

HB

2022



ALASKA STATE LEGISLATURE
REPRESENTATIVE JOHN HARRIS
STATE CAPITOL 513, JUNEAU, ALASKA 99801-1182 (907) 465-4859

Sponsor Statement

HB 202 – “An Act granting park rangers status as peace officers under the public employees’ retirement system; and providing for an effective date.”

A.S. 39.35.370(a)(2) determines which public employees receive a 20-year retirement benefit. Currently that benefit is limited to peace officers and fire fighters. House Bill 202 proposes to amend the definition of “peace officers” to include Commissioned Park Rangers. If this were to occur, Park Rangers would also receive the 20-year retirement benefit.

Park Rangers are Department of Natural Resources employees who are designated by the Commissioner of DNR as peace officers of the state of Alaska under A.S. 41.21.955(b). They are commissioned law enforcement personnel who have been granted the authority in state parks to enforce criminal laws and regulations. It is a crime to resist arrest by a Park Ranger and there is a penalty for refusing a Park Rangers request for assistance. Park Rangers carry firearms and may use deadly force under certain circumstances. They conduct search and rescue, pursue and arrest persons who violate criminal laws, investigate criminal activities, gather evidence and testify in court about their law enforcement actions.

Approximately half of all Alaska State Park Rangers work seasonally and some work as few as 7 months per year. Under the current retirement system, a park ranger who works nine months in a calendar year would be required to work 40 years to receive 30 years of retirement credit. Under the current system, that park ranger would retire based on actual age rather than time served in the system. It is very unlikely that a seasonal park ranger would receive the full retirement benefit from a 30-year retirement system. Moving these state employees to the 20-year retirement system is the right thing to do.

Alternatively, Park Rangers could be granted the benefits of the 20-year retirement system while not expanding the definition of “peace officer” to include Park Rangers. This could be accomplished by amending A.S. 39.35.370(a)(2) to include the term “Park Ranger” as a separate category of individuals who receive this benefit. A definition of “Park Ranger” would need to be included in A.S. 39.35.680 that clearly identifies Commissioned Park Rangers as a unique employee class within state service. This change would require an amendment to contribution rates and retirement benefit percentage ratings. This alternative would permit the park rangers to receive the 20-year retirement benefit without including them under the definition of “peace officers”.



HOUSE STATE AFFAIRS COMMITTEE

STATE CAPITOL, ROOM 102
465-4963

MEMORANDUM

COMMITTEE MEMBERS

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Rep. Peggy Wilson
Room 409
465-3824

Rep. Harry Crawford
Room 426
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Rep. Joe Hayes
Room 422
465-3466

Date: April 20, 2001

To: Representatives Pete Kott, Eldon Mulder, Bill Williams,
Jeannette James, Beverly Masek, and John Harris

From: Representative John Coghill, Chairman
House State Affairs Committee

Re: Recruitment and Retention of State Employees

In recent weeks there has been several pieces of legislation introduced and referred to House State Affairs with regard to retirement and benefits issues.

While we passed HB 242 on to House Finance, the influx of HB 170 and HB 202, as well as, the intent of Representative James to introduce legislation addressing social workers and Representative Williams to introduce legislation to address juvenile counselors is evidence that there is an overall problem to be address by the State Affairs Committee before any of this legislation can be passed.

During testimony on HB 170 April 19th, Kevin Brooks said his department is doing a salary survey on game biologists, but the survey will not be completed before adjournment.

I am interested in the State Affairs Committee reviewing the recruitment, retirement, and retention of our state workforce, as well as, salary issues for state employees in the broad context. I will be working with Sharon Barton in the Division of Personnel and Guy Bell with Retirement and Benefits to address these issues.

It's obvious that these bills will not be passed this year and the interim is an excellent time to work on the bigger picture. Sharon Barton and Guy Bell indicated to my staff just this morning that they share my concern about the piecemeal process of the series of bills now working their way through the legislature.

(b) Each person designated in (a) of this section may, when enforcing the provisions of this chapter or a regulation adopted under this chapter,

(1) execute a warrant or other process issued by an officer or court of competent jurisdiction;

(2) administer or take an oath, affirmation or affidavit; and

(3) arrest or issue a citation to a person who violates a provision of this chapter or a regulation adopted under this chapter. (§ 1 ch 161 SLA 1970; am § 2 ch 102 SLA 1984)

Revisor's notes. — Enacted as AS 41.20.210. Renumbered as AS 41.20.045 in 1970. Renumbered again in 1983.

Sec. 41.21.960. Form and issuance of citation. (a) When a peace officer stops or contacts a person concerning the commission of a misdemeanor offense committed within a park or recreational facility subject to the department's supervision, the officer may issue a citation to the person, subject to the provisions of AS 12.25.180 — 12.25.230. The person receiving the citation may not be required to endorse the citation.

(b) The state supreme court shall identify those offenses that are amenable to disposition without court appearance and shall establish by rule or order a schedule of bail amounts, not to exceed fines prescribed by law, for those offenses. Before establishing or amending the schedule of bail amounts required by this subsection, the supreme court shall appoint and consult with an advisory committee consisting of two persons from the department, two district court judges, one member of the House Resources Committee, and one member of the Senate Resources Committee of the legislature. If the offense for which the citation is issued is one that may be disposed of without court appearance, the citing officer shall write on the citation the amount of bail applicable to the cited offense.

(c) A person cited for an offense for which a bail amount has been established under (b) of this section may, within 15 days from the date of the citation, mail or personally deliver to the clerk of the court having jurisdiction over the place where the offense occurred

(1) the amount of bail indicated on the citation for that offense; and

(2) a copy of the citation indicating the offender's waiver of appearance, plea of no contest, and direction to forfeit the bail and any items seized from the offender.

(d) When bail has been forfeited under this section, a judgment of conviction shall be entered. Forfeiture under this section of bail and items seized from the offender is a complete satisfaction for the offense, and the clerk of the court shall provide the offender with a receipt stating that fact if requested.

(e) If the person cited fails to pay the bail amount or appear in court as required, the citation shall be considered a summons for a misdemeanor charge and the offender shall be proceeded against in the manner prescribed by law.

(f) Notwithstanding other provisions of law, if a person cited for a misdemeanor for which a bail amount has been established under (b) of this section appears in court and is found guilty, the penalty that is imposed for the offense may not exceed the bail amount for that offense established under (b) of this section. (§ 3 ch 102 SLA 1984; am § 4 ch 25 SLA 1995; am § 46 ch 30 SLA 1996)

Cross references. — For parks bail forfeiture schedule, see Alaska Court Rule of Administration 43.3.

Effect of amendments. — The 1995 amendment, effective August 9, 1995, added "if requested" at the end of subsection (d).

The 1996 amendment, effective May 16, 1996, substituted "Forfeiture under this section of bail and items seized" for "Bail forfeited under this section and the forfeiture of items seized" at the beginning of the second sentence of subsection (d).

Sec. 41.21.990. Definitions. In this chapter

(1) "scenic park" means relatively spacious areas of outstanding natural significance, where major values are in their natural geological, faunal or floral characteristics, the purpose of which is directed primarily toward the preservation of its outstanding natural

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MEMORANDUM

January 30, 2002

SUBJECT: Can State Park Rangers be classified as Peace Officers in PERS by resolution or bill? (HB202)

TO: Representative John Harris
Attn: John Manley

FROM: Barbara R. Craver 
Legislative Counsel

You have asked whether a resolution or a bill is the better vehicle in order to classify state park rangers as peace officers in the Public Employees' Retirement System (PERS). You provided me with a copy of a letter from Mr. John Zimmerli in which he asks that you sponsor a resolution to urge PERS to treat park rangers as peace officers.

I disagree with Mr. Zimmerli, I do not think that "PERS just needs to follow existing law" as the existing law does not clearly include park rangers. In my opinion, the law is not so clear as Mr. Zimmerli believes. A bill such as HB 202 which specifically includes state park rangers is needed if the legislature wishes PERS to treat them as peace officers.

"Peace officer" is defined for purposes of the PERS statutes as:

(28) "peace officer" or "fire fighter" means an employee occupying a position as a peace officer, chief of police, regional public safety officer, correctional officer, correctional superintendent, fire fighter, fire chief, or probation officer[.]

AS 39.35.680(28). As you can see, this language contains a circular definition ("peace officer means a person occupying a position as a peace officer") which fails to offer much guidance in resolving whether park rangers are to be considered peace officers under PERS. The division has adopted regulations to clarify the definition. 2 AAC 35.850(a) states:

(a) Except as may be expressly authorized by AS 39.35, a "peace officer" means only a person who is a regular employee of a police agency or organization which is part of the state or a political subdivision of the state, and who has primary responsibility for the prevention and detection of crime and the enforcement of the fish and game, penal, traffic or

Representative John Harris
January 30, 2002
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highway laws of the state or employing political subdivision. A "fireman" or "fire chief" means only a person who is a regular employee of a fire agency or organization of the state or a political subdivision of the state and who is authorized to act under AS 18.70.

The definition has been in the regulations since 1984. It limits peace officer status in PERS to persons employed by governmental police agencies and police organizations.

Another attorney in this office has spoken to Kay Gouyton about this exact issue. Ms. Gouyton is an auditor for the Division of Retirement and Benefits. She explained that under the regulation, the division requires that to be given peace officer status, a person must work for a police agency or police organization, be certified by the Alaska Police Standards Council or meet comparable certification standards, and have law enforcement capabilities. In her opinion, the regulation's long history and the fact that other groups that have desired to receive peace officer status have approached the legislature directly for an amendment to the statutory definition suggests that any change to the treatment of park rangers under PERS should be accomplished through legislation.

To avoid uncertainty and the expense of litigation and to ensure that the legislature's intention with regard to the question was applied, in my opinion, the issue is best resolved through clarifying legislation.

If I may be of further assistance, please advise.

BRC:med
02-083.med

JOHN J. ZIMMERLI
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December 26, 2001

The Honorable Representative John Harris
State Capitol, Rm. 3
Juneau, AK 99801-1182

RE: Concurrent Resolution on State Park Rangers' retirement

Dear Representative Harris,

Best regards this new year! I would like to request your assistance with a Resolution.

Currently, there are 38 commissioned State Park Rangers employed by the state. The State provides them with extensive training, uniforms, pistols and shotguns, defensive equipment, body armor, and specially marked vehicles. They conduct all aspects of law enforcement, firefighting, search and rescue, and other emergency response. Yet, they do not have the same benefits of other peace officers of the state, namely 20-year retirement.

Would you please sponsor and support a concurrent resolution by the legislature, directing the Public Employees Retirement System (PERS) to induct commissioned Park Rangers into the 20-year system?

Draft Resolution:

Resolution by the 22nd Legislature regarding inclusion of State Park Rangers in the 20-year retirement system.

WHEREAS, State Park Rangers are commissioned under AS 41 as peace officers of the State, and
WHEREAS, State Park Rangers are rigorously trained and qualified as law enforcement officers, and
WHEREAS, State Park Rangers actively investigate crimes, issue citations, make arrests, pursue criminals,
provide emergency response and assistance, fight fires, and participate in search-and-rescue operations,
and

WHEREAS, duties and responsibilities of State Park Rangers require the same professional standards and expectations of other peace officers who are currently qualified for 20-year Peace Officer/Firefighter retirement,

THEREFORE, be it resolved that the Legislature hereby supports and recommends that State Park Rangers be immediately included in 20-year PERS retirement.

State Park Rangers in the Department of Natural Resources are "peace officers":

Sec. 41.21.955. Enforcement authority.

(a) For offenses committed within parks and recreational facilities subject to the department's supervision, the following persons are peace officers of the state and they shall enforce the provisions of this chapter and the regulations adopted under this chapter:

- (1) an employee of the department authorized by the commissioner;
- (2) a police officer in the state;

- (3) any other person authorized by the commissioner.
- (b) Each person designated in (a) of this section may, when enforcing the provisions of this chapter or a regulation adopted under this chapter,
 - (1) execute a warrant or other process issued by an officer or court of competent jurisdiction;
 - (2) administer or take an oath, affirmation or affidavit; and
 - (3) arrest or issue a citation to a person who violates a provision of this chapter or a regulation adopted under this chapter.

There are only two definitions of "peace officer" and Park Rangers meet both:
Sec. 01.10.060. Definitions.

(a) In the laws of the state, unless the context otherwise requires,

(7) **"peace officer" means**

- (A) an officer of the state troopers;
- (B) a member of the police force of a municipality;
- (C) a village public safety officer;
- (D) a United States marshal or deputy marshal; and
- (E) **an officer whose duty it is to enforce and preserve the public peace;**

Note that under the above definition, an officer employed by the Department of Public Safety, Division of Fish & Wildlife Protection is NOT a peace officer, because they are not a Division of State Troopers employee, and it is NOT their duty to enforce and preserve the public peace. Yet, they qualify for 20-year retirement. One of the most important jobs of a commissioned Ranger IS to enforce and preserve the public peace and to provide a safe environment for the public. Park Rangers are not currently included in 20-year retirement.

Sec. 11.81.900. Definitions.

(a) For purposes of this title, unless the context requires otherwise,

- (41) **"peace officer" means a public servant vested by law with a duty to maintain public order or to make arrests, whether the duty extends to all offenses or is limited to a specific class of offenses or offenders;**

This statute has been interpreted to give commissioned Rangers authority to enforce all criminal laws of the state. It would also extend to Fish & Wildlife Protection officers.

The words are clear: A commissioned Ranger is a peace officer of the state, as defined by statute. There is no other interpretation! The Legislature knows (knew) what a "peace officer" is, defined "peace officer" in AS 01 and AS 11, and conferred that status specifically in AS 41.

State Troopers receive their "peace officer" status the same way that Park Rangers do:

Sec. 18.65.080. Powers and duties of department and members of state troopers.

The Department of Public Safety and each member of the state troopers is charged with the enforcement of all criminal laws of the state, and has the power of a peace officer of the state or a municipality and those powers usually and customarily exercised by peace officers. Each member of the state troopers may prevent crime, pursue and apprehend offenders, obtain legal evidence, institute criminal proceedings, execute any lawful warrant or order of arrest, make an arrest without warrant for a violation of law committed in the presence of the state trooper, and may cooperate with other law enforcement agencies in detecting crime, apprehending criminals, and preserving law and order in the state.

PERS retirement:

The Department of Administration, Division of Retirement & Benefits/PERS decides who is eligible for 20-year retirement. Their guiding statutory definition is, Sec. 39.35.680. Definitions.

In this chapter, unless the context otherwise requires,

(28) "peace officer" or "fire fighter" means an employee occupying a position as a peace officer, chief of police, correctional officer, correctional superintendent, fire fighter, fire chief, or probation officer;

Since Park Rangers are "peace officers" under all other statutes, there is no reason for them to not be included as "peace officers" under AS 39.

6/2/93 letter from Robert F. Stalnaker, Director, DoA Division of Retirement & Benefits (my highlight):

"The criteria for participation in the '20-and-out' retirement system does not depend on whether certain job classes are exposed to risks, carry weapons, or are understaffed. The '20-and-out' criteria is more aligned to the ability of an employee to continue performing their required duties after certain lengths of time or after certain ages."

HB 202

Representatives Harris and Kerttula generously introduced and sponsored HB 202 last year, but that bill is not really necessary. PERS just needs to follow existing law as outlined above, and this resolution will encourage them to do that.

There are a bunch of old, "broken-down" Park Rangers with over 20 years of service who are still trying to do the job of young recruits. They might not necessarily be providing the best service to the public. Let's give these people the choice to get out while they can.....

Thank you very much for your assistance.



John Zimmerli
Chief Ranger, Fairbanks District

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SARA K. WILBER

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March 19, 2002

Write State Testimony

Dear Representative Coghill,

I am writing to express my support of House Bill 202 - which would extend twenty year retirement benefits to Alaska's State Park Rangers.

My husband, John Wilber, has worked for Alaska State Parks since 1985. He started out as a Natural Resource Technician, and then became a Park Ranger. I too, worked as a Natural Resource Technician for Alaska State Parks. I enjoyed my work and hoped to "move up" in the system. However, in order to become a State Park Ranger, a law enforcement commission was required. I made the conscious decision to leave Alaska State Parks, as I did not want to pack a gun and become a law enforcement officer. I chose a different career path.

My husband, on the other hand, made the choice to become a Park Ranger with Alaska State Parks. The state Job Class Specification for Park Ranger says:

that identified positions my require candidates to be eligible for peace officer status.

John's position was such that he was required to receive his commission. So, John received his law enforcement training at the Public Safety Academy in Sitka. He worked hard and became a commissioned peace officer. He wears Park Ranger badge #3.

John has been a Park Ranger for 16 years. The job of a Park Ranger is varied, as defined by the state's Job Class Specifications:

Under direction, is responsible for the resource protection, public safety operation, maintenance, development and interpretive services of a unit(s) of the state park system.

Over the years, John has had extensive law enforcement training and refresher courses. John is a firearms instructor and certifies other Rangers on their firearms. John has established and maintained professional relationships with other local and state law enforcement agencies.

John worked as a Kenai River Park Ranger for three seasons. He then transferred up to Nancy Lake State Recreation Area in Willow. He manages the popular Willow Creek combat fishery. On a busy summer weekend, there may be up to 2000 people within the recreation area. John often works late shifts, as this is when most problems occur in the area. Thus, Park Rangers are faced with a plethora of law enforcement situations, such as assault, child abuse, deaths, domestic violence, DWI's, motor vehicle accidents, as well as fish and game violations.

Several winters ago, John and fellow Park Ranger Dennis Heikes, were involved in a stakeout at Nancy Lake State Recreation Area. They were hoping to catch thieves who were breaking and entering vehicles in the recreation area. John and Dennis arrested the suspects. While searching the suspect's vehicle, John

and Dennis found weapons hidden under the front seat of the car.

After this arrest, I talked with my husband about my safety concerns for our family in relation to the law enforcement work he does. There were newspaper articles about this arrest. I was concerned about the possibility of harassment from the criminals. As a result of this incident, and in order to help protect our family, we changed our phone to an unlisted number.

As the spouse of a peace officer, I worry about my husband's safety on a daily basis. Every morning before heading off to work he puts on his weapon. This is a reminder to me, and our ten year old daughter Kiersten, of the kind of work he does and the types of potential deadly situations he might face each work day. I silently hope and pray that he will make it home safely each night.

Currently, there are 38 commissioned State Park Rangers. They are hard working and dedicated state employees who deserve the support and recognition of peace officer status and the benefits of a twenty year retirement system. Please support House Bill 202.

At present, Park Rangers may retire after thirty years of state time. As you can see, based on the law enforcement work they do, they should be eligible for twenty year retirement. Please help make this a reality!

In closing, I thank you for your time and attention to this very important matter. I look forward to your support. Please contact me if you have any questions concerning this issue.

Sincerely,

A handwritten signature in cursive script that reads "Sara K. Wilber". The signature is written in dark ink and has a fluid, connected style.

Sara K. Wilber