. 32. Amends AS 39.35.385(b). Makes an employee's eligibility for an early conditional service retirement benefit subject to the requirements of amended AS 39.35.450. See secs. 36-38.

Sec. 33. Amends AS 39.35.420(c). Makes employee's designation of beneficiary other than spouse for nonoccupational

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death benefits subject to requirements of amended AS 39.35.490.  
See sec. 40.

Sec. 34. Amends AS 39.35.430(f). Makes employee's designation of beneficiary other than spouse for occupational death benefits subject to requirements of amended AS 39.35.490.  
See sec. 40.

Sec. 35. Amends AS 39.35.440(b). Makes employee's designation of beneficiary other than spouse for benefits payable upon death of employee after occupational disability subject to requirements of amended AS 39.35.490. See sec. 40.

Sec. 36. AS 39.35.450(a) is repealed and reenacted. The new provisions of AS 39.35.450(a) require an employee who retires or who becomes eligible for normal retirement under AS 39.35.400(f) or 39.35.410(h) to designate his or her spouse at the time of appointment to retirement as the contingent beneficiary for a joint and survivor benefit, unless the designation is revoked under AS 39.35.450(c). See sec. 37. If the designation is revoked, the employee may choose normal or early retirement benefits under AS 39.35.370 or 39.35.385 or a level income option under AS 39.35.460.

Sec. 37. Amends AS 39.35.450(c). Permits an employee to revoke a joint and survivor option only by filing a revocation and a written consent to the revocation signed by the employee's spouse and each person entitled to benefits under a qualified domestic relations order. See sec. 43. The administrator may waive the requirement of written consent from a person entitled under a qualified domestic relations order if the person cannot be located or for other reasons established by regulation. The administrator may waive the requirement that the employee file written consent to a revocation signed by the employee's spouse if the employee is not married, if the employee was not married to the spouse during any period of the employee's employment with an employer, if the spouse has no right to be contingent beneficiary because of the terms of a qualified domestic relations order, if the spouse cannot be located, or for other reasons established by regulation.

Sec. 38. Amends AS 39.35.450. Adds a new subsection (f) which requires the employee and any person who claims to be a contingent beneficiary to file with the administrator evidence necessary to determine the identity of any contingent beneficiary. New subsection (g) limits the liability of the Public Employees' Retirement System if the administrator determines that an employee may choose a benefit other than a joint and survivor

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option and no contrary evidence is presented to the administrator within 60 days after the employee's retirement. Under those circumstances, no claim of a spouse or former spouse may be paid if payment would result in an increase in actuarial liability to the system. Under new subsection (h), if the employee fails to specify which of the three joint and survivor options is elected, the 50 percent option provided in AS 39.35.450(a)(2) is considered elected.

Sec. 39. Amends AS 39.35. Adds a new section 39.35.-455, which establishes a person's priority of rights under a qualified domestic relations order over rights of a spouse, surviving spouse or dependent child. See sec. 43. Establishes right of a person to be treated as a spouse or surviving spouse to the extent required by a qualified domestic relations order. Provides that the person's rights do not take effect until the order is filed with the administrator.

Sec. 40 Amends AS 39.35.490. Makes employee's spouse at time of death automatically the employee's designated beneficiary for death benefits, unless the spouse was not married to the employee during a period of the employee's employment with an employer. The spouse is the automatic designated beneficiary except to the extent that a qualified domestic relations order requires payment to a former spouse or dependent of the employee. The designation of the spouse as beneficiary can be revoked if the spouse consents in writing to revocation. A person's entitlement under a qualified domestic relations order can be revoked if the person consents in writing to revocation.

Sec. 41. Amends AS 39.35.490. Adds new subsection (d) that requires persons who claim entitlement to death benefits under AS 39.35 to provide the administrator with evidence of entitlement, such as a marriage certificate, divorce or dissolution judgment, or other evidence. Marriage certificates and divorce or dissolution decrees may be filed with the administrator immediately after the employee is married or divorced. A person who claims entitlement to death benefits under AS 39.35 is not entitled to receive from the division of retirement and benefits any death benefits already paid by the administrator if the administrator does not receive notification of a claim before 10 days after the employee's death.

Sec. 42. Amends AS 39.35.500. Provides that an employee's right to receive benefits under AS 39.35 may be assigned under a qualified domestic relations order. See sec. 43.

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Sec. 43. Amends AS 39.35.680. Adds a new paragraph (40), defining "qualified domestic relations order." See sec. 17.

Sec. 44. Requires the Department of Administration to publish notice of the provisions of the Act and make available the forms necessary to implement the Act within 90 days after the effective date of sec. 44.

Sec. 45. Gives sec. 44 an immediate effective date.

Sec. 46. Makes secs. 1-43 of the Act effective on January 1, 1986. (This date should be changed to January 1, 1987.)

Very truly yours,

HAROLD M. BROWN  
ATTORNEY GENERAL

By: Virginia E. Ragle  
Assistant Attorney General

VBR/pjg

cc: J. Kenneth Humphreys, Director  
Division of Retirement & Benefits  
Department of Administration

# MEMORANDUM

State of Alaska

TO: Ken Humphreys, Director  
Admin. - Div. of Rtmt. & Benefits

DATE: April 25, 1986

FILE NO:

TELEPHONE NO: 465-3600

FROM: Harold M. Brown  
Attorney General

SUBJECT: Pension reform bill  
(HB 237)

By: Virginia B. Ragle  
Assistant Attorney General  
Governmental Affairs-Juneau

Last year you agreed to a zero fiscal note on HB 237 relating to pension reform, based on my advice that certain provisions in the definition of "qualified domestic relations order" (QDRO) protected the systems from having to provide major medical insurance coverage to multiple spouses and other persons unrelated to a member. Those provisions provide that a QDRO is an order that

(E) does not require any type or form of benefit or any option not otherwise provided by this chapter;

(F) does not require an increase of benefits in excess of the amount provided by this chapter determined on the basis of actuarial value; and

(G) does not require the payment to an alternate payee of benefits that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

See secs. 17, 21, 26, and 43. After further thought on this, I have concluded that the statutes providing for medical benefits (AS 14.25.168; AS 22.25.090; and AS 39.35.535) should be amended to make it very clear that multiple spouses and other persons who are completely unrelated to a member are not entitled to medical coverage. My concern is that a divorced spouse who is receiving an ongoing benefit under a QDRO may argue that he or she is entitled to medical benefits under AS 39.35.535(a)(1), that his or her new spouse is entitled under AS 39.35.535(a)(2) and that any number of additional children born to or adopted by the divorced spouse are also covered under AS 39.35.535(a)(3). Although this would obviously "require an increase in benefits ... determined on the basis of actuarial value," the divorced spouse might argue that the increase is not "in excess of the amount provided by

this chapter." I do not know whether this argument would be successful, especially given the fact that we have explained to at least two legislative committees that the definition of QDRO was intended to prevent coverage of multiple spouses and persons not related to a member, and since your fiscal note is based on the assumption that the definition has that effect. However, in order to be sure this intent is effectuated, I suggest the following two possible options for amending the statutes concerning medical benefits:

OPTION #1

On page 8, line 22 of the bill insert the following:

Sec. 16. AS 14.25.168 is amended by adding a new subsection to read:

(c) Notwithstanding (a) of this section, a member's former spouse who is receiving benefits under this chapter in accordance with a qualified domestic relations order is entitled to major medical insurance coverage only for himself or herself, and if the member remarries, must pay the monthly premium established by the administrator.

OPTION #2

On page 8, line 22 of the bill insert the following:

Sec. 16. AS 14.25.168(a) is repealed and reenacted to read:

(a) The following persons are entitled to major medical insurance coverage:

- (1) a retired or disabled member;
- (2) the spouse of a retired or disabled member, unless a former spouse of the member is entitled to medical coverage under a qualified domestic relations order;
- (3) a surviving spouse who is receiving a monthly benefit under this chapter, unless a former spouse of the member is entitled to medical coverage under a qualified domestic relations order;
- (4) the natural or adopted dependent child of a retired, disabled or deceased member;

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(5) after the death of the member, the spouse and natural or adopted dependent child of

(A) the member's surviving spouse if the surviving spouse is receiving a monthly benefit under this chapter and no former spouse is entitled to medical coverage under a qualified domestic relations order; or

(B) the member's former spouse who is entitled to medical coverage under a qualified domestic relations order.

Renumber subsequent sections accordingly.

(AS 22.25.090 and AS 39.35.535 would be similarly amended.)

VBR/pjg