

HB

43

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March 1, 1989

HOUSE COMMITTEE ON STATE AFFAIRS

**RECAP OF
HB 43**

Retirement Credit for Unused Sick Leave

Received January 9, 1989
by Rep. Koponen

Heard March 2, 1989

Passed Out of Committee March 2, 1989
5 No Recommendation
1 Do Not Pass

HOUSE COMMITTEE REPORT

(5)

Date Referred: January 9, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: _____

The STATE AFFAIRS Committee recommends that:

HOUSE BILL NO. 43 [RETIREMENT CREDIT FOR UNUSED SICK LEAVE]
"An Act allowing retirement credit for the unused sick leave of an employee participating in the public employees' retirement system."

[] be replaced with _____ [] the same title
[] a new title

[] have attached amendment(s)

- [] do pass
- [] do not pass
- [X] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [] fiscal impact
- [] zero fiscal note
- [X] zero with analysis DOA

APPROVES PREVIOUS:

- [] fiscal note(s) published: _____
- [] zero fiscal notes(s) published: _____

SIGNING DO PASS:

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

_____ (No REC)

_____ (No Rec)

_____ (NO REC.)

_____ (DO NOT PASS)

_____ (Almost 2. Million increase annually)

_____ (No Rec)

_____ (no rec)

Chairman's signature

Introduced: 1/9/89
Referred: State Affairs
and Finance

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IN THE HOUSE

BY KOPONEN

HOUSE BILL NO. 43
IN THE LEGISLATURE OF THE STATE OF ALASKA
SIXTEENTH LEGISLATURE - FIRST SESSION
A BILL

For an Act entitled: "An Act allowing retirement credit for the unused sick leave of an employee participating in the public employees' retirement system."

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

* Section 1. AS 39.35 is amended by adding a new section to read:

Sec. 39.35.375. CREDIT FOR UNUSED SICK LEAVE. (a) An employee who is employed on or after July 1, 1988, and who retires after July 1, 1989, may elect to add unused sick leave credit to the total number of years of credited service under AS 39.35.370(c). Unused sick leave shall be credited on a day-for-day basis. Employee contributions may not be required for credited unused sick leave.

(b) An employee retiring before July 1, 1989, who returns to membership service with an employer on or after July 1, 1989, and who subsequently retires is eligible for unused sick leave credit only with respect to sick leave accrued during membership service on or after July 1, 1989.

(c) Unused sick leave may be added to credited service under this section as of the first day of the month after which

- (1) the employee meets the eligibility requirements of this section;
- (2) the employee is terminated from covered employment; and
- (3) the employee's written election regarding unused sick leave is received and verified by the administrator.

Bill Church - Field Rep.

→ Adding on because it adds
FOUNDED FUND - RUCURY -

500 hrs - to pay fo-
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change the employe rate by
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Actuarial

21 comes from Actuarial

FN - Normal cost the strike any time.
cost is for employees

10
108 accts
1961 accts 1000
329 - 1000
2 mill acct
1961

NOT A NEGOTIABLE Benefit

Introduced: 1/9/89
Referred: State Affairs
and Finance

{ 13 Days - 13 days
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IN THE HOUSE

HOUSE BILL NO. 43

BY KOPONEN

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

GF

A BILL

For an Act entitled: "An Act allowing retirement credit for the unused sick leave of an employee participating in the public employees' retirement system."

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(c) Unused sick leave may be added to credited service under this section as of the first day of the month after which

- (1) the employee meets the eligibility requirements of this section;
- (2) the employee is terminated from covered employment; and
- (3) the employee's written election regarding unused sick leave is received and verified by the administrator.

Alaska State Legislature
Representative Niilo Koponen

Pouch V
Juneau, Alaska 99811
(907) 465-4992

House District 21

119 N. Cushman, Suite 207
Fairbanks, Alaska 99701
(907) 456-8172

SPONSOR STATEMENT ON HB 43

According to the 1988 State Employee Benefits Survey done by Workplace Economics, Inc., 82% of all states pay employees upon retirement in some form or another, for their unused sick leave. Alaska is not among them.

By statute (AS 14.25.115), teachers in Alaska "may elect to apply unused sick leave credit in computing the total number of years of credited service under AS 14.25.110(d)." This legislation would extend that same provision to all members of the Public Employees Retirement system.

The purpose is such a provision is to provide a positive incentive for the judicious use of sick leave. Such an incentive encourages employees to accumulate sick leave in an amount which might be needed should an employee suffer a serious illness.

Item 2

FISCAL NOTE

REQUEST: _____

Revision Date: _____ Agency Affected: Administration
 Title: An Act allowing retirement credit for unused sick leave
 BRU: Retirement and Benefits
 Sponsor: Koponen Components: Retirement and Benefits
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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)

See attached sheet for the fiscal implications to the Public Employees' Retirement Fund. This bill will not result in increased operational costs to the division. THIS BILL IS ESTIMATED TO COST THE STATE \$1,094,500 IN INCREASED PERSONAL SERVICES COSTS IN FY 90. THIS BILL IS ESTIMATED TO COST POLITICAL SUBDIVISIONS \$744,500 IN INCREASED PERSONAL SERVICES COSTS IN FY 90. Please see page 2 for a detailed discussion of these costs.

Prepared By: Sally Smith Phone: 465-4470
 Division: Retirement and Benefits Date: _____
 Approved by Commissioner: John M. Andrews Date: 2/27/89
 Agency: Department of Administration

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

*↑ employees during 2
not hired - but operational
will go*

House Bill 43
 Analysis of Fiscal Implications to the Retirement Fund
 Prepared by Division of Retirement & Benefits
 Department of Administration
 February 23, 1989

Analysis: Based upon a preliminary study of the State and several political subdivisions, we have assumed that each future Public Employees' Retirement System (PERS) retiree would be given credit for 500 hours of sick leave upon passage of this bill. This estimate is an average, recognizing that some employees accrue personal leave and some accrue sick leave.

To fund this bill, the State PERS contribution rate would increase by .21%. The State payroll is estimated to be \$463,907,093 in FY90 and remain stable each year thereafter. The University of Alaska (U of A) PERS payroll is estimated to be \$57,301,615 in FY90 and remain stable each year thereafter.

The State cost of \$1,094.5 is calculated as follows:

Estimated FY90 state PERS salaries	\$463,907,093	
times increase in contribution rate	.21%	
		\$ 974.2
Plus estimated U of A PERS salaries	\$57,301,615	
times increase in contribution rate	.21%	
		<u>120.3</u>
TOTAL FY90 STATE COSTS...		<u>\$1,094.5</u>

In addition to the State's cost's above, political subdivision costs would increase by \$744.5 in FY90 based on estimated salaries of \$ 354,521,366. The political subdivision salaries are estimated to remain constant each year thereafter.

Estimated FY90 Political Subdivision PERS salaries	\$354,521,366	
times increase in contribution rate	.21%	
		\$ 744.5
TOTAL FY90 POLITICAL SUBDIVISION COSTS...		\$ 744.5

Passage of this bill would result in a .4% decrease in the PERS funding ratio and would increase the present value of the PERS unfunded liability by \$ 9,165,000.

Item 3

COUNCIL OF STATE GOVERNMENTS
JAN 1 1989
STATES INFORMATION CENTER

1988 STATE EMPLOYEE
BENEFITS SURVEY

Benefits in effect January 1, 1988

Prepared by:

WORKPLACE ECONOMICS, INC.
1920 L Street, N.W.
4th Floor
Washington, D.C. 20036

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2: SICK LEAVE POLICIES

Most states surveyed (forty-four) reported that state employees accrue a fixed number of sick leave days in a year.

~~Among these states, the number of days earned per year averages 12~~
days. Sick leave accrual ranges from a low of 6 days in Indiana to 21 days in Hawaii. The states of New York and Ohio report a range for sick leave accrual based on the terms of various separate bargaining agreements. In Louisiana, Mississippi, Nebraska and Vermont, sick leave is accrued based on years of service.

In thirty-seven of the fifty states surveyed (74%), there is no limit on the amount of sick leave which can be accumulated. In those states which do place a limit on accumulation, the maximum allowed ranges from a low of 90 days in Arkansas and Georgia (and, for some workers, Michigan and New Hampshire), to a high of 200 days in Pennsylvania. Members of some bargaining units in New York State can accumulate 225 days of sick leave.

With the exception of Georgia, employees in all state governments begin to earn sick leave immediately upon employment. Generally, state employees can use their sick leave as soon as they earn it. Only Montana and New Hampshire impose waiting periods on employees to use sick leave that is acc

In thirty-two states (64%) employees can use their sick leave in order to attend the funeral of a family member. In those states which do not allow sick leave to be used for this purpose, a separate funeral leave policy is in effect. (See Table 3.) With

the exception of five states, state employees can use sick leave to tend to the illness of a family member.

State policies differ in their treatment of how they compensate employees for their unused sick leave upon separation from service. In forty-one states, employees are not compensated for their unused sick leave upon termination. In most of the nine states which do cash-out sick leave, there is some limitation on payment, either in terms of the qualification for compensation, the number of days which can be cashed-out, or the amount of the payment. Only nineteen of the states (38%) pay unused sick leave to an employee's beneficiary upon death. Nearly one half of the states (twenty-three) cash-out unused sick leave in the event the employee goes on permanent disability.

Upon retirement, however, most states (82%) pay employees for their unused sick leave. The form in which this payment is made varies. Some states credit unused sick leave toward service for purposes of computing retirement benefits. Others pay some percentage of unused sick leave or limit the dollar amount paid. In Idaho, West Virginia and Wisconsin, the value of unused sick leave is credited toward insurance premiums. Only the states of New Mexico and Pennsylvania did not report any restrictions on the amount of accumulated sick leave to be paid upon retirement.

TABLE 2

SICK LEAVE

State	per year accrual rate	number of days maximum accumulation	ELIGIBILITY		OTHER USES		PAYMENT FOR UNUSED LEAVE			
			to use ^a	to accrue	family death	family illness	at termi- nation	at retire- ment	to benefi- ciary at death	determina- tion of disability
Alabama	13	150	limited	limited	yes	yes	no	50%	no	yes
Alaska	15	no limit	limited	limited	yes	yes	no	no	yes	no
Arizona	12	no limit	limited	limited	no(1)	yes(2)	no	yes(3)	no	yes
Arkansas	12	90	limited	limited	yes	yes	no	no	no	no
California	12(4)	no limit	limited	limited	no(1)	yes	no	yes(5)	no	no
Colorado	15	no limit	limited	limited	no(1)	yes	no	25%	25%	yes
Connecticut	15	no limit	limited	limited	yes	yes	no	25%	25%	yes
Delaware	15	no limit	limited	limited	no(1)	yes	no	50%(6)	yes	yes
Florida	6.5	no limit	limited	limited	no(1)	yes	yes(7)	25%	yes	no
Georgia	15	90	limited	10 days	yes	yes	no	yes(8)	no	no
Hawaii	21	no limit	limited	limited	no(1)	no	no	yes(5)	no	no
Idaho	12	no limit	limited	limited	yes	yes	no	yes(9)	no	yes
Illinois	12	no limit	limited	limited	yes	yes	yes	yes(10)	yes	yes
Indiana	6	no limit	limited	limited	no(1)	no	no	no	no	no
Iowa	18	no limit	limited	limited	yes	yes	no	yes(11)	no	no
Kansas	12	no limit	limited	limited	no(1)	yes	no	yes(12)	no	no
Kentucky	12	no limit	limited	limited	yes	yes	no	yes(5)	no	no
Louisiana	---(13)	no limit	limited	limited	no(1)	no	no	no	no	no
Maine	12	120	limited	limited	no(1)	yes	no	yes(5)	no	no
Maryland	15	no limit	limited	limited	yes	no	no	yes(5)	no	no
Massachusetts	15	no limit	limited	limited	no(1)	yes	no	20%	no	no
Michigan	13	90-120(14)	limited	limited	yes	yes	yes(15)	yes(15)	yes	no
Minnesota	13	112.5(16)	limited	limited	yes	yes	no	40%	yes	yes
Mississippi	7.5-12(17)	no limit	limited	limited	yes	no	no	no	no	no
Missouri	15	no limit	limited	limited	no(1)	yes	no	yes(5)	no	no

TABLE 2 -- Continued

SICK LEAVE

State	per year accrual rate	number of days maximum accumulation	ELIGIBILITY		OTHER USES		PAYMENT FOR UNUSED LEAVE			
			to use ^a	to accrue	family death	family illness	at termi- nation	at retire- ment	to benefi- ciary at death	determina- tion of disability
Montana	12	no limit	3 mos	limited	yes	yes	25%	25%	25%	yes
Nebraska	12(18)	180	limited	limited	no(1)	yes	no	25%	25%	yes
Nevada	15	no limit	limited	limited	yes	yes	yes(19)	yes(19)	no	no
New Hampshire	12	90-120(20)	6 mos	limited	yes	yes	no(21)	33%(22)	yes(22)	no
New Jersey	15	no limit	limited	limited	yes	yes	no	50%(23)	no	yes
New Mexico	12	no limit(24)	limited	limited	yes	yes	no	yes	no	yes
New York	8-13(25)	190-225(26)	limited	limited	yes(27)	yes(27)	no	yes(28)	no	no
North Carolina	12	no limit	limited	limited	yes	yes	no	yes(5)	no	no
North Dakota	12	no limit	limited	limited	no(1)	yes	no	no	no	no
Ohio	8-10(26)	no limit	limited	limited	yes	yes	50%	50%	yes	yes
Oklahoma	10	130	limited	limited	yes	yes	no	yes(5)	no	no
Oregon	12	no limit	limited	limited	yes	yes	no	50%(5)	no	yes
Pennsylvania	13	200	limited	limited	yes	yes	no	yes	no	yes
Rhode Island	15	125	limited	limited	no(1)	yes	no	yes(29)	yes(29)	yes
South Carolina	15	180	limited	limited	no(1)	yes(2)	no	no	no	no
South Dakota	14	no limit	limited	limited	yes	yes	25%(30)	25%(30)	yes	yes
Tennessee	12	no limit	limited	limited	yes	yes	no	yes(5)	yes	yes
Texas	12	no limit	limited	limited	no(1)	yes	no	no	50%(31)	no
Utah	13	no limit	limited	limited	no(1)	yes	no	25%	no	no
Vermont	---(32)	no limit	limited	limited	yes	yes	no	no	no	yes
Virginia	15	no limit	limited	limited	yes	yes	25%(33)	25%(33)	no	25%(33)
Washington	12	no limit	limited	limited	yes	yes	no	25%	yes	no
West Virginia	18	no limit	limited	limited	yes	yes	no	yes(34)	no	yes
Wisconsin	13	no limit	limited	limited	yes	yes	no	yes(35)	yes(35)	yes
Wyoming	12	no limit	limited	limited	yes	yes	50%(36)	50%	50%	yes

NOTES FOR TABLE 2:
SICK LEAVE

- * "Immediate" response means sick leave can be used as soon as it is accrued -- usually after one month.
1. Arizona, California, Colorado, Delaware, Florida, Hawaii, Indiana, Kansas, Louisiana, Maine, Massachusetts, Missouri, Nebraska, North Dakota, Rhode Island, South Carolina, Texas, Utah: Funeral leave separate from sick leave is provided.
 2. Arizona, South Carolina: Spouse or child only. Not to exceed 5 days (40 hrs)/year.
 3. Arizona: \$750 paid if employee has accrued 1,000 hrs.
 4. California: Four bargaining units are guaranteed 10.5 sick leave days but can use 12 if annual use is below a certain level.
 5. California, Hawaii, Kentucky, Maine, Maryland, Missouri, North Carolina, Oklahoma, Oregon, Tennessee: No cash payment for unused sick leave at retirement. Rather, payment is in the form of additional service credit in determination of retirement benefits.
 6. Delaware: Up to 45 days.
 7. Florida: Only after 10 yrs of service.
 8. Georgia: No cash payment for unused sick leave at retirement. Rather, payment is in the form of additional service credit in determination of retirement benefits for employees hired prior to 7/1/82. No additional service credited unless 120 days accumulated.
 9. Idaho: Sum equal to half of monetary value of unused sick leave earned since 7/1/76 shall be used to pay retiree's premiums for group health, accident and life insurance programs as may be maintained by the state.
 10. Illinois: 50% earned since 1/1/84.
 11. Iowa: Payment for accrued sick leave, minimum of 240 hours, amount not to exceed \$2,000.
 12. Kansas: Payment as follows: 8 yrs service and 100 days accumulated: 30 days pay; 15 yrs service and 125 days, accumulated: 45 days pay; 25 yrs service and 150 days, accumulated: 60 days pay.
 13. Louisiana: Per year accrual rate same as for annual leave.

14. Michigan: Maximum number of days accumulation ranges up to 120 days; 1-8 yrs service: 90 days; 9-17 yrs service: 105 days; 18 or more yrs: 120 days.
15. Michigan: For employees hired before 10/1/80, payment for unused sick leave at separation ranges up to 50% maximum: 0-104 hrs: 0%; 105-208 hrs: 10%; 209-416 hrs: 20%; 417-624 hrs: 30%; 625-832 hrs: 40%; 833 or more hrs: 50%.
16. Minnesota: After 112.5 days have been accumulated, employees can accrue at the rate of 6.5 days per year to be used for catastrophic/extended illness.
17. Mississippi: 1 mo. to 3 yrs service: 12 days/yr; 37 mos to 8 yrs: 10.5 days/yr; 97 mos to 15 yrs: 9 days/yr; over 15 yrs: 7.5 days/yr.
18. Nebraska: Accrual rates apply to first five years of employment. Rate increases each year thereafter until 30/yr.
19. Nevada: Payment for excess over 30 days to maximum of \$3,500. Must have 10 yrs service to qualify.
20. New Hampshire: Maximum accumulation ranges depending on years of service. 0-8 yrs: 90 days; 9-15 yrs: 105 days; 16 or more yrs: 120 days.
21. New Hampshire: Unless termination is due to a mandated reduction in force.
22. New Hampshire: Up to 30 days.
23. New Jersey: Maximum of \$15,000.
24. New Mexico: May cash in up to 120 hours of sick leave per year provided that hours being cashed in are over and above 600 accumulated sick leave hours.
25. New York: Depending on bargaining unit and date of hire.
26. New York, Ohio: Depending on the bargaining unit.
27. New York: Not to exceed a maximum of 15 days in any one year.
28. New York: No cash payment. Rather, a maximum of 165 days unused sick leave may be used for retirement service credit and the value of a maximum of 165 days unused sick leave may be used to pay for health insurance during retirement.
29. Rhode Island: 50% of total accumulated from 390 hrs to 630 hrs; 75% of total over 630 to maximum.
30. South Dakota: 7 yrs service requirement to maximum 480 hrs.

31. Texas: Maximum of 336 hrs.
32. Vermont: Accrual rate varies depending on years of service:
1st 6 mos: 6 days advanced; 6 mos-5 yrs: 12 days/yr; 5-10
years: 15 days/yr; 10-20 yrs: 18 days/yr; after 20 yrs: 20
days/yr.
33. Virginia: 5 yrs service required with maximum payment of
\$2,500.
34. West Virginia: No cash payment. Rather, unused sick leave is
converted to credit for health insurance.
35. Wisconsin: No cash payment. Rather, unused sick leave is
converted to credits to pay group health insurance and, in the
case of death, to pay premiums for survivors.
36. Wyoming: To a maximum of 480 hours.

Item 4



Alaska Public Employees Association **APEA**

State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

February 27, 1985

Senator Paul Fischer
Pouch V
Juneau, AK 99811

Re: Retirement Credit for Unused Sick Leave

Dear Senator Fischer:

Attached is a copy of the Attorney General's formal opinion which excludes retirement benefits from the collective bargaining process. The opinion clearly states that retirement benefits are not included within the "terms and conditions of employment" subject to negotiations under the Public Employment Relations Act (AS 23.40.070 et seq.).

Whereas changes to the retirement system cannot be negotiated, legislative action is required to provide service credit for unused sick leave. A similar provision is included in the Teachers' Retirement System (AS 14.25.115.). This amendment would benefit those public employees who have consistently placed their professional responsibilities above their personal comfort. As with the Teachers' Retirement System, this amendment to PERS would increase productivity and reduce absenteeism.

From time to time it has been suggested that annual leave and sick leave be combined in favor of personal leave which could be "cashed in" upon termination. Such a change would, however, be much more expensive than granting retirement credit for unused sick leave.

This legislation is of great concern to APEA members. Your support is deeply appreciated.

Yours sincerely,

Cherie Shelley
Executive Director

CS/kb

Enclosures

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825-D College Road
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Anchorage, AK 99501
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227 4th Street
Juneau, AK 99801
Telephone: (907) 586-2334

STATE OF ALASKA

JAY S. HARIMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU 99811

January 23, 1978

The Honorable B. B. Allen
Commissioner
Department of Administration
Pouch C
Juneau, Alaska 99811

Re: Health & Retirement-Bargainability;
our file J-66-444-78

Dear Commissioner Allen:

You requested an opinion whether the Public Employment Relations Act (PERA), AS 23.40.070-23.40.260, supersedes the group life and health insurance statute, AS 39.30.090, and the statutes establishing the Public Employees Retirement System (PERS), AS 39.35. Restated, the question is whether group life and health insurance benefits and retirement benefits subject to collective bargaining.

AS 23.40.070(2) provides that the policy underlying PERA is to be effectuated by "requiring public employers to negotiate with and enter into written agreements with employee organizations on matters of wages, hours, and other terms and conditions of employment." AS 23.40.250(7) provides that "'terms and conditions of employment' means the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees; but does not mean the general policies describing the function and purposes of a public employer."

These provisions, standing alone, clearly would make both group life and health insurance benefits and retirement benefits subject to collective bargaining since they both are "fringe benefits." This also fits the analytic distinction between matters subject to collective bargaining and those not subject to bargaining adopted by the Alaska Supreme Court in Kenai Peninsula Borough School Dist. v. Kenai Peninsula Education Ass'n., No. 1537 (Alaska, December 9, 1977). In that case, the Alaska Supreme Court stated that, in the absence of specific legislation on the subject, "a matter is more susceptible to bargaining the more it deals with the economic interests of employees and the less it concerns" questions of fundamental policy. It expressly held that life insurance, health insurance and liability insurance are negotiable absent statutory restrictions.

AS 39.30.090, the group insurance statute, provides in part that "[t]he Department of Administration may obtain a policy or policies of group insurance covering state employees and employees of other participating governmental units subject to" certain conditions not relevant to this inquiry. Because health insurance deals with the economic interests of employees and does not deal with fundamental policy, because AS 39.30.090 authorizes the Department of Administration to obtain "a policy or policies," and because AS 39.30.090 does not specify what levels of coverage or

benefits must be included in the policy (or policies) obtained, we believe the issue of group life and health insurance benefits is negotiable under PERA. To the extent the cost of this negotiated coverage exceeds what the State would have paid under its employer-sponsored plan, the negotiated coverage is subject to legislative approval under AS 23.40.215.

The negotiability of retirement benefits is more complex. At the outset, it appears clear that retirement benefits afforded under PERS are not negotiable. Inclusion in PERS is a condition of employment for state employees, and contributions to it are mandatory. AS 39.35.120(b); AS 39.35.170. Given these statutory provisions, we believe the legislature intended the statutory provisions of PERS to apply to all state employees, and benefits under PERS may not be negotiated under PERA.

Under the Kenai Peninsula Borough School Dist. analysis, changes in public employee retirement benefits involve questions of fundamental public policy. One commentator has stated these questions to be "[t]he legislative objectives which underlie retirement plans; the relationship of these objectives to the employee's legitimate expectancies in the employment relationship; the public interest in the maintenance and financial integrity of such plans; the problems of equitable allocation of cost between the employees and their governmental employers (taxpayers); the continuing demands

for liberalization of benefits and qualifying conditions and the result and necessity to re-evaluate the standards by which benefits are measured; the need to maintain a reasonable measure of solvency; the justification, or lack thereof, of a reserved legislative power to deal with these problems; [and] the scope of that power." Cohn, Public Employee Retirement Plans--the Nature of the Employees' Rights, 1963 U. of Ill. Law Forum, 32, 46. The public policy implications of changes in retirement benefits for public employees in Alaska take on added significance when one considers Article XII, Section 7 of the Alaska Constitution, which provides

Membership in employee retirement systems of the State or its political subdivisions shall constitute a contractual relationship. Accrued benefits of these systems shall not be diminished or impaired.

While we cannot be certain, we believe that the Alaska Supreme Court would conclude, as we have, that retirement benefits are not negotiable under PERA.

In conclusion, we recommend that the legislature be requested to clarify the "terms and conditions of employment" which may be negotiated under PERA. As the Alaska Supreme Court stated, "[i]t would be helpful if the legislature, through future enactments, provided more specific guidance on a number of the items which the unions seek to negotiate." Kenai Peninsula Borough School Dist., at 19. From both policy and administrative viewpoints, we believe

The Honorable B. B. Allen
January 23, 1978
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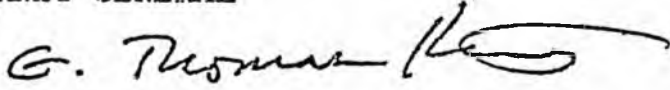
that a single, unified system of group life and health insurance benefits and retirement benefits for public employees is desirable. However, absent legislation to this effect, we believe the area of group life and health insurance benefits is a legitimate item for collective bargaining under PERA.

We hope this answers your questions.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By:


G. Thomas Koester
Assistant Attorney General

GTK:chp



NEA-ALASKA

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March 1, 1989

To: Representative Red Boucher, Chair
Members, House State Affairs Committee

Re: House Bill No. 43; "An Act allowing retirement credit for the unused sick leave of an employee participating in the public employees' retirement system."

NEA-Alaska supports and encourages your favorable consideration of HB 43.

For school district employees who are in the PERS this change is more in line with a similar benefit which is available to certificated employees in the TRS.

Since an employer benefits when the employee does not use available sick leave it is appropriate that said leave become a part of the benefit computation at the time of retirement.

It is our understanding that this change would be fully funded according to the actuarial requirements of the system.

Thank you for your consideration of our position.

Respectfully submitted,

Bob Manners
Executive Secretary

cc: Rep. Niilo Koponen