

S B

252

# HOUSE COMMITTEE REPORT

(7)  
Date Referred: April 24, 1990

FURTHER REFERRALS:

Date of Committee Action: 5-2-90

The JUDICIARY Committee considered:

CSSB 252 (JUDICIARY)

CS SB NO. 252 (Judiciary)

JRS BENEFITS EXEMPT FROM EXECUTION

"An Act relating to retirement system exemptions from execution."

### RECOMMENDATIONS:

- [X] be replaced with HCS CSSB 252 (JUD) [X] the same title  
[ ] a new title  
[ ] have attached amendment(s)  
[X] do pass  
[ ] do not pass  
[ ] no recommendation  
[ ] individual recommendations  
[ ] additional referral to the \_\_\_\_\_ Committee

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

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [ ] fiscal impact \_\_\_\_\_  
[ ] zero fiscal note \_\_\_\_\_  
[ ] zero with analysis \_\_\_\_\_

- [ ] fiscal note(s) \_\_\_\_\_  
[X] zero fiscal note(s) DOA 4-30-90  
[ ] zero fn/analysis \_\_\_\_\_

### SIGNING DO PASS:

Mike Miller Miller  
Terry Martin Martin  
Peter Goll Goll  
Robert Gruenberg Gruenberg  
Jeff Davidson Davidson

### SIGNING:

(Check approp. column)

	Do Not Pass	No Rec	Amend
<u>Mike Davis</u> M. Davis		<input checked="" type="checkbox"/>	
_____			
_____			
_____			
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_____			

Mike Davis  
Co-Chairman's Signature

Original sponsor(s): Judiciary Committee

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 252 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to retirement system exemptions from  
7 execution."

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

9 \* Section 1. AS 09.38.015(b) is amended to read:

10 (b) The right to benefits held by the state on behalf of an  
11 individual that [WHICH] may become payable by reason of disability,  
12 unemployment or illness, amounts held in the teachers', judicial, or  
13 public employees' retirement system, or in the elected public offi-  
14 cers' retirement system under former AS 39.37, and child support  
15 collections made by the child support enforcement agency are exempt.  
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STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 1, 1990

SUBJECT: HCS CSSB 252 (Judiciary)  
(Retirement system exemptions from execution)

TO: Representative Max Gruenberg  
Co-chair, House Judiciary Committee

FROM: Teresa B. Cramer *TBC*  
Legislative Counsel

Enclosed is the Committee Substitute you requested, adding an amendment to AS 09.38.055 to HCS CSSB 252 (Jud). In my opinion, the additional language is outside the scope of the title and therefore raises constitutional problems because the title does not adequately describe the contents of the bill. The amendment to AS 09.38.055 protects, in a bankruptcy proceeding, amounts held by the state which become payable because of an individual's disability, unemployment, or illness as well as amounts held in a retirement system. The title limits the bill to retirement system exemptions. The title also is limited to "exemptions from execution." I am not sure that an exemption under a bankruptcy proceeding is an exemption from execution.

If I may be of further assistance, please advise.

TC:mi  
wkmi6/086

Enclosure

# Alaska State Legislature



## Senate Judiciary Committee

April 30, 1990

### MEMORANDUM

TO: Representative Max Gruenberg, Co-Chairman  
Representative Peter Goll, Co-Chairman  
House Judiciary Committee

FROM: Senator Jan Faiks, Chairman  
Senate Judiciary Committee

SUBJECT: CSSB 252 (Jud) "An Act relating to retirement system exemptions from execution."

SB 252 has been referred to the House Judiciary Committee for consideration. This bill was introduced by the Senate Judiciary Committee at the request of the Alaska Court System, and was amended in committee at the suggestion of the Public Employees' Retirement System (PERS) and the Municipality of Anchorage. It makes certain changes to the Alaska Exemptions Act, AS 09.38. This act allows a debtor to protect some of the debtor's property from creditors.

Section 1 of CSSB 252 (Jud) amends AS 09.38.015(b). That section currently provides that in debt collection proceedings other than bankruptcy, a debtor's interest in the Teachers' Retirement System (TRS) or in PERS is exempt from execution by creditors. Section 1 adds the Judicial Retirement System (JRS) and the Elected Public Officers' Retirement System (EPORS) to this list, thus treating all state retirement benefits the same way for purposes of protecting them from seizure by creditors.

Section 2 of CSSB 252 (Jud) amends AS 09.38.017. That section currently provides that in any debt collection proceeding, including bankruptcy, a debtor's retirement accounts (public or private) are exempt from execution by creditors.

However, subsection 'c) of AS 09.38.017 provides that this particular exemption does not prevent payment of benefits to an ex-spouse under a qualified domestic relations order (QDRO) as defined in federal law. The most common type of QDRO is a property settlement order issued by a divorce court. It is used to award one spouse a portion of the other spouse's retirement benefits.

The definition of QDRO contained in federal law authorizes the payment of an employee's retirement accounts to an ex-spouse either when the employee retires, or when the employee is eligible to retire. However, this federal definition specifically exempts state and local government retirement plans, which are allowed to adopt their own rules regarding time of payment of retirement benefits to an ex-spouse. In Alaska, the laws and ordinances governing PERS and other state and municipal retirement plans provide that retirement benefits may only be paid to an ex-spouse when an employee actually retires, not when the employee is merely eligible to retire.

Because AS 09.38.017(c) references the federal definition of QDRO, and because this federal definition specifically authorizes government plans to adopt their own rules regarding time of payment of QDRO's, it should be clear that AS 09.038.017(c) does not require state and local government plans to use the federal definition. Section 2 of CSSB 252 (Jud) merely clarifies this, by codifying the federal definition more expressly.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Department of Administration  
 Title: An Act exempting amounts held in BRU: Retirement and Benefits  
the Judicial Retirement System.  
 Sponsor: Judiciary Committee Components: Retirement and Benefits  
 Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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:

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)

Passage of this bill will have no adverse impact on the judicial retirement fund or the Elected Public Officers Retirement System. There would be no effect on the funding ratio and the unfunded liability.

Prepared by: Sally Smith, Director *Sally Smith* Phone: 465-4470  
 Division: Retirement and Benefits Date: 27 April 1990  
 Approved by Commissioner: Frank S. Baxter *Frank S. Baxter* Date: 4/30/90  
 Agency: Department of Administration

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

CRAMER

Original sponsor(s): Judiciary Committee

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
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13 public employees' retirement system, or in the elected public offi-  
14 cers' retirement system under former AS 39.37, and child support  
15 collections made by the child support enforcement agency are exempt.

16 \* Sec. 2. AS 09.38.055 is amended to read:

17 Sec. 09.38.055. BANKRUPTCY PROCEEDINGS. In a proceeding under  
18 11 U.S.C. (Bankruptcy) only the exemptions under AS 09.38.010, 09.38.-  
19 015(a) and (b), 09.38.017, 09.38.020, 09.38.025, and 09.38.030 apply.

This  
Version  
passed out  
5-1-90