

H B

353

BILL NUMBER HB 353 **

DATE	ACTION
1/22/88	MOVED OUT -

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
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FOUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House State Affs:

January 22, 1988

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907-465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 22, 1988

SUBJECT: Sectional analysis of HB 353
(Repurchase of retirement coverage)

TO: Representative Frau Ulmer

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, I must advise you that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Secs. 1 and 2 permit a former member of the Teachers' Retirement System (TRS) who received a total refund of the contributions the member made to TRS because of a federal tax levy or a levy under AS 09.38.065 to pay back the amount levied against to TRS. The repayment has the effect of reinstating the former member's rights to retirement benefits. Under AS 09.38, contributions to the Teachers' Retirement System and the Public Employees' Retirement System are exempt from a creditor's efforts to levy against them. Under AS 09.38.065, that general exemption from creditors does not apply to certain kinds of debt, including child support, a limited amount of wages, and state or local taxes.

Sec. 3 permits a judge or justice whose contributions to the Judicial Retirement System (JRS) have been involuntarily refunded because of a levy of any kind to repay the amount levied together with interest to JRS to reinstate membership

Representative Fran Ulmer

Page 2

January 22, 1988

in the system. Contributions to JRS are not protected from levy under AS 09.38.

Sec. 4 permits a former member of the Public Employees' Retirement System (PERS) who received a total refund of contributions because of a levy under AS 09.38.065 or of a federal tax levy to repay the amount of the refund to the system and reinstate membership. Contributions to PERS are protected from levy for other kinds of debt

Sec. 5 permits members of the Elected Public Officers Retirement System who have received an involuntary refund of the individual account because of a levy of any kind to repay the amount refunded and regain all rights terminated because of the refund.

If I may be of further assistance, please advise.

TBC:gc
WKG1:044

STATE OF ALASKA



REPRESENTATIVE
FRAN ULMER

P.O. Box V
JUNEAU, ALASKA 99811
(907) 465-4947

HOUSE OF REPRESENTATIVES

M E M O R A N D U M

January 21, 1988

TO: Members of the House State Affairs Committee

FROM Representative *Fran Ulmer*

SUBJECT: House Bill 353

House Bill 353 would allow a former member of the Teachers' Retirement System (TRS), the Judicial Retirement System (JRS) and the Public Employees' Retirement System (PERS) whose entire contribution account balance is refunded in order to pay a claim under state property laws, including claims for child support, or to pay a federal tax levy, to make payments with interest to the retirement fund without having to be reemployed or in active service under the applicable retirement system.

A former member of EPORS (Elected Public Retirement System) who received an involuntary refund because of a levy could also repay the amount with interest, and upon payment the former member would regain all rights that were terminated.

Presently, if a former member's retirement account is fully refunded, the account is closed and the former member may not repay the amount refunded unless they become an active member again. HB 353 would allow a former member to repay his retirement funds if the refund was the result of a levy or involuntary refund.

In these difficult economic times, there could be many Alaskans who may lose their future retirement benefits and HB 353 would provide the opportunity to repurchase those benefits at some time in the future.

Thank you for your favorable consideration of HB 353.

STATE OF ALASKA



REPRESENTATIVE
FRAN ULMER

HOUSE OF REPRESENTATIVES

P.O. Box V
JUNEAU, ALASKA 99811
(907) 465-4947

September 1, 1987

Ken Humphreys, Director
Division of Retirement and Benefits
Department of Administration
P.O. Box CR
Juneau, AK 99811

Dear *Ken*

I received a phone call this morning from a constituent named Rod Mourant. He has a problem with the involuntary termination of his retirement with the State of Alaska as a result of action taken by the Division of Child Support Enforcement.

His problem is of interest to me not only because of the dilemma in which it has placed Mr. Mourant, but also for other individuals who may now or in the future be similarly situated. I believe there are some due process problems associated with such an involuntary closure without any notice being given to the individual with the retirement benefits.

In this particular case, Mr. Mourant and his former wife were in the process of negotiating a settlement for a debt for child support and unbeknownst to either of them or their attorneys, the Division of Child Support Enforcement attached the entire balance of his 14 years of state retirement to pay the debt.

I have questions about the Division of Child Support Enforcement being permitted to attach the funds without notice to the individual with the retirement so that in cases like this one, where an effort is being made to reach a settlement outside the use of the retirement funds, the individual's significant right in that retirement account is not taken without due process.

September 1, 1987

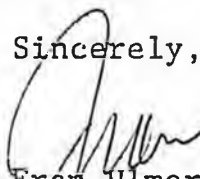
I also have questions with the Division of Retirement's involuntarily closing the account as opposed to allowing it to remain open, even with a zero balance, for the individual to purchase back his retirement. Mr. Mourant would like to begin paying into his former account in order to build back up his retirement; however, due to the fact that the account was involuntarily closed, he cannot reclaim that retirement unless he returns to State employment.

I feel that this works a particular hardship on individuals and believe that some process should be established to 1) notify individuals before their accounts are going to be involuntarily closed so that they might have an opportunity to intervene and make other arrangements so that this does not occur; and 2) that the individual at least be given the right to maintain his account and make contributions to it.

I have spoken with Bob Stalnaker who is familiar with this situation and who has assured me that the Division is attempting to fairly deal with individuals in this situation. Although I will be out of town and unable to meet with you about this matter, I would appreciate it if Judy Knight, who is my aide, might be kept informed about this issue.

Thank you very much for your consideration of this request for information and assistance.

Sincerely,



Fran Ulmer
Representative

cc: Holly Ploog, Child Support Enforcement Agency
Bob Stalnaker, Division of Retirement and Benefits
Judy Knight
Rod Mourant

S:2f

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 99503-2740
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 Audit Plan
Supplemental Benefits System
Group Health Life Insurance Benefits
Deferred Compensation Plan
Public Employees Social Security Contributions

STEVE COWPER, GOVERNOR

September 16, 1987

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

Dear Representative Fran Ulmer:

This letter is in response to the concerns you expressed in your letter of September 1 regarding inactive members in the Public Employees' or Teachers' Retirement Systems receiving involuntary refunds of their employee contribution accounts by virtue of a qualified court order.

I agree that even if these attachments are allowed to continue, at least prior notice should be provided to the individual in question. Even if the enforcing agency does not begin providing such notice, we will continue our practice of notifying individuals once we receive the order and, unless we are prevented from doing so, will begin to allow the individual a 21 day period from the date of our notice in which to arrange for rescission of the order.

Per your discussion with Bob Stalnaker, we have discussed this situation with the Attorney General's Office and their informal opinion is that we do not have the legal latitude to effect a satisfactory remedy through regulation. The only method possible, in their assessment, is through statutory change.

There are at least two ways in which this problem could be addressed. The most comprehensive is to amend AS 09.38 and remove funds held in trust by the retirement systems from the definition of property; this would appear to solve all of the associated problems which we are currently experiencing and would parallel California law. A second approach would be to alter the definition of inactive member in the systems to include those members involuntarily refunded by virtue of a qualified court order, such as Qualified Domestic Relations Order, federal tax levies and child support orders. This would permit those members to repay the system without being reemployed but they and their dependents could still lose rights to future benefits. Even if a member is in the process of repaying a refund indebtedness, rights to benefits are not restored until the entire debt is repaid or five more years of service are accumulated. This can cause an extreme hardship on dependents in the event of death of the member.

September 16, 1987

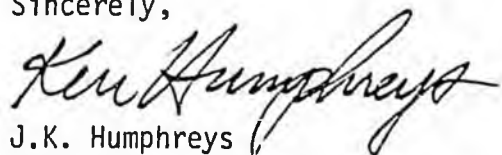
No matter what type of legislative solution, if any, is pursued, that legislation could, and I think should, include a provision to allow Mr. Mourant and all other similarly situated individuals to repay their refund indebtedness balances without returning to covered employment.

Another consideration in this area is that since January 1, 1987, all contributions to the Public Employees' Retirement Systems have been pre-tax contributions. In addition to the problems already mentioned, if these contributions are refunded before retirement, the member will not only be liable for deferred taxes but also be liable for the IRS 10% early withdrawal penalty. These types of trust accounts are considered by the IRS to be special and employer property until the employee, being aware of the penalties, personally requests them.

We would be happy to assist you if you wish to pursue a legislative solution to this problem. We will also let you know if we become aware of any other possible solutions.

We look forward to working with you on this.

Sincerely,



J.K. Humphreys
Director

JKH/RFS/cam/3

cc: Holly Ploog
Child Support Enforcement Agency

Judy Knight

Rod Mourant

STATE OF ALASKA



RECEIVED

SEP 03 1987

P.O. Box V
JUNEAU, ALASKA 99811
(907) 465-4947

REPRESENTATIVE
FRAN ULMER

HOUSE OF REPRESENTATIVES

Division of Retirement & Benefits

September 1, 1987

Ken Humphreys, Director
Division of Retirement and Benefits
Department of Administration
P.O. Box CR
Juneau, AK 99811

Dear *Ken*:

I received a phone call this morning from a constituent named Rod Mourant. He has a problem with the involuntary termination of his retirement with the State of Alaska as a result of action taken by the Division of Child Support Enforcement.

His problem is of interest to me not only because of the dilemma in which it has placed Mr. Mourant, but also for other individuals who may now or in the future be similarly situated. I believe there are some due process problems associated with such an involuntary closure without any notice being given to the individual with the retirement benefits.

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Ken Humphreys

-2-

September 1, 1987

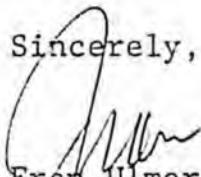
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I have spoken with Bob Stalnaker who is familiar with this situation and who has assured me that the Division is attempting to fairly deal with individuals in this situation. Although I will be out of town and unable to meet with you about this matter, I would appreciate it if Judy Knight, who is my aide, might be kept informed about this issue.

Thank you very much for your consideration of this request for information and assistance.

Sincerely,



Fran Ulmer
Representative

cc: Holly Ploog, Child Support Enforcement Agency
Bob Stalnaker, Division of Retirement and Benefits
Judy Knight
Rod Mourant

S:2f

RECEIVED
SEP 03 1987
Division of Retirement & Benefits

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Administration
 Title: An Act relating to repurchase of retirement coverage after certain levies. BRU: Retirement and Benefits
 Sponsor: Ulmer Components: Retirement and Benefits
 Requestor: House State Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
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
TOTAL OPERATING	0	0	0	0	0	0
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
TOTAL	0	0	0	0	0	0

POSITIONS:	0	0	0	0	0	0
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)

Attached Position Paper

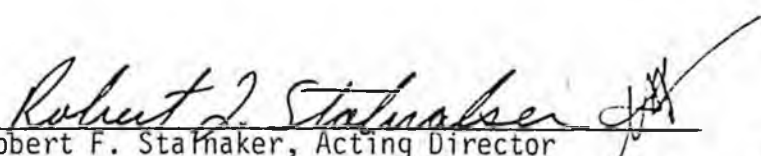
Prepared By: Robert F. Stalnaker, Acting Director Phone: 465-4470
 Division: Retirement and Benefits Date: 1-20-88
 Approved by Commissioner: John M. Andrews Date: 1/21/88
 Agency: Department of Administration

Distribution (by preparer):
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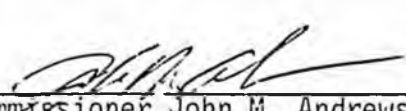
POSITION PAPER
HB 353 (State Affairs)

This bill would allow members participating in Public Employees' Retirement System (PERS), Teachers' Retirement System (TRS), Judicial Retirement System (JRS), or the Elected Public Officers' Retirement System (EPORS) to reinstate their retirement account without becoming reemployed under that system in the event they are forced to refund from that system to pay a tax levy, child support, or to comply with a qualified domestic relations order (QDRO). Currently, when a member refunds from the system, they forfeit their right to future benefits from that system. The current law allows members to reinstate refunded service only after they reemploy with an employer covered under the respective system.

The Administration supports this legislation. Passage would provide relief for those members who are forced from the system contrary to their desires and would provide the member with the ability to reinstate their right to a future benefit.


Robert F. Stalnaker, Acting Director
Division of Retirement & Benefits

1/20/88
Date


Commissioner John M. Andrews
Department of Administration

1/21/88
Date

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION DIVISION OF RETIREMENT & BENEFITS

PLEASE REPLY TO:

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JUNEAU, ALASKA 99811-0203
PHONE: (907)465-4460

2600 DENALI ST. SUITE 401
ANCHORAGE, ALASKA 99503-2740
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Public Employees' Retirement System
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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

January 20, 1988

Honorable Fran Ulmer
Chair, House State Affairs Committee
Alaska State Legislature
P. O. Box V
Juneau, AK 99811


Dear Representative Ulmer:

Re: House Bill 353

In accordance with AS 24.08.036, I am providing the analysis below on House Bill 353. The analysis includes the long-term and short-term impact 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), Teachers' Retirement System (TRS), Judicial Retirement System (JRS), and the Elected Public Officers' Retirement System (EPORS) funds.

This legislation would allow a member to repay the amount refunded and reinstate their retirement standing without becoming reemployed in a position covered by that retirement system if they have been forced to refund from their retirement system to satisfy payment(s) for child support, comply with the provisions of a qualified domestic relations order (QDRO) or to comply with a federal tax levy. There will be no fiscal impact of this legislation on the state government or any impact on the retirement funds involved. This legislation will not increase the employer contributions rates.

Sincerely,


R. F. Stalnaker
Acting Director

RFS/DS/bb/9