

**HB**

**188**

REPRESENTATIVE JOHN J. COWDERY

## **SPONSOR STATEMENT**

### **EXEMPTION OF OVERTIME FROM PUBLIC EMPLOYEE'S RETIREMENT SYSTEM.**

HB188 was introduced at the request of Anchorage Mayor Rick Mystrom.

The current definition of compensation for the Public Employees Retirement System allows for the use of overtime in the calculation of pension benefits.

This definition invites abuse of the system through the use of overtime loading to inflate an employee's high three years. Salaries have been inflated by as much as \$40,000 to \$50,000 per year in extreme cases through the use of overtime. This increases the long term liability to the State in its retirement systems.

HB188 amends AS 39.35.680(8) to exclude overtime from the definition of "Compensation" for all new employees.

# MEMORANDUM

Representative John Cowdery

TO: Rep. Jeanette J. <sup>Sy</sup>Joy's, Chair, State Affairs  
FROM: Rep. John J. Cowdery <sup>J.J.C.</sup>  
DATE: 9 April 97  
RE: HB 188  
Cc: State Affairs Committee Majority Members

## NOTE:

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Members of the Committee:

Attached is some clarification that I feel is needed to fully understand our intention in HB188.

Some of the questions raised pertained to the definition of overtime. "Overtime" is very clearly defined in AS 23.10.060 (see attachment 1). This is the only statutory definition and is the definition HB 188 is referencing.

Representative Berkowitz is offering two amendments dealing with employees under collective bargaining issues (attachment 2). These two amendments are essentially the same with different wording, and each guts the bills intent. I urge your support of HB188. unamended.

## Overtime Definition and History

### Sec. 23.10.060. Payment for overtime.

(a) An employer who employs employees engaged in commerce or other business, or in the production of goods or materials in the state may not employ an employee for a workweek longer than 40 hours or for more than eight hours a day. This section does not apply to the employment of a person acting in a supervisory capacity.

(b) If an employer finds it necessary to employ an employee in excess of 40 hours a week or eight hours a day, compensation for the overtime at the rate of one and one-half times the regular rate of pay shall be paid.

(c) This section is considered included in all contracts of employment.

(d) This section does not apply with respect to

(1) an employee employed by an employer employing less than four employees in the regular course of business, as "regular course of business" is defined by regulations of the commissioner;

(2) an employee employed in handling, packing, storing, pasteurizing, drying, preparing in their raw or natural state, or canning agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products;

(3) an employee of an employer engaged in small mining operations where not more than 12 employees are employed if the employee is employed not in excess of 12 hours a day or 56 hours a week during a period or periods of not more than 14 workweeks in the aggregate in a calendar year during the mining season, as the season is defined by the commissioner;

(4) an employee engaged in agriculture;

(5) an employee employed in connection with the publication of a weekly, semiweekly, or daily newspaper with a circulation of less than 1,000;

(6) a switchboard operator employed in a public telephone exchange that has fewer than 750 stations;

(7) an employee in an otherwise exempted employment or proprietor in a retail or service establishment engaged in handling telegraphic, telephone, or radio messages for the public under an agency or contract arrangement with a telegraph or communications company where the telegraph message or communications revenue of the agency does not exceed \$500 a month;

(8) an employee employed as a seaman;

(9) an employee employed in planting or tending trees, cruising, or surveying, or bucking, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal if the number of employees employed by the employer in the forestry or lumbering operations does not exceed 12;

(10) an individual employed as an outside buyer of poultry, eggs, cream, or milk in their raw or natural state;

(11) casual employees as may be liberally defined by regulations of the commissioner;

(12) an employee of a hospital whose employment includes the provision of medical services;

(13) work performed by an employee under a flexible work hour plan if the plan is included as part of a collective bargaining agreement;

(14) work performed by an employee under a voluntary flexible work hour plan if

(A) the employee and the employer have signed a written agreement and the written agreement has been filed with the department; and

(B) the department has issued a certificate approving the plan that states the work is for 40 hours a week and not more than 10 hours a day; for work over 40 hours a week or 10 hours a day under a flexible work hour plan not included as part of a collective bargaining agreement, compensation at the rate of one and one-half times the regular rate of pay shall be paid for the overtime;

(15) an individual employed as a line haul truck driver for a trip that exceeds 100 road miles one way if the compensation system under which the truck driver is paid includes overtime pay for work in excess of 40 hours a week or for more than eight hours a day and the compensation system requires a rate of pay comparable to the rate of pay required by this section;

(16) an individual employed as a community health aide by a local or regional health organization as those terms are defined in AS 18.28.100.

### History -

(sec. 3 ch 171 SLA 1959; am sec. 1 ch 3 SLA 1962; am sec. 1 ch 243 SLA 1970; am sec. 1 ch 45 SLA 1972; am sec. 33 ch 127 SLA 1974; am sec. 1 ch 31 SLA 1980; am sec. 3 ch 47 SLA 1983; am sec. 1 ch 160 SLA 1990; am sec. 1 ch 103 SLA 1992; am sec. 5 ch 13 SLA 1993)

### Revisors Notes -

The paragraphs of (d) of this section were renumbered in 1990 and 1996 to reflect the deletion of repealed paragraphs.

### Amendment Notes -

The 1992 amendment, effective September 18, 1992, in subsection (d), added paragraph (16) and made stylistic changes.

The 1993 amendment, effective May 8, 1993 repealed former paragraph (d)(7).

### AG Opinions -

The Fair Labor Standards Act, 29 U.S.C. sec. 201-219 does not expressly preempt the AS 23.10.050 - 23.10.150 on the question of whether airline employees are excluded from the mandatory overtime directive of this section. April 15, 1980, Op. Att'y Gen.

In the case of pilots, flight crews, and other interstate air carrier employees whose activities are directly and substantially related to the transportation activities of the carrier, and who are covered by a valid existing collective bargaining agreement or agreements with the carrier, the state is precluded from applying its overtime laws due to the preemptive nature of the Railway Labor Act, 45 U.S.C. sec. 151-188. April 15, 1980, Op. Att'y Gen.

In instances where no collective bargaining agreements apply, crews of interstate air carriers are nonetheless beyond the jurisdiction of state overtime law because of certain commerce clause implications. April 15, 1980, Op. Att'y Gen.

Nonflight personnel of interstate carriers who are not covered by valid existing collective bargaining agreements are not exempt from state law, and as to those individuals the provisions of state overtime law apply. April 15, 1980, Op. Att'y Gen.

Air carriers operating solely intrastate would not seem to fall under the exclusionary scope of either the Railway Labor Act, 45 U.S.C. sec. 151-188, or of the commerce clause absent unusual fact situations. Accordingly, the protections of AS 23.10.050 - 23.10.150 dealing with overtime extend to those individuals. April 15, 1980, Op. Att'y Gen.

An administrative regulation which would require an employer to include underground travel time as part of the "workweek" for calculating wages and overtime under this section might raise the issue of federal preemption but would survive such a challenge, since Congress did not intend to preclude state regulation and there is no actual conflict between such a regulation and federal law. February 22, 1989 Op. Att'y Gen.

Decisions -

*Article not void. - The Alaska Wage and Hour Act merely requires higher minimum and overtime pay than the Fair Labor Standards Act, 29 U.S.C. sec. 201-219.*

*Although compliance with both is more expensive than compliance with the federal act, it is not, in any sense, impossible so as to make the Alaska law void. Webster v. Bechtel, Inc., 621 P.2d 890 (Alaska 1980).*

*Or preempted. - Since, under the Alaska Wage and Hour Act, the number of hours required for the overtime rate is less than that under the Fair Labor Standards Act, the Alaska act provides for a lower maximum workweek within the meaning of 29 U.S.C. sec. 218(a) and consequently, comes within the express saving clause so as not to be preempted by the federal law. Webster v. Bechtel, Inc., 621 P.2d 890 (Alaska 1980).*

*Article compatible with Federal Aviation Act. - This article provides for mandatory overtime compensation, not the regulation of maximum hours, and it is therefore neither preempted by, nor in direct conflict with, the Federal Aviation Act. Dayhoff v. Temsco Helicopters, Inc., 848 P.2d 1367 (Alaska 1993).*

*Purpose of the overtime statutes - are to compensate those who labored in excess of the statutory maximum number of hours for the wear and tear of extra work and to spread employment through inducing employers to shorten hours because of the pressure of extra cost. Janes v. Otis Eng'g Corp., 757 P.2d 50 (Alaska 1988).*

*State bound to federal regulatory definitions. - See Dresser Indus., Inc. v. Alaska Dep't of Labor, 633 P.2d 998 (Alaska 1981), cert. denied, 455 U.S. 1019, 102 S. Ct. 1716, 72 L. Ed. 2d 137 (1982).*

*Definition of "supervisory" - in the Alaska Administrative Code, that the term as used in this section means a person who directs the activities of other employees and who does not perform duties which are regularly performed by the employees supervised, except for brief periods of time not to exceed more than eight hours in the*

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 188

1 Page 1, following line 3:

2 Insert a new bill section to read:

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

4 **Sec. 39.35.673. Treatment of compensation for overtime required by**  
5 **union contract.** For employees who first join the system on or after the effective  
6 date of this Act, if a collective bargaining contract entered into between a bargaining  
7 organization representing an employee and the employee's employer requires the  
8 employee to work overtime, or if an agreement entered into by the bargaining  
9 organization and the public employer under the contract requires an employee to work  
10 overtime, the compensation the employee receives for the overtime required by the  
11 contract or agreement shall be included in the employee's compensation for purposes  
12 of this chapter."

13 Page 1, line 4:

14 Delete "Section 1"

15 Insert "Sec. 2"

16 Renumber the following bill section accordingly.

17 Page 1, line 7, following ",":

18 Insert "overtime compensation only as provided in AS 39.35.673."

19 Page 1, lines 12 - 13:

20 Delete "overtime pay."

- 1 Page 2, line 1:
- 2 Delete "amendment"
- 3 Insert "amendments"
- 4 Delete "applies"
- 5 Insert "apply only"

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 188

1 Page 1, following line 3:

2 Insert a new bill section to read:

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

4 **Sec. 39.35.673. Treatment of compensation for overtime.** In determining  
5 the compensation of an employee first hired on or after the effective date of this Act,  
6 compensation for overtime shall be excluded unless a collective bargaining contract  
7 entered into between a bargaining organization representing the employee and the  
8 employee's employer provides otherwise."

9 Page 1, line 4:

10 Delete "Section 1"

11 Insert "Sec. 2"

12 Renumber the following bill section accordingly.

13 Page 1, line 7, following " ,":

14 Insert "overtime compensation only as provided in AS 39.35.673."

15 Page 2, line 1:

16 Delete "amendment"

17 Insert "amendments"

18 Delete "applies"

19 Insert "apply only"

PAGE 1  
FOCUS - 1 OF 31 DOCUMENTS

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\*\*\* THIS SECTION IS CURRENT THROUGH THE 2ND REGULAR \*\*\*  
\*\*\* AND 7TH SPECIAL SESSION OF THE 42ND LEGISLATURE (1996) \*\*\*

TITLE 48. SPECIAL TAXING DISTRICTS  
CHAPTER 1. GENERAL PROVISIONS  
ARTICLE 7. DISTRICT EMPLOYEES' RETIREMENT PLANS

A.R.S. @ 48-221 (1996)

@ 48-221. Definitions

... case of employees with dual rates, shall be for the primary occupation.  
Such fixed salary or wage rates for any regularly established pay period shall  
be that which is in effect on the first day of each such period. "Compensation"  
does not include payments for overtime and bonuses over and above fixed salaries  
or wages for normal hours of service.

2. "District" means an irrigation district, drainage district, flood  
control district, agricultural improvement district, electrical district, or ...

PAGE 2

FOCUS - 2 OF 31 DOCUMENTS

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\*\*\* CURRENT THROUGH THE 1995 SUPPLEMENT \*\*\*  
\*\*\* (1995 FIRST SPECIAL SESSION) \*\*\*

TITLE 24. RETIREMENT AND PENSIONS  
CHAPTER 11. LOCAL POLICE AND FIRE PENSION AND RELIEF FUNDS  
SUBCHAPTER 4. POLICE PENSION AND RELIEF FUNDS - CITIES OF THE FIRST CLASS

Ark. Stat. Ann. @ 24-11-423 (1995)

@ 24-11-423. Benefits - Disability retirement

... for all qualifying applications first received by the board on or after  
January 1, 1987.

(2) For purposes of computing all benefits under this section, the term  
"salary" means regular salary only and shall not include overtime pay, payments  
for unused accrued sick leave or annual leave, or the cash value of any  
nonrecurring or unusual remuneration.

(b) Any police officer retired for reasons of disability who has more than  
twenty (20) years of ...

MAR 19, 1997 5:36PM #593 P.02

TO: 81327455206540006

FROM: NCSL

§ 20630  
Note 6

**6. Holiday pay**  
City's proposed cash pay to police officers of unused holiday compensation was off consisted of "vacation pay" such as the remaining of the system. City of Fremont v. Board of Adm'n. of Public Employees' Retirement System (Fremont Police Ass'n) (App. 5 Dist. 1989) 160 Cal.App.3d 144, 214 Cal.App.3d 144, review denied.

Where fire fighters and police officers were required to work five holidays a year the double their annual pay, each holiday pay was required to be included in salary base from which pension benefits were accrued. See v. City of Hayward (App. 1 Dist. 1981) 179 Cal.App.3d 897, 138 Cal.App.3d 897.

**7. Disability**  
The public employees' retirement system may automatically retire for disability a member who has not requested retirement and who is receiving payments from an income protection plan, regardless of whether the employee is totally or partially disabled on the presentation plan policy. 65 Operating Div. 02, 25-67-72.

**8. Uniform allowance**  
Uniform allowance given to fire fighters and police officers was required to be included in salary base from which pension benefits were computed since it was compensation because it allowed for substitution of personal attire which employees would otherwise be forced to purchase with personal resources. See v. City of Hayward (App. 1 Dist. 1981) 179 Cal.App.3d 897, 138 Cal.App.3d 897.

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**9. Amputation allowance**  
Amputation allowance given to police officers was not included in salary base from which pension benefits were computed since it was merely other police attendant type compensation with police department. See v. City of Hayward (App. 1 Dist. 1981) 179 Cal.App.3d 897, 138 Cal.App.3d 897.

**10. Tuition—calculation of cost**  
With employee's contribution to pension fund through ~~employee's salary addition~~, employee directly picks up and assumes pension contributions, employee pays income tax on his actual salary, not on pension contribution. Oden v. Board of Adm'n. of Public Employees' Retirement System (App. 1 Dist. 1980) 88 Cal.App.3d 288, 137 Cal.App.3d 288, review denied.

With employees' contributions to pension fund through employee-paid salary deduction, employee pays income tax on his reduced salary, less amount of pension contribution. Oden v. Board of Adm'n. of Public Employees' Retirement System (App. 1 Dist. 1980) 88 Cal.App.3d 288, 137 Cal.App.3d 288, review denied.

**11. — Time of payment**  
Employee's contributions are not taxable income to employees and benefits are paid upon separation or retirement, whereas employee's contributions are ordinarily taxable income while made, but are taxed upon distribution of benefits. Oden v. Board of Adm'n. of Public Employees' Retirement System (App. 1 Dist. 1980) 88 Cal.App.3d 288, 137 Cal.App.3d 288, review denied.

§ 20631. Report of nonpayment equal to uniformly applied percentage of salary

A contracting agency may report an amount for each member that is equal to a uniformly applied percentage of salary in lieu of computing and reporting the actual compensation attributable to each individual member if the contracting agency has agreed in a memorandum of understanding reached pursuant to Chapter 10 (commencing with Section 2000) of Division 4 of Title 1 that the aggregate amount to be reported by the contracting agency for all members within a membership classification bears a reasonable relation to the aggregate amount that would otherwise be required to be reported pursuant to Section 20630.

(Added by Stats.1983, c. 379 (S.B.641), § 2.)

Historical and Statutory Notes

**1983 Legislation**  
Legislative intent of Stats.1983, c. 379 (S.B.641), as to make any substantive change in the law relating to rights and benefits, see Historical and Statutory Notes under Government Code § 20630.  
A former version of this statute was repealed by Stats. 1984, c. 379 (S.B.641), § 1. For discussion of the re-

pealed subject matter, see the Digestion Table preceding Government Code § 20608. (If you are using an electronic publication, enter GML.)  
For the source of this section's subject matter, see the Digestion Table preceding Government Code § 20390. (If you are using an electronic publication, enter GML.)

§ 20632. Compensation for overtime service

For most employees in classification designated by the Director of the Department of Personnel Administration who are also included from, or otherwise not subject to, collective bargaining, and for employees in bargaining units for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, compensation for overtime shall not constitute "compensation" for the purposes of the computation of retirement contributions by employee and the state or for the purposes of the calculation of retirement benefits. (Added by Stats.1984, c. 379 (S.B.641), § 2.)

Historical and Statutory Notes

**1984 Legislation**  
Legislative intent of Stats.1984, c. 379 (S.B.641), as to make any substantive change in the law relating to rights and benefits, see Historical and Statutory Notes under Government Code § 20630.  
A former version of this statute was repealed by Stats. 1984, c. 379 (S.B.641), § 1. For discussion of the re-

pealed subject matter, see the Digestion Table preceding Government Code § 20608. (If you are using an electronic publication, enter GML.)  
For the source of this section's subject matter, see the Digestion Table preceding Government Code § 20390. (If you are using an electronic publication, enter GML.)

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within which matter, see the Digestion Table preceding Government Code § 20608. (If you are using an electronic publication, enter GML.)

§ 20633. Compensation; withheld salaries of school district employees

Notwithstanding any other provision of this part, compensation includes salary withheld by the employer in accordance with Section 44180 or 44164 of the Education Code, which provide for continuation of salary payments during a period in which the member renders no service. The withheld salary shall be reported as earned.

(Added by Stats.1983, c. 379 (S.B.641), § 2.)

Historical and Statutory Notes

**1983 Legislation**  
Legislative intent of Stats.1983, c. 379 (S.B.641), as to make any substantive change in the law relating to rights and benefits, see Historical and Statutory Notes under Government Code § 20608.

For the source of this section's subject matter, see the Digestion Table preceding Government Code § 20608. (If you are using an electronic publication, enter GML.)

Notes of Decisions

**Compendary time off, generally 1**  
1. Compensatory time off, generally  
Lump-sum payments for unused sick leave and vacation pay were not to be included in compensation or wages.

For the source of this section's subject matter, see the Digestion Table preceding Government Code § 20600. (If you are using an electronic publication, enter GML.)

§ 20634. University member appointed under health sciences compensation plan; exclusion of past or future supplemental payments pursuant to plan

For a university member appointed under a health sciences compensation plan of the university, "compensation" shall not include past or future supplemental payments made pursuant to any health sciences compensation plan.  
(Added by Stats.1984, c. 379 (S.B.641), § 2.)

Historical and Statutory Notes

**1984 Legislation**  
Legislative intent of Stats.1984, c. 379 (S.B.641), as to make any substantive change in the law relating to rights and benefits, see Historical and Statutory Notes under Government Code § 20608.

For the source of this section's subject matter, see the Digestion Table preceding Government Code § 20600. (If you are using an electronic publication, enter GML.)

§ 20635. Overtime

When the compensation of a member is a factor in any computation to be made under this part, there shall be excluded from those computations any compensation based on overtime pay to be by a member whose service retirement allowance is a fixed percentage of final compensation for each year of credited service. For the purposes of this part, overtime is the aggregate service performed by an employee as a member for all employers and in all categories of employment in excess of the hours of work considered normal for employees on a full-time basis, and for which monetary compensation is paid.

If a member concurrently renders service in two or more positions, one or more of which is full time, service in the particular position shall constitute overtime. If two or more positions are part-time, and full time, the position with the highest pay rate or base pay shall be reported to this system. This provision shall apply only to service rendered on or after July 1, 1984.  
(Added by Stats.1984, c. 379 (S.B.641), § 2.)

Historical and Statutory Notes

**1984 Legislation**  
Legislative intent of Stats.1984, c. 379 (S.B.641), as to make any substantive change in the law relating to rights and benefits, see Historical and Statutory Notes under Government Code § 20608.

For the source of this section's subject matter, see the Digestion Table preceding Government Code § 20600. (If you are using an electronic publication, enter GML.)

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MAR 19, 1997 5:38PM #593 P.03

10:81307465206540006

FROM: NCSL

§ 20635

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Cross References

Oversea, see Government Code § 19643 in 1991. Salary ranges of state employees, see Government Code § 19864.

Literary References

State #94.101, WESTLAW Topic No. 90, C.J.S. State § 113 to 114.

Notes of Decisions

- Construction and application: 1
- Construction with federal law: 5
- Extension service teaching: 2
- Summer time less drivers: 4
- Teaching summer school: 2

1. Construction and application

Where state employees in work with summer providing for no overtime pay were required to work 60 1/2 hours and were entitled for personal leave to work with summer providing for pay over and above normal salary, while salary adjustment was worked out within the framework of the overtime statute, such cases were not the use of overtime compensation within the section. 17 Op.A.S. 270 (1961).

2. Teaching summer school

Where summer school service is performed by one not then holding a full-time position, so that it is not an extension of summer school work, it is not overtime and compensation therefor is included in compensation under the State Employees' Retirement Act. 18 Op.A.S. 298 (1961).

Summer school teaching service performed by member of state employees' retirement system, holding full-time position and performing service concurrently therewith, constitutes overtime for purposes of retirement system and compensation therefor is included within amount from contribution to complete employee contribution, service retirement allowance and in making other contributions under the State Employees' Retirement Law. 18 Op.A.S. 298 (1961).

3. Extension service teaching

A University of California or state college instructor's right to refusal of contribution to state employees' retirement system, based on extension service teaching, made here on effective date of service resulting from contribution compensation based on overtime and effective date of 11 20537 and 20538 including from all contributions compensation based on university and state college employees.

§ 20636. Compensation payable; psychic special compensation; group or class of employment; final settlement pay

(a) "Compensation payable" by a member means the pay rate and special compensation of the member, as defined by subdivisions (b), (c), and (d), and as limited by Section 11798.5.

(b)(1) "Pay rate" means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours. "Pay rate" for a member who is not in a group or class means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (a).

(2) The compensation for any leave without pay of a member shall be based on the compensation payable by him or her at the beginning of the absence.

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GOVERNMENT CODE

§ 20636

(3) The computation for time prior to entering state service shall be based on the compensation payable by him or her in the position first held by him or her in state service.

(c)(1) Special compensation of a member includes any payment received for special skills, knowledge, ability, work assignments, workdays or hours, or other work conditions.

(2) Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to pay rate. If an individual is not part of a group or class, special compensation shall be limited to that which the board determines is received by similarly situated members in the closest related group or class that is in addition to pay rate, subject to the limitations of paragraph (2) of subdivision (a).

(3) Special compensation shall be for services rendered during normal working hours and, when reported to the board, the employer shall identify the pay period in which the special compensation was earned.

(4) Special compensation may include the full monetary value of normal contributions paid to the board by the employer, on behalf of the member and pursuant to Section 20607, provided that the employer's labor policy or agreement specifically provides for the inclusion of the normal contribution payment in compensation payable.

(5) The monetary value of any service or noncash advantage furnished by the employer to the member, except as expressly and specifically provided in this part, shall not be special compensation unless regulations promulgated by the board specifically determine that value to be "special compensation."

(6) The board shall promulgate regulations that describe more specifically and exclusively what constitutes "special compensation" as used in this section. A uniform allowance, the monetary value of employer-provided uniforms, holiday pay, and premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under \* \* \* Section 20147 of Title 29 of the United States Code shall be included as special compensation and appropriately defined in those regulations.

(7) Special compensation does not include any of the following:

(A) Final settlement pay.

(B) Payments made for additional services rendered outside of normal working hours, whether paid in lump sum or otherwise.

(C) Any other payments the board has not affirmatively determined to be special compensation.

(8) Notwithstanding any other provision of law, pay rate and special compensation schedules, regulations, or similar documents shall be public records available for public scrutiny.

(a)(1) As used in this part, "group or class of employment" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other factors, work related grouping. Under no circumstances shall one employee be considered a group or class.

(2) Increases in compensation payable granted to any employee who is not in a group or class shall be limited during the final compensation period applicable to the employee, as well as the two years immediately preceding the final compensation period, to the average increase in compensation payable during the same period reported by the employer for all employees who are in the same membership classification, except as may otherwise be determined pursuant to regulations adopted by the board that establish reasonable standards for granting exceptions.

(3) As used in this part, "final settlement pay" means any pay or cash conversion of employee benefits that are in excess of compensation payable that are granted or awarded to a member in connection with or in anticipation of a separation from employment. The board shall promulgate regulations that describe more specifically what constitutes final settlement pay.

(b)(1) Notwithstanding subdivision (a), "compensation payable" for state members means the average monthly compensation, as determined by the board, upon the basis of the average time put in by members in the same group or class of employment and at the same rate of pay, and is composed of the pay rate and special compensation of the member. The computation for any absence of a member shall be based on the compensation payable by him or her at the beginning of the absence and that for time prior to entering state service shall be based on the compensation payable by him or her in the position first held by him or her in that state service.

(2) Notwithstanding subdivision (b), "pay rate" for state members means the average monthly remuneration paid in cash out of funds paid by the employer to similarly situated members of the same group or class of employment, is payment for the member's services or for time during which the member is

Additions or changes indicated by underlines; deletions by asterisks \* \* \*

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CIA #2

PAGE 3  
FOCUS - 3 OF 31 DOCUMENTS

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\*\*\* THIS SECTION IS CURRENT THROUGH THE 1996 SUPPLEMENT \*\*\*  
\*\*\* (PERMANENT AND TEMPORARY LEGISLATION AS OF FEB. 9, 1996)  
(EMERGENCY LEGISLATION AS OF MAR. 31, 1996) \*\*\*

TITLE 4. POLICE AND FIRE DEPARTMENTS  
CHAPTER 6. POLICE AND FIREFIGHTERS RETIREMENT AND DISABILITY

D.C. Code @ 4-607 (1996)

@ 4-607. Definitions

... college, university, or comparable recognized educational institution.

(6) The term "basic salary" means regular salary established by law or regulation, including any differential for special occupational assignment, but shall not include overtime, holiday, or military pay.

(7) The term "annuitant" means any former member who, on the basis of his service, has met all requirements of @@ 4-607 to 4-630 for title to annuity and has filed claim therefor.

(8) The ...

PAGE 4  
FOCUS - 4 OF 31 DOCUMENTS

ILLINOIS COMPILED STATUTES ANNOTATED  
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\*\*\* THIS SECTION IS CURRENT THROUGH PUBLIC ACT 89-679 \*\*\*  
\*\*\* (1996 REGULAR SESSION) \*\*\*

CHAPTER 40. PENSIONS  
ILLINOIS PENSION CODE  
ARTICLE 15. STATE UNIVERSITIES RETIREMENT SYSTEM

40 ILCS 5/15-110 (1996)

OLD-CITE: [Prior to 1/1/93 cited as: Ill. Rev. Stat., Ch. 108 1/2, para. 15-110]

@ 40 ILCS 5/15-110. Basic compensation

... 30c of "An Act in relation to State Finance," approved June 10, 1919, as amended [30 ILCS 105/30c], or a tax-sheltered annuity plan approved by any employer. Basic compensation does not include (1) salary or wages for overtime or other extra service; (2) prospective salary or wages under a summer teaching contract not yet entered upon; and (3) overseas differential allowances, quarters allowances, post allowances, educational ...

PAGE 5  
FOCUS - 5 OF 31 DOCUMENTS

CODE OF IOWA 1996

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 EDITION (1996 LEGISLATION) \*\*\*

TITLE IX. LOCAL GOVERNMENT  
SUBTITLE 4. CITIES  
CHAPTER 411. RETIREMENT SYSTEM FOR POLICE OFFICERS AND FIRE FIGHTERS

Iowa Code @ 411.1 (1996)

411.1 Definitions.

... annual compensation which a member receives for services rendered as a police officer or fire fighter in the course of employment with a participating city. However, the term "earnable compensation" or "compensation earnable" shall not include amounts received for overtime compensation, meal or travel expenses, uniform allowances, fringe benefits, severance pay, or any amount received upon termination or retirement in payment for accumulated sick leave or vacation.  
Contributions made by ...

PAGE 6  
FOCUS - 6 OF 31 DOCUMENTS

LOUISIANA STATUTES

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT (1996 SESSION) \*\*\*

LOUISIANA REVISED STATUTES  
TITLE 11. CONSOLIDATED PUBLIC RETIREMENT SYSTEMS  
SUBTITLE L. GENERAL AND PRELIMINARY PROVISIONS  
CHAPTER 4. PROVISIONS AFFECTING MORE THAN ONE SYSTEM  
PART II. GENERAL PROVISIONS  
SUBPART F. RETIREMENT BENEFIT COMPUTATION

La. R.S. 11:233 (1997)

233. Earnable compensation

... computation of average compensation, earnings or earned or earnable compensation, or its equivalent, shall mean the full amount earned by an employee for a given pay period. Earnings or earned or earnable compensation shall not include overtime unless it is required to be worked in the employee's regular tour of duty, operating expenses, use of automobile or motor vehicles, the cost of any insurance paid by the employer, any allowance for expenses incurred as an incident of employment, ...

PAGE 7  
FOCUS - 7 OF 31 DOCUMENTS

LOUISIANA STATUTES

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT (1996 SESSION) \*\*\*

LOUISIANA REVISED STATUTES  
TITLE 11. CONSOLIDATED PUBLIC RETIREMENT SYSTEMS  
SUBTITLE II. STATE SYSTEMS  
CHAPTER I. LOUISIANA STATE EMPLOYEES' RETIREMENT SYSTEM  
PART I. GENERAL PROVISIONS

La. R.S. 11:403 (1997)

403. Definitions

... pay the part-time employee would have received had he been employed on a full-time basis.

(6) "Base pay" means prescribed compensation for a specific position on a full-time basis, but does not include overtime, per diem, differential pay, payment in kind, premium pay, or any other allowance for expense authorized and incurred as an incident to employment, except for supplemental pay for certain members as provided ...

PAGE 8  
FOCUS - 8 OF 31 DOCUMENTS

LOUISIANA STATUTES

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT (1<sup>06</sup> SESSION) \*\*\*

LOUISIANA REVISED STATUTES  
TITLE 11. CONSOLIDATED PUBLIC RETIREMENT SYSTEMS  
SUBTITLE II. STATE SYSTEMS  
CHAPTER 4. STATE POLICE PENSION AND RETIREMENT SYSTEM

La. R.S. 11:1310 (1997)

1310. Average salary; method of determining

... received for the year ending on the last day of the month immediately preceding the date of retirement or date of death or for any one-year period, whichever is the greatest. For the purposes of computation, "average salary" shall not include overtime, expenses or clothing allowances.

(2) With respect to persons becoming employed on and after September 8, 1978, term "average salary" as used in this Chapter for the purpose of determining pension payments and retirement is the average ...

... month period ending on the last day of the month immediately preceding the date of retirement or date of death or for any thirty-six consecutive months, whichever is the greatest. For the purposes of computation, "average salary" shall not include overtime, expenses or clothing allowances.

B. Repealed by Acts 1982, No. 769, @ 3.

C. Every member of this police pension and retirement system who claims additional credit for services rendered ...

PAGE 9  
FOCUS - 9 OF 31 DOCUMENTS

LOUISIANA STATUTES

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT (1996 SESSION) \*\*\*

LOUISIANA REVISED STATUTES  
TITLE 11. CONSOLIDATED PUBLIC RETIREMENT SYSTEMS  
SUBTITLE III. STATEWIDE SYSTEMS  
CHAPTER 8. MUNICIPAL POLICE EMPLOYEES' RETIREMENT SYSTEM

La. R.S. 11:2213 (1997)

2213. Definitions

... event.

(10) "Earnable compensation" shall mean the full amount of compensation earned by an employee for a given month, including supplemental pay paid by the state of Louisiana, but shall not include overtime.

(11) "Employee" shall mean any full-time police officer, empowered to make arrest, or any full-time police officer, decommissioned due to illness or injury, employed by a municipality of the state of Louisiana, and ...

PAGE 10  
FOCUS - 10 OF 31 DOCUMENTS

LOUISIANA STATUTES

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT (1996 SESSION) \*\*\*

LOUISIANA REVISED STATUTES  
TITLE 11. CONSOLIDATED PUBLIC RETIREMENT SYSTEMS  
SUBTITLE III. STATEWIDE SYSTEMS  
CHAPTER 9. FIREFIGHTERS' RETIREMENT SYSTEM

La. R.S. 11:2252 (1997)

2252. Definitions

... 11:2254.

(8) "Earnable compensation" shall mean the full amount of compensation earned by an employee on a regular tour of duty, including supplemental pay paid by the state of Louisiana but shall not include overtime.

(9) "Employee" shall mean any full-time firefighter or any person in a position as defined in the municipal fire and police civil service system who is employed by a fire department of any municipality, ...

PAGE 11  
FOCUS - 11 OF 31 DOCUMENTS

LOUISIANA STATUTES

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT (1996 SESSION) \*\*\*

LOUISIANA REVISED STATUTES  
TITLE 11. CONSOLIDATED PUBLIC RETIREMENT SYSTEMS  
SUBTITLE IV. MUNICIPAL AND PARISH SYSTEMS  
CHAPTER 2. FIREMEN'S PENSION AND RELIEF FUNDS  
PART XIII. FIREFIGHTERS' PENSION AND RELIEF FUND IN THE CITY OF NEW ORLEANS

L.A. R.S. 11:3376 (1997)

3376. Disability payments; notice of injury; periodic examination; order to return to active duty

... a service benefit to be increased by one percent for each year of service before January 1, 1968, and two and one-half percent of average compensation for the best year of service, not to include overtime pay (whether voluntary or involuntary), holiday or part-time pay for each year of service after June 30, 1967. No such disability benefits shall exceed eighty percent of the average compensation earned ...

PAGE 12  
FOCUS - 12 OF 31 DOCUMENTS

LOUISIANA STATUTES

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT (1996 SESSION) \*\*\*

LOUISIANA REVISED STATUTES  
TITLE 11. CONSOLIDATED PUBLIC RETIREMENT SYSTEMS  
SUDTITLE IV. MUNICIPAL AND PARISH SYSTEMS  
CHAPTER 2. FIREMEN'S PENSION AND RELIEF FUNDS  
PART XIII. FIREFIGHTERS' PENSION AND RELIEF FUND IN THE CITY OF NEW ORLEANS

La. R.S. 11:3381 (1997)

3381. Retirement of members first employed before January 1, 1968, having twenty years of service; mandatory retirement

... a service benefit to be increased by one percent for each year of service before January 1, 1968, and two and one-half percent of average compensation for the best year of service not to include overtime pay (whether voluntary or involuntary), holiday, or part-time pay for each year of service after June 30, 1967. No service benefits shall exceed eighty percent of the average compensation earned ...

... increased by one percent for each year of service before January 1, 1968, and two and one-half percent of the member's average compensation for the twelve highest consecutive months of employment, not to include overtime pay (whether voluntary or involuntary), holiday, or part-time pay for each year of service after June 30, 1967. No such retirement benefit shall exceed one hundred percent of the member's average ...

PAGE 13  
FOCUS - 13 OF 31 DOCUMENTS

LOUISIANA STATUTES

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT (1996 SESSION) \*\*\*

LOUISIANA REVISED STATUTES  
TITLE 11. CONSOLIDATED PUBLIC RETIREMENT SYSTEMS  
SUBTITLE IV. MUNICIPAL AND PARISH SYSTEMS  
CHAPTER 3. POLICEMEN'S PENSION AND RELIEF FUNDS  
PART II. PENSION AND RELIEF FUNDS IN PARTICULAR CITIES  
SUBPART F. POLICE PENSION FUND FOR THE POLICE DEPARTMENT OF THE CITY OF NEW  
ORLEANS

La. R.S. 11:3646 (1997)

3646. Retirement with sixteen years active continuous service; amount of pension; service benefit after sixteen years

... each year of service in addition to sixteen years up to and including his twentieth year, an additional service benefit equal to two and one-half percent of his average compensation for the last year of service, not to include overtime pay, holiday pay, or court time pay.

PAGE 14  
FOCUS - 14 OF 31 DOCUMENTS

LOUISIANA STATUTES

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT (1996 SESSION) \*\*\*

LOUISIANA REVISED STATUTES  
TITLE 11. CONSOLIDATED PUBLIC RETIREMENT SYSTEMS  
SUBTITLE IV. MUNICIPAL AND PARISH SYSTEMS  
CHAPTER 3. POLICEMEN'S PENSION AND RELIEF FUNDS  
PART II. PENSION AND RELIEF FUNDS IN PARTICULAR CITIES  
SUBPART F. POLICE PENSION FUND FOR THE POLICE DEPARTMENT OF THE CITY OF NEW  
ORLEANS

L.A. R.S. 11:3647 (1997)

3647. Retirement of members having twenty years or more of service

... increased by an additional one percent of his average compensation for each year of service before January 1, 1968 and two and one-half percent of average compensation for the best year of service, not to include overtime pay, holiday pay or court time pay for each year of service after June 30, 1967; and in addition, if the member has attained age fifty, his service benefit shall be increased one- ...

PAGE 16  
FOCUS - 16 OF 31 DOCUMENTS

ANNOTATED LAWS OF MASSACHUSETTS  
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\*\*\* THIS SECTION IS CURRENT THROUGH ALL 1996 LEGISLATION \*\*\*

PART I. ADMINISTRATION OF THE GOVERNMENT  
TITLE IV. CIVIL SERVICE, RETIREMENT AND PENSIONS  
CHAPTER 32A. Contributory Group General or Blanket Insurance for Persons in the  
Service of the Commonwealth

Mass. Ann. Laws ch. 32A, @ 10A (1996)

@ 10A. Additional Amounts of Insurance, Benefits, etc., Regulated.

... in excess of one year. No reduction in the amount of insurance shall be required on account of a reduction in compensation. For purposes of this additional insurance, yearly gross salary or compensation shall not include any overtime pay and in the case of hourly workers shall be computed on the basis of scheduled required work hours.

With respect to any additional insurance which is in effect for an employee there shall be withheld from each payment of salary or wages of such ...

PAGE 15  
FOCUS - 15 OF 31 DOCUMENTS

LOUISIANA STATUTES

\*\*\* THIS DOCUMENT IS CURRENT THROUGH THE 1997 SUPPLEMENT (1996 SESSION) \*\*\*

LOUISIANA REVISED STATUTES  
TITLE 11. CONSOLIDATED PUBLIC RETIREMENT SYSTEMS  
SUBTITLE IV. MUNICIPAL AND PARISH SYSTEMS  
CHAPTER 3. POLICEMEN'S PENSION AND RELIEF FUNDS  
PART II. PENSION AND RELIEF FUNDS IN PARTICULAR CITIES  
SUBPART G. HARBOR POLICE RETIREMENT SYSTEM (PORT OF NEW ORLEANS)

La. R.S. 11:3682 (1997)

3682. Definitions

... service for which credit is allowable as provided in R.S. 11:3684.

(8) "Earnable Compensation" shall mean the full amount of compensation earned by an employee for a given month, but shall not include overtime.

(9) "Employee" shall mean any commissioned member or employee of the Harbor Police Department of the Port of New Orleans.

(10) "Employer" shall mean the Board of Commissioners of the Port of New Orleans.

(11) "Medical Board" ...

PAGE 18  
FOCUS - 18 OF 31 DOCUMENTS

ANNOTATED LAWS OF MASSACHUSETTS  
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\*\*\* THIS SECTION IS CURRENT THROUGH ALL 1996 LEGISLATION \*\*\*

PART I. ADMINISTRATION OF THE GOVERNMENT  
TITLE IV. CIVIL SERVICE, RETIREMENT AND PENSIONS  
CHAPTER 32B. Contributory Group General or Blanket Insurance for Persons in the  
Service of Counties, Cities, Towns and Districts, and Their Dependents

Mass. Ann. Laws ch. 32B, @ 11D (1996)

@ 11D. Group Accidental Death Insurance for Policemen and Firemen Killed in  
Performance of Duty; Premium Contributions; Acceptance of Section.

... No reduction in the amount of accidental death insurance shall be  
required on account of a reduction in salary or compensation. For purposes of  
this accidental death insurance, yearly gross salary or compensation shall not  
include any overtime pay.

With respect to any accidental death insurance which is in effect for a  
policeman or fireman there shall be withheld from each payment of salary, wages  
for compensation fifty per cent of a premium the amount of which ...

PAGE 19  
FOCUS - 19 OF 31 DOCUMENTS

MINNESOTA STATUTES 1996

\*\*\* CURRENT THROUGH THE 1996 SUPPLEMENT \*\*\*  
\*\*\* (1996 REGULAR SESSION) \*\*\*

Retirement  
CHAPTER 352 MINNESOTA STATE RETIREMENT SYSTEM

Minn. Stat. @ 352.115 (1996)

352.115 Retirement annuity

... successive years of salary upon which the employee has made contributions to the retirement fund by payroll deductions. Average salary must be based upon all allowable service if this service is less than five years.

"Average salary" does not include the payment of accrued unused annual leave or overtime paid at time of final separation from state service if paid in a lump sum nor does it include the reduced salary, if any, paid during the period the employee is entitled to workers' compensation benefit payments for temporary

...

PAGE 20

FOCUS - 20 OF 31 DOCUMENTS

REVISED STATUTES OF THE STATE OF MISSOURI

\*\*\* CURRENT THROUGH THE 1996 LEGISLATIVE SESSION

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**cc:Mail for: Barbara Cotting**

---

---

**Subject:** fiscal notes

**From:** Barbara Cotting 04/03/1997 11:43 AM

**To:** SHARI\_KOCHMAN@GOV.STATE.AK.US at CC2MHS1

**To:**

---

---

I have scheduled HB 188, Definition of Compensation in PERS, for Tuesday April 8, and I need fiscal notes. Thanks

---

---

**cc:Mail for: Barbara Cotting**

---

---

**Subject:** Re: fiscal notes

**From:** Shari Kochman at Gov\_Juneau\_Capitol 04/03/1997 01:10 PM

**To:** Barbara Cotting at LAA\_TRANS

---

---

request made to doa  
thanks

..... Reply Separator .....

Subject: fiscal notes

author: Barbara Cotting at OBI\_LAA

Date: 4/3/97 5:44 PM

I have scheduled an LFP, definition of compensation in Wash. for Tuesday April 8, and I have fiscal notes. Thanks

**NATIONAL CONFERENCE OF STATE LEGISLATURES**

1560 Broadway  
Suite 700  
Denver, Colorado 80202  
Phone: (303) 830-2200  
FAX No.: (303) 863-8003  
www.ncsl.org info@ncsl.org



Teletcopy to: ~~XXXXXXXXXX~~ ~~XXXXXXXXXX~~

From: Kelly Fox

Message: The following is the information you requested regarding  
exclusion of overtime pay from state retirement benefits. If  
you would like a copy of any of these statutes, please  
let me know.

Kelly

Number of pages telecopied (including cover sheet): 31

Date Sent: 3/20/97

**NOTE TO SENDER: FAX NUMBER AND AUTHORIZATION CODE MUST APPEAR ON THE REVERSE SIDE.**

ADW  
2-10 97

## Pension plums

### *System in Anchorage invites abuse*

Of all the revelations emerging from this year's list of top-paid Anchorage city employees, one stands out. It's the realization that several senior Anchorage police officers work such frightful hours that the public might well wonder about their fitness for duty.

What's even more disturbing is that those long hours are not dictated by necessity. The senior officers pile on the overtime because it produces phenomenal increases in their retirement pay.

The city's top-paid worker in 1996, for example, was a police officer who collected 1500 hours of overtime pay. That's the equivalent of a 68-hour work week, 52 weeks a year. At some point, racking up that kind of long hours has to push the limits of personal endurance.

Society entrusts police officers with a life-and-death power, the right to use deadly force. One reason we pay officers so well — some make \$75,000 a year in base pay alone — is so we have people who will use the best possible judgment in exercising this deadly power. When officers start routinely pulling 60- or 70-hour weeks to boost their pensions, citizens have a right to worry that fatigue will start to impair the officers' judgment.

All that overtime has an obvious financial cost as well. It drives up the cost of public events, because senior officers routinely grab the job of directing traffic so they can get the pension-boosting overtime. And the other big source of police overtime — working on special projects funded by federal grants — means Anchorage residents get less police service than they would otherwise, as the higher hourly cost of officers on overtime uses up the available aid faster.

At one point, the city ended the pension plum that makes police overtime so attractive. Some police employees gave it up in return for a cost of living adjustment in future pension payments.

But that change didn't last. These days, newly hired Anchorage officers go into the state pension system, where they get the best of both deals. They get the right to boost pensions with overtime and they get a cost of living adjustment. And that's not just true for peace officers. It's true for thousands of state employees who are eligible for

The potential for abuse in the state pension system used to be even worse. Workers used to get themselves posted to Bush assignments just before retirement so they could collect hefty bonuses for the high cost of Bush living. The bonuses also boosted their pension payments.

In 1986, the Legislature made that scam much harder to run. But the pension-boosting possibilities of overtime are still there, waiting to be exploited. And the problem won't be easy to fix. Under the state constitution, the state cannot diminish the pension of current workers without their consent. Any reforms can only be imposed on newly-hired employees.

But at the city level, there are some options. The change to a 5-day/8-hour workweek has trimmed the amount of overtime available to police. So has the move to expand the number of uniformed officers. The city might also revisit the requirement that uniformed officers direct traffic for special events.

Changes like those will help control overtime at the Police Department. But they aren't the whole cure. The costly pension rules that encourage excessive overtime, both at the police department and elsewhere in state government, bear further scrutiny by state legislators.

2-10-97

## The Anchorage Times

Publisher: BILL J. ALLEN

"Believing in Alaskans, putting Alaskans first!"

Editors: DENNIS FRADLEY, PAUL JENKINS, WILLIAM J. TOBIN

The Anchorage Times Commentary in this segment of the Anchorage Daily News does not represent the views of the Daily News. It is written and published under an agreement with former owners of The Times, in the interests of preserving a diversity of viewpoints in the community.

# Cops for free

**I**NSTEAD OF paying huge sums of money to patrolmen to cover overtime work hours, why not use those dollars to hire more policemen?

That's the logical and smart way to resolve the astonishing situation that now exists in Anchorage, where pay scales for public employees are outrageously out of kilter.

The enormous amount of police overtime — thousands of hours — and more than a million dollars — could be reduced substantially if that money were used to put more cops on the street.

Surely more than a dozen new policemen could be added to the force, producing expanded law enforcement services and relieving the city of the enormous immediate and long-term costs being incurred by these overtime hours.

Why it happens is obvious. It is not the junior patrolmen racking up these hours. Veteran policemen nearing their retirement reap big rewards from overtime because it pads their pending retirement benefits — by an enormous amount of money.

Sure, it's a good deal for them. But it is not a good deal for the city or for the people whose property taxes keep increasing in order to fund ever-rising municipal expenses.

There always will be overtime involved in the performance of police work and in the supervision of public safety. But good management practices should be able to reduce the costs considerably.

And having more police on the force should eliminate some of the need to use overtime on routine assignments.

**PHONE MESSAGE**

DATE 4-9

TIME 4:30

A.M.  
P.M.

FOR

M

OF

PHONE ( )

745-2898

EXT.

 FAX MOBILE PAGER ( )

MESSAGE

unpaid <sup>opposed</sup> HB 185

URGENT

PHONED

RETURNED  
YOUR CALLPLEASE  
CALL BACKWILL CALL  
AGAIN

WAS IN

WANTS TO  
SEE YOU

SIGNED



# Alaska State Legislature

70605

Please enter into the record my testimony to the House State Affairs  
committee name  
committee on HB 108, dated 4/9/97  
bill/subject

Many positions with the state are  
overtime exempt. ~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~ People in  
these positions are at a major disadvantage  
under the current system. because most  
work overtime to get the job done. There  
is a potential (and it probably exists) where  
someone at a lower job class level can  
receive more retirement benefits than someone  
in a higher job class level. This is unfair  
and I suspect is discriminatory.

Signed: [Signature]  
Testifier

Representing (Optional)  
P.O. Box 613 Glennallen AK 99588  
Address  
(907) 822-3693  
Phone No.



# Alaska State Legislature

TC 70605

Please enter into the record my testimony to the House STATE AFFAIRS  
 committee name  
 committee on HB 188 , dated 4-10-97  
 bill/subject

I refuse to believe that there is a conspiracy in the Legislature to damage any and all State employees. I really believe in my heart that there is just a lack knowledge on how certain bills will affect employees and their families.

HB 188, SB 152 & SB 150 are all such bills. While these bills are aimed at stopping some isolated extreme case of abuse, they blatantly wipe-out any form of retirement for hundreds of State seasonal employees.

The Forester and Forest Technician series represent all of the States seasonal Wildland Fire Fighting force. As you have heard, these positions are grossly under-staffed and under funded. These positions are required to work overtime, there are no options. No fire fighter can walk away from fire threatening public or private property because their 7.5 hour shift has been completed.

These two series of employees are not allowed to receive fire fighter classification, even though that is what they do, and is how they are funded. This denies a fire fighters' retirement. The average seasonal has to work 48 years to obtain a 20 year retirement. Now your asking to remove the overtime from the retirement calculation, overtime that is required to be worked, overtime that requires risking life and health.

These are bad bills please do away with them.

Testifier

Ray D. Muller

Representing (Optional)

P.O. Box 693 Glennallen AK 99588

Address

907 822-3242

Phone No.



# Alaska State Legislature TC 70605

Please enter into the record my testimony to the House STATE AFFAIRS  
 committee name  
 committee on HB 188 , dated 4-10-97  
 bill/subject

Forest technicians primary jobs are fire fighting. Due to the nature of wildland fires, these employees have no choice but to work overtime. He or she cannot just go home after a 7.5 hour day. Forest Technicians often must breath nasty, noxious fumes and smoke, and regularly put their lives in danger with no additional compensation. They don't even receive hazard pay!

The Alaska legislature has not classified Forest Techs as "firefighters" for purposes of the "police" and firefighters" retirement system, although everyone knows that firefighting is what they do and for most of them, "fire" is how they are funded. Virtually all the overtime they earn is on fire assignments.

So, on the one hand they don't receive firefighter status for retirement, and now someone wants to take away overtime from their retirement calculation, severely reducing their well earned monthly benefits.

Passage of this bill or any like it would be yet another abuse of Forest Technicians who provide a valuable and necessary service to the State of Alaska.

Signed: Paul Webster  
 Testifier

Representing (Optional)  
P.O. Box 643 Glenallen AK 99588  
 Address

Phone No.



# Alaska State Legislature

Tc 70605

Please enter into the record my testimony to the HOUSE STATE AFFAIRS  
committee name

committee on HB 188, dated 4/10/97  
bill/subject

As a SEASONAL STATE EMPLOYEE WORKING FOR FORESTRY I am budgeted for only 4.5 months. This means that I would be required to work 53 years in order to get my 20 years in. The current Deferred overtime payment policy; assuming the overtime was accrued, would allow me to retire in 27-30 years. We are not in a Firefighters union, which have a more equitable plan. Declining overtime is not an option due to the emergency aspect of our work. We request mercy on this bill.

Signed: Blair R. Acheson

Testifier

BLAIR R. ACHESON

Representing (Optional)

P.O. Box 426 Glennallen AK 99588

Address

NONE

Phone No.



# Alaska State Legislature

TC 70605

Please enter into the record my testimony to the HOUSE STATE AFFAIRS  
committee name

committee on HB 188, dated 4/10/97  
bill/subject

As we address, from a conservative position, those union issues which the legislature is trying to address with HB 188, I must request the following:

Note that overtime conversion is a valid, in place practice, whereby hardworking firefighters, who by the nature of their trade, work many hours of overtime. On careful examination, you should see that this is a legitimate way for career firefighters to secure at least a partial retirement. Past legislatures have already effectively excluded wild-land firefighters from a firefighters retirement. Hard working people, some of whom vote and even lobby Republican, are being impacted by this measure, not only unions.

Signed: Steve Mailly  
Testifier

Representing (Optional)  
HC01 Box 2536

Address  
(907) 822-3703  
Phone No.



## Legislative Council

4/10/97

Per Rep Cowdery -  
Please hear  
Tierney's testimony -  
then OK to  
hold the  
bill!



# Legislative Council

Tom Tierney

786 - 8595

Arch

---

1-800-764-6202

---

Director of  
Employee Relations

Man of Arch



Representative Jeannette James

Conceptual —

Define off  
anything OVER base  
pay, either 1/2 or  
double time.

Held until  
Thurs.



## Legislative Council

Tim ROGERS is on leave  
in ANCHORAGE IN PLACE  
OF Tom TIERNY -  
HB 188 -

04/17/97 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150

08:05:27 PARTICIPANT LIST (TESTIFIERS ONLY) BY:JNU

TCN:70631 SCHEDULED FOR:04/17/97 08:00 TO 10:00 FOR:ALL

PUBLIC HEARING HOUSE STATE AFFAIRS

LOCATION:ANCHORAGE

HB 188 TIM ROGERS MOA TESTIFY

LOCATION:BARROW

HB 188 MR FRANK SMITH SELF TESTIFY

Sat 12:21

HB 181 Changes

586-1083

Greg Dowells (?)

Assn School Boards

Lucy  
Mon 10:56  
1:45  
2:15  
Wed 10:35

NEA-ALASKA POSITION PAPER  
HOUSE BILL 188

HB 188 "An Act relating to calculation of compensation for the public employees' retirement system"

NEA-Alaska opposes House Bill 188 because it denies classified school district employees the use of overtime compensation for retirement purposes.

House Bill 188 negatively impacts classified school district employees who are in PERS. These employees are the custodians, maintenance workers, and other classified personnel who have already suffered economic hardship by having their work year reduced as a result of the severe lack of funding provided by a non-inflation-proofed foundation formula.

These school employees have had their year reduced from twelve month full-time employment to eight or nine months of work. This means that they are expected to clean, paint, perform major maintenance, and do what had traditionally been called "summer maintenance" while school is in session or during winter and spring break. This has by necessity required that employees work overtime. This overtime is performed at the request of management not at the request of the employee. They would prefer to have remained employed year round.

The reduction of their work year has already meant that they do not earn a year's retirement credit for working a school year and because of their employment with school districts these employees are the only seasonal employees not eligible for unemployment compensation. It is the continual erosion of the work year has led to overtime during school closures. This section of the bill further reduces the benefits of a class of workers who are generally lowest paid and are, especially in rural Alaska, long term residents.

NEA-Alaska opposes HB 188 because it takes away one more benefit from a class of employees who have already suffered the most. We urge you to vote no on this bill.

Craig Persson, Vice President  
Public Safety Employees Association  
P.O. Box 82324  
Fairbanks, AK 99708

Representative Jeanette James  
State Capitol  
Juneau, Ak 99801-1182

April 9, 1997

Dear Representative James:

Thank you for allowing me to testify on House Bill 188.

I realize you intend to pass the bill out of your committee, but there are some real problems with the bill.

This bill was written to solve a problem in Anchorage. The problem in Anchorage did not even stem from the Public Employee Retirement System(PERS).

The Anchorage Police Department had their own retirement system until about three years ago, when the Municipality of Anchorage changed the retirement system for newly hired police officers. New Anchorage police officers are now in the PERS system. Old employees who started in the old, more lucrative system are still in that system.

years ago, there were  
newly hired police officers. New Anchorage police officers are now in the PERS system. Old employees who started in the old, more lucrative system are still in that system.

The problem is the APD union contract specifies that overtime be distributed by seniority. Therefore the top senior officers, who are still in the old Municipal retirement system, receive all the overtime which hcosts their retirement, under the old system, up. This is the padding of overtime which Representative Cowdery was talking about.

Our State Trooper contract is not set up on a seniority basis. In fact in many trooper posts the more junior, less paid troopers are assigned by management to work the overtime.

Also, the Fairbanks Police Department had an overtime problem several years ago when they were short-staffed. But that is not a problem anymore as new officers have been hired and their staffing levels have went up.

---

\*\*\*END\*\*\*


I must reiterate that this is an Anchorage management problem with their contract. Mayor Mystrom could fix the problem by fixing the collective bargaining agreement.

I do not think our state law enforcement and state firefighters should have to take this big of a hit on their retirements because of a bad police union contract in Anchorage.

By passage of this bill you are also penalizing police officers and firefighters in places like North Pole where the wages are lower than other places which makes their pensions look even smaller.

Please hold this bill and ask the Anchorage folks for the real truth.

Sincerely,



Craig Persson, Vice President  
Public Safety Employees Association

**CHEVAK TRADITIONAL COUNCIL  
P.O. BOX 140  
CHEVAK, ALASKA 99563  
(907) 858-7428  
(907) 858-7812 FAX**

**Chevak Traditional Council's Opposition to House Joint Resolution No. 21**

The Kashunamiut are a federally recognized tribe who is represented by their tribal government, the Chevok Traditional Council whose primary goal is to protect the health, safety and welfare and the inherent traditional and cultural rights of the Kashunamiut and for their best interests. Let this affidavit acknowledge that we are in Opposition to the House Joint Resolution No. 21 as it infringes upon our inherent rights and will exploit our ancestral lands which are located on the Yukon Kuskokwim Delta National Wildlife Refuge and has been protected by Alaska National Interest Land Conservation Act-- Title VIII (ANILCA, Title VIII, hereinafter), Subsistence Use and Management as it is written.

ANILCA Title VIII, should not be amended because the Resolution HJR21 contradicts the whole purpose of the Policy and Purpose of the Title VIII. These amendments are directly contradicting the Rural Cap Subsistence Roundtable, held in Anchorage February 1997. The State of Alaska may be of compliance of ANILCA TITLE VIII, concerning Subsistence. The State of Alaska tends to lean towards "sports, commercial and other special interest groups" that are not aware of the importance of subsistence issues and use for the rural communities.

The following are section responses to "FURTHER RESOLVED" of the proposed resolution:

- (1) "Public Land" is already defined in the Federal Register. Volume 57 No. 20. and ANILCA, Title VIII.
- (2) Congress is already authorized to take over management if the State is not in compliance.
- (4) "Section 807" provides for protection of subsistence users and repeal would undermine authority of the Federal Judicial System.
- (5) The terms Customary and Traditional Use, Subsistence Use, and rural are defined and established in the Federal Registrar of the Department of Agriculture, and Interior, under Sec. 4 Definition of Subpart A-General Provision. They listed as such in the Final, Subsistence Management for Federal Public Lands in Alaska which attests to the Webster's definition of: The definition of the aforementioned terms are already defined and what this resolution proposes to do is authorize the State of Alaska to rewrite the Webster's Dictionary to soothe Masek's and Ogan's HJR 21.
- (6) Under ANILCA Title VIII, Sec. 804, the subsistence preference is addressed. HJR21 contradicts the purpose and policy of Title VIII.
- (7) Tribal Sovereignty and Indian Country issues have been awarded to the Tribes across Alaska but is presently in the Appeal process, no amendments should even be considered as Court cases are and may be pending.
- (8) The State of Alaska should not have an option- If subsistence management is handed to the State of Alaska, than it would be their obligation to establish regional advisory councils, meaning they should be mandated to establish such councils rather than choose to.

(9) The Sections (8) and (9) proposed amendments are addressed in Sec. 805 (a) (2) and (3) (D) (IV).

(10) The sale of Fish and Wildlife taken for subsistence uses, supplements incomes for expenses incurred for hunting necessities, i.e. ammunition, gasoline and oil, and other gears to do more subsistence hunting and fishing.

There are provisions in the ANILCA Title VIII, Section 16 USC 3119 that the State can enter into an Cooperative Agreement rather than rewriting the whole purpose and policy of the Act.

ANILCA, Title VIII should not be Amended the resolution would undermine the purpose of ANILCA and the groundwork that has been established for Subsistence Management.

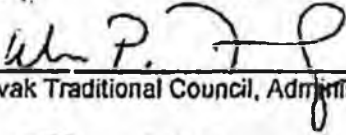
The items that are addressed in HJR 21 are already defined and addressed by the Dept. of Agriculture and Department of Interior, published in Federal Register Vol. 57, No. 20, January 1992, Proposed Rules.

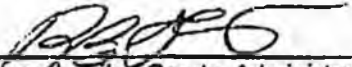
**THE KASHUNAMIUT, THE CHEVAK TRADITIONAL COUNCIL, THE CHEVAK TRIBAL COURTS AND THEIR DEPARTMENTS URGES DO NOT PASS THIS RESOLUTION !!!**

Dated this 20th day of March, 1997.

  
Chevak Traditional Council

  
Chevak Traditional Council, Administrator

  
Chevak Traditional Council, Administrator Assistant

  
Chevak Tribal Courts, Administrator/Liaison



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907) 586-1325, Fax (907) 463-5480

April 7, 1997

Representative John Cowdery  
Alaska House of Representatives  
State Capitol  
Juneau, AK 99801

Dear Representative John Cowdery:

Thank you for introducing HB 188, relating to calculation of compensation for the public employees' retirement system. The League supports this legislation.

Our 1997 Policy Statement reads:

Revenue and Finance, Section F. Public Employees' Retirement

**3. Basis for Computation of PERS Benefits: The League supports changes to the computation of PERS benefits to exclude overtime pay and leave cash-in from the calculation of retirement benefits.**

Passage of this legislation will save a great deal of money for both the state and municipalities.

If you have any questions regarding our position on this or any other municipal issues, do not hesitate to call me.

Sincerely,


A handwritten signature in black ink, appearing to read 'Kevin Ritchie', written over a horizontal line.

Kevin C. Ritchie  
Executive Director

c:/jk/leg97/hb188lr.doc

REPRESENTATIVE JOHN J. COWDERY

**TO:** Representative Jeanette James,  
Chair State Affairs Committee

**FROM:** Representative John J. Cowdery 

**DATE:** April 2, 1997

**RE:** Committee Hearing for HB188 -- Excluding  
overtime from the calculation of  
compensation for the public employees'  
retirement system

Cc:

**NOTE:**

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I request that HB188 be scheduled for a committee hearing at your earliest convenience. Introduced at the request of Mayor Rick Mystrom, this legislation simply excludes overtime pay from the calculation of pension benefits and provides for an effective date.

The current definition invites abuse of the retirement system through "overtime loading" which, in extreme cases, has resulted in salary increases of \$40,000 to \$50,000.

Ten states have passed similar legislation. They are: Arizona, Arkansas, California, District of Columbia, Illinois, Iowa, Louisiana, Massachusetts, Minnesota and Missouri.

I believe this legislation will be effective in saving the State money and I request we move it through expeditiously. If you require any more information, please contact myself or Casey Sullivan of my staff at 3879.

1. Ask committee's permission to **WAIVE** HB 78 - Governor's bill to amend definition of program receipts.
2. **HOLD** HB 79, Bunde's tobacco bill, until next Tuesday - CS is not ready today.
3. Take TESTIMONY ONLY on HB 188, Cowdery's bill. Hold committee debate until next Tuesday.

**Testifying off-net:**

**Mr. Tom Tierney  
Director of Employee Relations  
Municipality of Anchorage**

4. Hear HJR 21, Masek's bill to amend ANILCA.

**(There are three off-nets calling from villages, and several LIO's on line.)**

5. IF there's time, hear Halford's SJR 14 to support federal concealed gun legislation.

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. HB 188

Revision Date: \_\_\_\_\_  
 Title: An Act relating to calculation of compensation for the public employees' retirement system.  
 Sponsor: Rep. Cowdery  
 Requestor: (H) STA

Department Affected: Administration  
 BRU: Retirement & Benefits  
 Component: Retirement & Benefits  
 COMPONENT SERIAL NO. 64

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 97) cost: \$ zero

**POSITIONS:**

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

**ANALYSIS:** (Attach a separate page if necessary.)

There is no fiscal impact on the operations of the Division of Retirement & Benefits.

This bill will not materially affect the accrued liabilities or the funding ratio of the Public Employees' Retirement System (PERS)

Prepared by Janet L. Parker  
 Division: Retirement & Benefits

Phone: 465-4470  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 4/7/97

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