

HB

215

# HOUSE COMMITTEE REPORT

Date referred: 4/10/87

FURTHER REFERRALS:

DATE: 5-8-87

The Finance Committee has considered HB 215

"An Act relating to credited service under the Public Employees' Retirement System for certain periods of leave of absence without pay; and providing for an effective date."

**RECOMMENDS:**

- replace with \_\_\_\_\_  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published 4-10-87
- zero with analysis

**SIGNING DO PASS:**

\_\_\_\_\_  
*Ronald J. Davis*  
 \_\_\_\_\_  
*Bob Marshall*  
 \_\_\_\_\_  
*Mark Boyan*  
 \_\_\_\_\_  
*Mike Davis*  
 \_\_\_\_\_  
*Pete G...*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**SIGNING OTHER RECOMMENDATIONS:**

\_\_\_\_\_  
*Al Adams - DO NOT PASS*  
 \_\_\_\_\_  
*Steve Rogers No Recommendation*  
 \_\_\_\_\_  
*John No Rec*  
 \_\_\_\_\_  
*Ray Wallis no rec*  
 \_\_\_\_\_  
*John Brown No REC*  
 \_\_\_\_\_  
*Pat ... no rec*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
*Cecil H. ...*  
 Chairman's signature

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: HB 215  
Publish Date: HOUSE 4110(87)

REQUEST \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: An Act relating to credited service under the PERS.  
Sponsor: Boyer  
Requestor: \_\_\_\_\_

Agency Affected: Administration  
BRU: Retirement and Benefits  
Components: Retirement and Benefits

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
<b>OPERATING</b>						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: Attach a separate page if necessary

An analysis of the impact of this bill on the actuarial soundness of the Public Employees' Retirement System (PERS) is provided in the attached letter to Representative Ulmer.

Prepared By: J.K. Humphreys Phone: 465-4460  
Division: Retirement and Benefits Date: April 6, 1987

Approved by Commissioner: Garrey Peska Date: 4/8/87  
Agency: Department of Administration

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)  
Senate Secretary

**RECEIVED**  
APR 08 1987

1 IN THE HOUSE

BY BOYER AND KOPONEN

2

HOUSE BILL NO. 215

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to credited service under the Public

7

Employees' Retirement System for certain periods of

8

leave of absence without pay; and providing for an

9

effective date."

10

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

11

\* Section 1. AS 39.35.330 is amended by adding a new subsection to

12

read:

13

(c) Notwithstanding (b) of this section, an employee who takes

14

more than 10 days leave of absence without pay in a calendar year

15

because the employee is unable to work due to an on-the-job injury or

16

occupational illness for which the employee is receiving benefits

17

under AS 23.30 may elect to receive credited service for the time on

18

leave of absence without pay status. When an employee elects to

19

receive credited service under this subsection, an indebtedness is

20

established. The amount of the indebtedness is equal to the contribu-

21

tions that the employee would have made if the employee had been

22

working, less the sum of contributions that the employee made for

23

those periods of time and an amount equal to contributions that would

24

have been made for the first 10 days of leave without pay. Interest

25

as prescribed by regulation accrues on the indebtedness beginning on

26

the date that the employee returns to work or terminates employment.

27

If there is an outstanding indebtedness at the time the employee is

28

appointed to retirement, benefits shall be actuarially adjusted.

29

\* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

# Alaska State Legislature

REPRESENTATIVE  
MARK BOYER

HOUSE FINANCE COMMITTEE



House of Representatives

FAIRBANKS

1098 LAKEVIEW TERRACE  
FAIRBANKS, ALASKA 99701  
(907) 456-6473

JUNEAU

P.O. BOX V  
STATE CAPITOL  
JUNEAU, ALASKA 99811  
(907) 465-3466

## MEMORANDUM

TO: Representative Al Adams, Chair  
Representative Pat Pourchot, Vice Chair  
House Finance Committee  
Committee Members

FROM: Representative Mark Boyer *MB*

SUBJECT: HB 215 - Credited Service under PERS/  
Workers Compensation

DATE: May 4, 1987

Under current law, participants in the Public Employees Retirement System who are forced to take leave without pay due to on-the-job injury suffer a break in credited service which, upon retirement, reduces their benefit. This loss of credited service also negatively impacts date of eligibility for retirement, particularly for public safety employees eligible for the "twenty and out" provision. An employee electing to retire on the twentieth anniversary of date of hire who went on leave without pay while receiving workers compensation will be denied retirement until an additional period of time equal to that leave is worked.

Prior to 1979, certain periods of time lost due to job-related injury were considered credited service under PERS, if employees were receiving the portion of normal compensation not covered by workers compensation through sick or annual leave. When Payroll section verified an employee's service to the Division of Retirement and Benefits, Payroll reported no leave without pay for periods when the employee was on workers' compensation and was receiving payments from the state charged against leave. This practice was changed in 1979, when Retirement and Benefits directed Payroll to report periods of time attributed to workers' compensation, rather than to sick or annual leave, as leave without pay.

It is inherently unfair that public employees injured on the job should be doubly penalized by reduced income while on workers' compensation and reduced pension benefits due to loss of credited service upon retirement. HB 215 would remedy this situation by allowing employees to pay an amount equal to

their normal PERS contribution for time spent on leave without pay due to job-related injury or illness. Similar provisions in statute allow credited service for military service, employment with a BIA school, and temporary service with the state. There will be minimal fiscal impact on public employers, since there is no cost other than the normal contribution which would have been made had the employee not been injured in the course of their employment. It should also be noted that the PERS contribution rate has recently been raised for employees and lowered for employers.

POSITION PAPER

HB 215

This bill would allow Public Employees' Retirement System (PERS) members who take more than ten days leave of absence without pay (LWOP) in a calendar year because of an on-the-job injury or work-related illness and who are receiving workers' compensation benefits to receive service credit in the PERS. The members could establish an indebtedness for that LWOP service in an amount equal to their employee contributions which would have been paid had they been working.

Because the department is sympathetic to the concerns represented, its position is neutral even though the bill has a cost of \$104.3 in FY 88 during a time when the administration is struggling with holding personal services costs down. If it is determined to address these concerns with service credit in the PERS, it could be addressed at approximately one-half the cost if treated as in the Teachers' Retirement System (TRS). In the TRS, the member can receive credit for LWOP service by paying both the employee and employer contributions. Even though this would still result in a cost, this would help to offset the cost to the employers and thereby make this bill more fiscally conservative.

The department is neutral on this bill due to the cost. However, the department would support the bill if it were amended as described above.

*J. K. Humphreys*  
for J. K. Humphreys, Director  
Division of Retirement and Benefits

4-9-87  
Date

*Garrey Peska*  
Commissioner Garrey Peska  
Department of Administration

4/9/87  
Date

**RECEIVED**  
APR 09 1987

LEGISLATIVE FINANCE

# STATE OF ALASKA

## DEPARTMENT OF ADMINISTRATION

### DIVISION OF RETIREMENT & BENEFITS

PLEASE REPLY TO:

P.O. BOX CR  
JUNEAU, ALASKA 99811-0203  
PHONE: (907)465-4460

2600 DENALI ST. SUITE 401  
ANCHORAGE, ALASKA 99503  
PHONE (907) 277-7504

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

STEVE COWPER, GOVERNOR

April 7 1987

The Honorable Fran Ulmer  
Chairman  
House State Affairs Committee  
P.O. Box V  
Juneau, AK 99811

Dear Madam Chair:

Re: House Bill 215

In accordance with Alaska Statute 24.08.036, I am providing the analysis below on House Bill 215. The analysis includes the long-term and short-term costs to the State if the bill is adopted and the impact the bill will have on the actuarial soundness of the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS) funds. Required changes to the appropriation for the Division of Retirement and Benefits are discussed in a separate fiscal note.

This bill would allow PERS members to receive credit for periods of leave without pay for which they receive workers' compensation payments. They would only have to pay the employee's contribution for that equivalent service. It is estimated to result in a .02% increase in PERS employer contribution rates in FY 88 and level thereafter. The State PERS payroll is estimated to be \$521,290,584.00 in FY 88 and remain level each year thereafter. This would result in an annual State cost of \$104.3 in FY 88 and in succeeding years (the PERS contribution rate increase of .02% times the State PERS estimated payroll of \$521,290,584.00).

In addition to the State costs above, there would also be an increase in political subdivisions FY 88 contribution rate of .02%. This would result in an increase in their annual costs by \$65.9 (rate increase of .02% times the estimated political subdivision payroll of \$329,282,769.00).

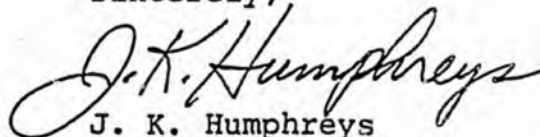
The Honorable Fran Ulmer

-2-

April 7, 1987

Although there will not be a significant adverse impact on the actuarial soundness of the PERS fund if the bill becomes law, the unfunded liability will increase by \$600,000.00 and the funding ratio will decrease by .05%.

Sincerely,



J. K. Humphreys  
Director

JKH/RLS/nl

20/6D1/0406-02/1

cc: Commissioner Garrey Peska  
Department of Administration



4

Alaska Public  
Employees Association **APEA**  
State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

RECEIVED APR 9 1987

MEMORANDUM

TO: Representative Fran Ulmer, Chairperson  
State Affairs Committee

FROM: Cherie Shelley *CS*  
Executive Director

SUBJECT: HB 215 - Credited Service in PERS

DATE: April 6, 1987

The Alaska Public Employees Association urges the committee to recommend passage of House Bill 215. This legislation will correct an injustice suffered by employees with occupational illnesses or on-the-job injuries. HB 215 is an important addition to statutory rights and benefits guaranteed disabled workers.

This bill will allow employees to receive retirement credit for periods during which workers compensation benefits were being received. Employees would be required to pay the full amount of employee contributions for the period of disability. Employees would also be required to pay interest on the indebtedness beginning on the date the employee returns to work or terminates employment as prescribed by regulation. Retirement benefits would be actuarially reduced if there is an outstanding liability to the system at the time the employee is appointed to retirement.

This legislation conforms to a recent court decision which granted credited service under similar circumstances.

Employees disabled in the course of their employment or unable to work because of an occupational illness should not suffer the double injury of reduced retirement benefits. This legislation corrects this injustice

We urge the committee to act favorably on House Bill 215.

Fairbanks Field Office  
825-D College Road  
Fairbanks, AK 99701  
Telephone: (907) 456-5412

Anchorage Field Office  
833 Gambell Street, Suite A  
Anchorage, AK 99501  
Telephone: (907) 274-1688

Juneau Field Office  
227 4th Street  
Juneau, AK 99801  
Telephone: (907) 586-6305

# Fire Fighters Legislative Action Committee

P.O. Box 784 Barry L. Haight, Chairman

Fairbanks, Alaska 99707

April 6, 1987

Representative Fran Ulmer, Chairwoman  
House State Affairs Committee  
Post Office Box "V"  
Juneau, Alaska 99811

A Chronology - Workers' Compensation payments as Creditable Service under the Public Employees Retirement System

1960- The Public Employees Retirement System (PERS) is created. Later review by an Alaska Court and the Alaska Public Employees Retirement Board determined that legislative intent was for Workers' Compensation payment to be included as creditable service. The Department of Administration followed this practice until 1979.

1977- Statutory definition was changed, dropping "subsistence and maintenance" language.

1979- The Department of Administration decided to change its interpretation of A.S. 39.35.680(8) to find that "compensation" and therefore, creditable service under A.S. 39.35.300 should no longer include payments for Workers' Compensation.

It is interesting to note that in 1979, the department requested an opinion from the Attorney General regarding the 1977 statutory amendment to "compensation" under the PERS Act; the Attorney General, relying on rules of statutory construction, ruled that Workers' Compensation payments were included within the definition of "compensation". A month later, at the request of the department, a second opinion was issued without any legal citations. The Attorney General revised his opinion to state that the portion of an employee's salary paid through Workers' Compensation payments should not be included as "compensation". Thereafter, the department revised its policy. A Board of Review at a later date described this maneuver as a "self-serving rationalization".

1982- The legislature passed a statutory change to the PERS Act and Workers' Compensation was expressly added to a list of itemized exclusions.

Thus, we have three classes of employees:

- 1) Those hired previous to 1979 with whom not only are Workers' Compensation payments creditable service, but also unused leave payments.
- 2) Those employees hired between July 1, 1979 and July 1, 1982, who receive Workers' Compensation payments as creditable service, but not unused leave.
- 3) Employees hired after July 1, 1982, to whom neither Workers' Compensation payments nor unused leave is creditable service under PERS.

Therefore, current law dictates that an employee injured on the job is penalized by having his retirement benefits reduced. The more severe the injury and the greater the length of time out of work, the greater the penalty.

The Fire Fighters Legislative Action Committee supports passage of House Bill 215 as a reasonable method of solving inequities of Workers' Compensation under the Public Employees Retirement System.

xc: Representative Niilo Koponen  
Representative Mark Boyer

1 IN THE HOUSE

BY BOYER AND KOPONEN

2

HOUSE BILL NO. 215

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to credited service under the Public  
7 Employees' Retirement System for certain periods of  
8 leave of absence without pay; and providing for an  
9 effective date."

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

11 \* Section 1. AS 39.35.330 is amended by adding a new subsection to  
12 read:

13 (c) Notwithstanding (b) of this section, an employee who takes  
14 more than 10 days leave of absence without pay in a calendar year  
15 because the employee is unable to work due to an on-the-job injury or  
16 occupational illness for which the employee is receiving benefits  
17 under AS 23.30 may elect to receive credited service for the time on  
18 leave of absence without pay status. When an employee elects to  
19 receive credited service under this subsection, an indebtedness is  
20 established. The amount of the indebtedness is equal to the contribu-  
21 tions that the employee would have made if the employee had been  
22 working, less the sum of contributions that the employee made for  
23 those periods of time and an amount equal to contributions that would  
24 have been made for the first 10 days of leave without pay. Interest  
25 as prescribed by regulation accrues on the indebtedness beginning on  
26 the date that the employee returns to work or terminates employment.  
27 If there is an outstanding indebtedness at the time the employee is  
28 appointed to retirement, benefits shall be actuarially adjusted.

29 \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).