

HB

475

ALASKA STATE LEGISLATURE

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RESOURCES

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Sponsor Statement HB 475

HB 475 is a clean up bill to the Retirement Security Act (SB 141) that passed last session. Due to the length of SB 141, a handful of errors and oversights were made that need to be changed for a smooth transition to Tier IV. HB 475 is a technical bill. It is not intended to include any policy changes.

Revisions encompassed in HB 475:

- Clarifies provisions regarding PERS/TRS death and disability benefits, including how those benefits will be funded
- Clarifies requirements for non-vested Tier II or III employees who wish to transfer to Tier IV
- Clarifies the eligibility requirements for medical benefits
- Clarifies the basis for calculating employer contribution rates
- Clarifies that a period of death or disability counts towards a member's retirement eligibility for retirement
- Disallows employment with NEA as counting towards Tier IV retirement eligibility
- Clarifies the procedure for an appeal to the Office of Administrative Hearings
- Establishes provisions for employer termination from the plan
- Clarifies that refunding into the PERS system will be disallowed after 2010
- Changes required for PERS/TRS to maintain IRS tax qualified status
- Cosmetic Changes

The above listed changes are not absolutely necessary for Tier IV to come on line July 1, 2006. However, these revisions clarify many aspects of the statutes, providing a benefit both to the plan and members. If changes are not made, many crucial decisions will be left to the Administrator of the plan without proper guidance from the legislature.



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MEMORANDUM

March 15, 2006

SUBJECT: Legal and drafting issues regarding CSHB 475(STA)
(Work Order No. 24-LS1685I)

TO: Representative Paul Seaton
Chair of the House State Affairs Committee
Attn: Louie Flora

FROM: Dan Wayne 
Legislative Counsel

Enclosed is the requested CSHB 475(STA), based on six amendments by the House State Affairs Committee. I made a few changes, and have a few concerns, as follows:

Amendments 1 and 2.

Wherever the terms "receiving" or "received" are used in connection with "benefits" in amendments one and amendment two, I suggest "should have been receiving," "could have been receiving," or "eligible to receive." The change would extend the provisions of the amendments beyond those persons who have actually received benefits or are receiving benefits, to persons eligible to receive benefits who, for one reason or another, are not receiving or have not received benefits.

The phrase "during the entire preceding calendar year," occurs four times in these first two amendments, in reference to a pre-requisite for a person's eligibility for an annual increase in benefits.¹ The meaning of the phrase as used is vague and imprecise and makes the bill vulnerable to varying interpretations and future litigation if it becomes law. I think the risk of misinterpretation is diminished by inserting "at any time" at the beginning of the phrase wherever it appears in these two amendments.

AS 14.25.488(a) refers to a pension under "AS 14.25.487(c)" while AS 14.25.488(f) refers to a pension under "AS 14.25.487(e)." A similar difference exists in AS 39.35.897(a) and (f). Is the difference intended?

¹ Proposed AS 14.25.486(b) and 14.25.488(c), and proposed AS 39.35.893(b) and 39.35.893(c).

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In proposed 14.25.488(a) and 39.35.893(a) I changed "persons" to "person" and made other technical changes conforming language to the singular, which is used throughout PERS/TRS and is preferred drafting.

Amendment 3.

The meaning of the phrase "at the plan level" in the last sentence of AS 39.35.250(b) may need clarifying. I was unable to determine its meaning so I left it unchanged.

I inserted language to clarify the term "governmental accounting standards board" as used in the proposed amendment to AS 39.35.250(c), in part to distinguish it from "the board" (Alaska Retirement Management Board) referred to throughout PERS/TRS. There is a Governmental Accounting Standards Board used by state and local governments in the U.S. as a source of generally accepted accounting principles. It is a private, non-government, organization.²

Please note that the terms "consolidated employer normal cost rate" and "past service rate" are used in AS 39.35.270(a) as well as AS 39.35.250, but the definition is only in AS 39.35.250. A cross-reference in AS 39.35.270 would be useful.

Amendment 4.

I clarified "governmental accounting standards board" as I did with Amendment 3. (I also note that the last sentences of AS 14.25.070(e) and (f) differ from the equivalent in AS 39.35.250(b), but I do not know if that was the committee's intent or not so I have not conformed one to the other).

Amendment 5.

I changed the page, line, and section numbers in this amendment as called for, and made conforming technical changes as needed in the sections following.

Conceptual Amendment 6.

I made a change by inserting the phrase "participating in the defined contribution retirement plan under AS 39.35.700 - 39.35.990" after "A political subdivision or public organization" at the beginning of proposed 39.35.957(a), in order to clarify meaning. I also corrected an apparent typographical error in the last line of proposed 39.35.958. "39.35.495" is now 39.30.495.

Finally, I bring to your attention legal and constitutional issues raised in proposed 39.35.957(b), added by conceptual amendment 6. It can be interpreted as divesting a defined benefit plan member of constitutional and contractual rights, and diminishing or impairing accrued retirement benefits. Article XII, sec. 7 of the state constitution declares that membership in a state or political subdivision retirement system constitutes

² www.gasb.org.

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a contractual relationship and that accrued retirement benefits may not be diminished or impaired.

A right to benefits under a state retirement system vests immediately upon the employee's enrollment in the system.³ While the retirement system may be changed to permit the pension system to make adjustments, the modifications must be reasonable and any change that results in a disadvantage to employees must be offset by comparable new advantages.⁴ As written, this subsection can be understood to mean that an employer may choose to terminate participation in the defined benefit retirement plan and in doing so force an employee eligible for participation in that plan to participate in a less advantageous plan. I suggest adding a sentence to the subsection along the lines of "nothing in this subsection allows accrued retirement benefits to be diminished or impaired."

If I may be of further assistance, please advise.

DCW:ljw
06-127.ljw

Enclosure

³ Hammond v. Hoffbeck, 627 P.2d 1052 (Alaska 1981).

⁴ Hoffbeck at 1057.

24-LS1685G
Wayne
2/22/06

CS FOR HOUSE BILL NO. 475()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Introduced:
Referred:

Sponsor(s): REPRESENTATIVE SEATON

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the supplemental employee benefit program; relating to teachers'
2 and public employees' defined contribution retirement plans; relating to the health
3 reimbursement arrangement plan for certain teachers and public employees; clarifying
4 eligibility for membership in the health reimbursement arrangement plan; relating to
5 waiver of adjustments under the public employees' defined benefit plan; relating to the
6 administrator of the Public Employees' Retirement System of Alaska; relating to
7 employer contributions for occupational disability and death benefits; repealing
8 participation in the teachers' defined contribution and defined benefit retirement plans
9 by certain employees of the National Education Association of Alaska and repealing
10 participation in the teachers' defined contribution retirement plan by certain employees
11 of the Special Education Service Agency; relating to the public employees' deferred
12 compensation program; and providing for an effective date."

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

2 * **Section 1.** AS 14.25.350 is amended by adding a new subsection to read:

3 (e) An employer shall make annual contributions to a trust account in the
4 health reimbursement arrangement plan under AS 39.30.300 in an amount the board
5 determines is necessary, based on actuarial study, to fully fund the cost of providing
6 occupational disability and occupational death benefits under AS 14.25.485 and
7 14.25.487.

8 * **Sec. 2.** AS 14.25.470(g) is amended to read:

9 (g) An eligible person shall make the irrevocable election to participate or not
10 participate in the retiree major medical insurance plan by reaching 70 1/2 years of age,
11 or upon application for retirement and medical benefits, whichever is later. The
12 administrator may require an eligible person who elected to defer participation
13 in the retiree major medical insurance plan at the time the person applied for
14 retirement to show evidence of insurability or provide a letter of coverage. If the
15 person does not establish insurability or provide a letter of coverage, the
16 administrator may prohibit participation by the person in the retiree major
17 medical insurance plan.

18 * **Sec. 3.** AS 14.25.485(c) is amended to read:

19 (c) If the disabled member becomes ineligible to receive occupational
20 disability benefits before the normal retirement date, the disabled member shall then
21 be entitled to receive retirement benefits if the member would have been eligible for
22 the benefit had employment continued during the period of disability. The period of
23 disability constitutes membership service for the purpose of [IN REGARD TO]
24 determining vesting in employer contributions under AS 14.25.390(b) and
25 eligibility for retirement and medical benefits under this chapter and AS 39.30.300
26 - 39.30.495.

27 * **Sec. 4.** AS 14.25.485(d) is amended to read:

28 (d) The monthly amount of an occupational disability benefit is 40 percent of
29 the disabled member's gross monthly compensation at the time of termination due to
30 disability. A member is not entitled to elect distributions from the member's
31 individual contribution account under AS 14.25.410 while the member is

1 receiving disability benefits under this section. While a member is receiving
2 disability benefits, based on the disabled member's gross monthly compensation at the
3 time of termination due to disability, the employer shall make contributions to the

4 (1) member's individual account under AS 14.25.340 on behalf of the
5 member, without deduction from the member's disability payments; and

6 (2) appropriate accounts and funds on behalf of the member under
7 AS 14.25.350.

8 * Sec. 5. AS 14.25.485(g) is amended to read:

9 (g) A disabled member's occupational disability benefit terminates the first
10 day of the month following the date [WHEN] the disabled member first qualifies
11 [ATTAINS ELIGIBILITY] for normal retirement. A [AT THAT TIME, THE]
12 member's retirement benefit shall be determined from the date of termination and
13 under the provisions of AS 14.25.420 - 14.25.440, 14.25.470, and 14.25.480. A
14 member whose occupational disability benefit terminates under this subsection
15 [RECEIVING DISABILITY BENEFITS UP UNTIL ELIGIBILITY FOR
16 RETIREMENT] shall be considered to have retired directly from the occupational
17 disability plan.

18 * Sec. 6. AS 14.25.485(i) is amended to read:

19 (i) Upon the death of a disabled member who is receiving or is entitled to
20 receive an occupational disability benefit, the administrator shall pay the surviving
21 spouse a surviving spouse's pension, equal to 40 percent of the member's monthly
22 compensation at the termination of employment because of occupational disability. If
23 there is no surviving spouse, the administrator shall pay the survivor's pension in equal
24 parts to the dependent children of the member. The first payment of the surviving
25 spouse's pension or of a dependent child's pension shall accrue from the first day of
26 the month following the member's death and is payable the last day of the month. The
27 last payment shall be made the last day of [FOR] the last month in which there is an
28 eligible surviving spouse or child, or the first day of the month following the
29 earliest date the member would have been eligible to qualify for normal
30 retirement if the member had survived, whichever day comes sooner. A
31 retirement benefit shall be determined under the provisions of AS 14.25.420 -

1 14.25.440, 14.25.470, and 14.25.480 based on [. ON] the date the member would
 2 have first been eligible to qualify for normal retirement [OF THE MEMBER
 3 WOULD HAVE OCCURRED] if the member had survived. [.] the purpose of
 4 determining eligibility of a member's surviving beneficiary for medical benefits
 5 under AS 14.25.470 - 14.25.480 when the surviving beneficiary is receiving an
 6 occupational disability benefit under this subsection, a [LIVED, THE
 7 RETIREMENT BENEFIT SHALL BE DETERMINED UNDER THE PROVISIONS
 8 OF AS 14.25.420 - 14.25.440, 14.25.470, AND 14.25.480. A] member who died
 9 while receiving disability benefits shall be considered to have retired directly from the
 10 plan on the date the member would have first been eligible to qualify for normal
 11 retirement [OF THE MEMBER WOULD HAVE OCCURRED] if the member had
 12 lived. The period during which the member was eligible for a disability benefit
 13 and the period during which a pension benefit is paid to a surviving spouse or
 14 surviving dependent child under this subsection each constitute membership
 15 service for the purpose of determining vesting in employer contributions under
 16 AS 14.25.390(b) and eligibility for retirement and medical benefits under this
 17 chapter and AS 39.30.300 - 39.30.495.

18 * Sec. 7. AS 14.25.487(b) is amended to read:

19 (b) The first payment of the surviving spouse's pension or of a dependent
 20 child's pension shall be made for the month following the month in which the member
 21 dies. Payments [, AND PAYMENT] shall cease on the first month in which there is
 22 no eligible spouse or eligible child, or the first day of the month following the
 23 earliest date the member would have been eligible to qualify for normal
 24 retirement if the member had survived, whichever day is sooner [TO BE MADE
 25 BEGINNING WITH THE MONTH IN WHICH THE MEMBER WOULD HAVE
 26 FIRST QUALIFIED FOR RETIREMENT].

27 * Sec. 8. AS 14.25.487(c) is amended to read:

28 (c) The monthly survivor's pension in (b) of this section for survivors of
 29 members is 40 percent of the member's monthly compensation in the month in which
 30 the member dies. While the monthly survivor's pension is being paid, the survivor
 31 is not entitled to elect distributions from the member's individual contribution

1 account under AS 14.25.410, except as required by AS 14.25.440. While the
2 monthly survivor's pension is being paid, the employer shall make contributions on
3 behalf of the member's surviving spouse and surviving dependent children
4 [BENEFICIARIES] based on the deceased member's gross monthly compensation at
5 the time of occupational death

6 (1) to the member's individual account under AS 14.25.340, without
7 deduction from the survivor's pension; and

8 (2) to the appropriate accounts and funds on behalf of the member
9 under AS 14.25.350.

10 * Sec. 9. AS 14.25.487(e) is amended to read:

11 (e) On the date the member would have first been eligible to qualify for
12 normal retirement [OF THE MEMBER WOULD HAVE OCCURRED] if the member
13 had survived [LIVED], the retirement benefit shall be determined under the
14 provisions of AS 14.25.420 - 14.25.440, 14.25.470, and 14.25.480. A member who
15 died and whose survivors receive occupational death benefits under this section shall
16 be considered to have retired directly from the plan on the date the [NORMAL
17 RETIREMENT OF THE] member would have first been eligible to qualify for
18 normal retirement [OCCURRED] if the member had survived. The period during
19 which the member was eligible for a disability benefit and the period during
20 which a pension benefit is paid to a surviving spouse or surviving dependent child
21 under this subsection each constitute membership service for the purpose of
22 determining vesting in employer contributions under AS 14.25.390(b) and
23 eligibility for retirement and medical benefits under this chapter and
24 AS 39.30.300 - 39.30.495 [LIVED].

25 * Sec. 10. AS 14.25.540(d) is amended to read:

26 (d) Upon a transfer, all membership service previously earned under the
27 defined benefit retirement plan shall be nullified for purposes of entitlement to a future
28 benefit under the defined benefit retirement plan but shall be credited for purpose
29 determining vesting in employer contributions under AS 14.25.390(b) and
30 eligibility to elect medical benefits under AS 14.25.470. Membership service allowed
31 for credit toward medical benefits does not include any service credit purchased under

1 AS 14.25.075 for employment by an employer who is not a participating employer in
2 this chapter.

3 * Sec. 11. AS 14.25.540(h) is amended to read:

4 (h) A member who is eligible to elect transfer to the defined contribution
5 plan must do so not later than 12 months after the member's employer notifies
6 the administrator that the member's employer consents to transfers of its
7 members under (i) of this section. The election to participate in the defined
8 contribution retirement plan must be made in writing on forms and in the manner
9 prescribed by the administrator. Before accepting an election to participate in the
10 defined contribution retirement plan, the administrator must provide the employee
11 planning on making an election to participate in the defined contribution retirement
12 plan with information, including calculations to illustrate the effect of moving the
13 employee's retirement plan from the defined benefit retirement plan to the defined
14 contribution retirement plan as well as other information to clearly inform the
15 employee of the potential consequences of the employee's election. An election made
16 under this subsection to participate in the defined contribution retirement plan is
17 irrevocable. Upon making the election, the participant shall be enrolled as a member
18 of the defined contribution retirement plan, the member's participation in the plan shall
19 be governed by the provisions of AS 14.25.310 - 14.25.590, and the member's
20 participation in the defined benefit retirement plan under AS 14.25.009 - 14.25.220
21 shall terminate. The participant's enrollment in the defined contribution retirement
22 plan shall be effective the first day of the month after the administrator receives the
23 completed enrollment forms. An election made by an eligible member who is married
24 is not effective unless the election is signed by the individual's spouse.

25 * Sec. 12. AS 14.25.540(i) is amended to read:

26 (i) A member may make an election under this section only if the member's
27 employer participates in both the defined benefit retirement plan and the defined
28 contribution retirement plan and consents to transfers under this section. The employer
29 shall notify the administrator if the employer consents to allowing the employer's
30 members to choose to transfer from the defined benefit retirement plan to the defined
31 contribution retirement plan under this section. A period during which the

1 employer's members may choose to transfer commences on the first day of the
2 month following the administrator's receipt of notice under (b) of this section and
3 continues for 12 months unless the employer elects in the final month to extend
4 the period for another 12 months. An employer's notice to allow transfers is
5 irrevocable and applicable to all eligible employees of the employer.

6 * Sec. 13. AS 39.30.160(a) is amended to read:

7 (a) The Department of Administration shall, in accordance with policies
8 prescribed by regulations adopted by the commissioner [OF THE ALASKA
9 RETIREMENT MANAGEMENT BOARD], provide to employees for whom special
10 individual employee benefit accounts are established under AS 39.30.150(c) the
11 following benefit options:

- 12 (1) supplemental health benefits;
- 13 (2) supplemental death benefits;
- 14 (3) supplemental disability benefits; and
- 15 (4) supplemental dependent care benefits.

16 * Sec. 14. AS 39.30.160(e) is amended to read:

17 (e) Regulations adopted by the commissioner [BOARD] implementing
18 AS 39.30.150 and this section are not subject to AS 44.62 (Administrative Procedure
19 Act).

20 * Sec. 15. AS 39.30 is amended by adding a new section to read:

21 **Sec. 39.30.165. Appeals.** A final decision made under AS 39.30.150 -
22 39.30.180 is subject to appeal under AS 44.64. The final decision under AS 44.64 is
23 delegated to the administrative law judge and shall issue within 180 days after the date
24 the administrator receives the appeal, unless the administrative law judge and all
25 parties agree to another time.

26 * Sec. 16. AS 39.30 is amended by adding a new section to read:

27 **Sec. 39.30.335. Appeals.** A final decision made under AS 39.30.300 -
28 39.30.495 is subject to appeal under AS 44.64. The final decision under AS 44.64 is
29 delegated to the administrative law judge and shall issue within 180 days after the date
30 the administrator receives the appeal, unless the administrative law judge and all
31 parties agree to another time.

1
2 * Sec. 17. AS 39.30.370 is amended to read:

3 **Sec. 39.30.370. Contributions by employers.** For each member of the plan,
4 an employer shall contribute to the teachers' and public employees' retiree health
5 reimbursement arrangement plan trust fund an amount equal to three percent of the
6 annual average compensation of all plan members [EMPLOYER'S AVERAGE
7 ANNUAL EMPLOYEE COMPENSATION]. The administrator shall maintain a
8 record for each member to account for employer contributions on behalf of that
9 member. The board shall establish by regulation the rate of interest to be applied
10 annually to the amount in a member's individual account.

11 * Sec. 18. AS 39.30.380 is amended to read:

12 **Sec. 39.30.380. Termination of employment.** A person who terminates
13 employment before meeting the eligibility requirements of AS 39.30.390
14 [AS 14.25.470 OR AS 39.35.870] loses any right to the contributions made on behalf
15 of the person to the teachers' and public employees' retiree health reimbursement
16 arrangement trust fund. If a person returns to employment with a participating
17 employer by December 31 of the year in which the person reaches 65 years of age, the
18 person's account balance shall be restored in the amount recorded on the date of
19 termination from the trust, adjusted for inflation at the rate of the Consumer Price
20 Index for Anchorage, Alaska. The earlier period of employment with a participating
21 employer shall be credited toward eligibility for medical benefits.

22 * Sec. 19. AS 39.30.390 is amended to read:

23 **Sec. 39.30.390. Eligibility and reimbursement.** Persons who meet the
24 eligibility requirements of AS 14.25.470 or [AND] AS 39.35.870 are eligible for
25 reimbursements from the individual account established for a member under the plan,
26 except members do not have to retire directly from the system. A person who is the
27 dependent child of an eligible member is eligible for reimbursements if the eligible
28 member and surviving spouse have both died so long as the person meets the
29 definition of dependent child.

30 * Sec. 20. AS 39.35.522(d) is amended to read:

31 (d) A ruling of the [THE] commissioner of administration denying a waiver

1 under this section may be appealed under AS 44.64. The administrative law
2 judge may reverse the ruling of the commissioner and may impose equitable
3 conditions on the granting of a waiver [WHICH IT CONSIDERS EQUITABLE].
4 These conditions may include requiring the member or beneficiary to make additional
5 contributions to the plan.

6 * Sec. 21. AS 39.35.680(3) is amended to read:

7 (3) "administrator" means [THE PERSON APPOINTED BY] the
8 commissioner of administration or the commissioner's designee appointed under
9 AS 39.35.003 [AS 39.35.050];

10 * Sec. 22. AS 39.35.750(e) is amended to read:

11 (e) An employer shall make annual contributions to a trust account in the
12 plan in an amount determined by the board to be actuarially required to fully fund the
13 cost of providing occupational disability and occupational death benefits under
14 AS 39.35.890 and 39.35.892 and retirement benefits elected by disabled peace
15 officers and fire fighters under AS 39.35.890(h)(2). The contribution required under
16 this subsection for peace officers and fire fighters and the contribution required under
17 this subsection for other employees shall be separately calculated based on the
18 actuarially calculated costs for each group of employees.

19 * Sec. 23. AS 39.35.870(g) is amended to read:

20 (g) An eligible person must make the irrevocable election to participate or not
21 participate in the retiree major medical insurance plan by reaching 70 1/2 years of age,
22 or upon application for retirement and medical benefits, whichever is later. The
23 administrator may require an eligible person who elected to defer participation
24 in the retiree major medical insurance plan at the time the person applied for
25 retirement to show evidence of insurability or provide a letter of coverage. If the
26 person does not establish insurability or provide a letter of coverage, the
27 administrator may prohibit participation by the person in the retiree major
28 medical insurance plan.

29 * Sec. 24. AS 39.35.890(c) is amended to read:

30 (c) If the disabled employee becomes ineligible to receive occupational
31 disability benefits before the normal retirement date, the disabled employee shall then

1 be entitled to receive retirement benefits if the employee would have been eligible for
2 the benefit had employment continued during the period of disability. The period of
3 disability constitutes membership service for the purpose of [IN REGARD TO]
4 determining vesting in employer contributions under AS 39.35.790(b) and
5 eligibility for retirement and medical benefits under this chapter and AS 39.30.300
6 - 39.30.495.

7 * Sec. 25. AS 39.35.890(d) is amended to read:

8 (d) The monthly amount of an occupational disability benefit is 40 percent of
9 the disabled employee's gross monthly compensation at the time of termination due to
10 disability. An employee is not entitled to elect distributions from the employee's
11 individual contribution account under AS 39.35.810 while the employee is
12 receiving disability benefits under this section. While an employee is receiving
13 disability benefits, based on the disabled employee's gross monthly compensation at
14 the time of termination due to disability, the employer shall make contributions

15 (1) to the employee's individual account under AS 39.35.730 on behalf
16 of the employee, without deduction from the employee's disability payments; and

17 (2) on behalf of the employee under AS 39.35.750.

18 * Sec. 26. AS 39.35.890(h) is amended to read:

19 (h) Notwithstanding (g) of this section, at the time a peace officer or fire
20 fighter receiving occupational disability benefits under this section first attains
21 eligibility for normal retirement, the employee shall irrevocably elect to receive
22 retirement benefits in the amount calculated as the

23 (1) employee's retirement benefit calculated under the provisions of
24 AS 39.35.820 - 39.35.840; or

25 (2) employee's retirement benefit calculated as if the provisions of
26 AS 39.35.370(c) were to apply; however, retirement benefits paid under this paragraph
27 must be paid first from the peace officer's or fire fighter's individual contribution
28 account, and the remaining benefits must be paid from the trust account
29 established under AS 39.35.750(e); the peace officer or fire fighter may not elect
30 other distributions from the peace officer's or fire fighter's individual
31 contribution account under AS 39.35.810 while receiving retirement benefits

1 under this paragraph [MAY NOT BE MADE FROM THE TRUST FUND OF THE
2 PUBLIC EMPLOYEES' DEFINED BENEFIT RETIREMENT PLAN].

3 * Sec. 27. AS 39.35.890(k) is amended to read:

4 (k) Upon the death of a disabled employee who is receiving or is entitled to
5 receive an occupational disability benefit, the administrator shall pay the surviving
6 spouse a surviving spouse's pension, equal to 40 percent of the employee's monthly
7 compensation at the termination of employment because of occupational disability. If
8 there is no surviving spouse, the administrator shall pay the survivor's pension in equal
9 parts to the dependent children of the employee. The first payment of the surviving
10 spouse's pension or of a dependent child's pension shall accrue from the first day of
11 the month following the employee's death and is payable the last day of the month.
12 The last payment shall be made the last day of [FOR] the last month in which there is
13 an eligible surviving spouse or child, or the first day of the month following the
14 earliest date the employee would have been eligible to qualify for normal
15 retirement if the employee had survived, whichever day comes sooner. A
16 retirement benefit shall be determined under the provisions of AS 39.35.820 -
17 39.35.840, 39.35.870, and 39.35.880 based on [. ON] the date the employee would
18 have first been eligible to qualify for normal retirement [OF THE EMPLOYEE
19 WOULD HAVE OCCURRED] if the employee had survived. For the purpose of
20 determining eligibility of an employee's surviving beneficiary for medical benefits
21 under AS 39.35.870 - 39.35.880, when the surviving beneficiary is receiving an
22 occupational disability benefit under this subsection, an employee [LIVED, THE
23 RETIREMENT BENEFIT SHALL BE DETERMINED UNDER THE PROVISIONS
24 OF AS 39.35.820 - 39.35.840, 39.35.870, AND 39.35.880. AN EMPLOYEE] who
25 died while receiving disability benefits shall be considered to have retired directly
26 from the plan on the date the employee would have been eligible for normal
27 retirement if the employee had survived. The period during which the employee
28 was eligible for a disability benefit and the period during which a pension benefit
29 is paid to a surviving spouse or surviving dependent child under this subsection
30 each constitute membership service for the purpose of determining vesting in
31 employer contributions under AS 39.35.790(b) and eligibility for retirement and

1 medical benefits under this chapter and AS 39.30.300 - 39.30.495 [NORMAL
2 RETIREMENT OF THE EMPLOYEE WOULD HAVE OCCURRED IF THE
3 EMPLOYEE HAD LIVED].

4 * Sec. 28. AS 39.35.892(b) is amended to read:

5 (b) The first payment of the surviving spouse's pension or of a dependent
6 child's pension shall be made for the month following the month in which the
7 employee dies. Payments [, AND PAYMENT] shall cease on the first month in
8 which there is no eligible spouse or eligible child, or the first day of the month
9 following the earliest date the employee would have been eligible to qualify
10 normal retirement if the employee had survived, whichever day comes sooner
11 [TO BE MADE BEGINNING WITH THE MONTH IN WHICH THE EMPLOYEE
12 WOULD HAVE FIRST QUALIFIED FOR RETIREMENT].

13 * Sec. 29. AS 39.35.892(c) is amended to read:

14 (c) The monthly survivor's pension in (b) of this section for survivors of
15 employees who were not peace officers or fire fighters is 40 percent of the employee's
16 monthly compensation in the month in which the employee dies. The monthly
17 survivor's pension in (b) of this section for survivors of employees who were peace
18 officers or fire fighters is 50 percent of the monthly compensation in the month in
19 which the employee dies. While the monthly survivor's pension is being paid, the
20 survivor is not entitled to elect distributions from the employee's individual
21 contribution account under AS 39.35.810, except as required by AS 39.35.840.
22 While the monthly survivor's pension is being paid, the employer shall make
23 contributions on behalf of the employee's surviving spouse and surviving dependent
24 children [BENEFICIARIES] based on the deceased employee's gross monthly
25 compensation at the time of occupational death

26 (1) to the employee's individual account under AS 39.35.730, without
27 deduction from the survivor's pension; and

28 (2) to the appropriate accounts and funds under AS 39.35.750.

29 * Sec. 30. AS 39.35.892(e) is amended to read:

30 (e) On the date the employee would have first been eligible to qualify for
31 normal retirement [OF THE EMPLOYEE WOULD HAVE OCCURRED] if the

1 employee had survived [LIVED], the retirement benefit shall be determined under the
2 provisions of AS 39.35.820 - 39.35.840, 39.35.870, and 39.35.880. An employee who
3 died and whose survivors receive occupational death benefits under this section shall
4 be considered to have retired directly from the plan on the date the [NORMAL
5 RETIREMENT OF THE] employee would have first been eligible to qualify for
6 normal retirement [OCCURRED] if the employee had survived. The period during
7 which the employee was eligible for a disability benefit and the period during
8 which a pension benefit is paid to a surviving spouse or surviving dependent child
9 under this subsection each constitute membership service for the purpose of
10 determining vesting in employer contributions under AS 39.35.790(b) and
11 eligibility for retirement and medical benefits under this chapter and
12 AS 39.30.300 - 39.30.495 [LIVED].

13 * Sec. 31. AS 39.35.940(d) is amended to read:

14 (d) Upon a transfer, all membership service previously earned under the
15 defined benefit retirement plan shall be nullified for purposes of entitlement to a future
16 benefit under the defined benefit retirement plan but shall be credited for purposes of
17 determining vesting in employer contributions under AS 39.35.790(b) and
18 eligibility to elect medical benefits under AS 39.35.870. Membership service allowed
19 for credit toward medical benefits does not include any service credit purchased for
20 employment by an employer who is not a participating employer in this chapter.

21 * Sec. 32. AS 39.35.940(h) is amended to read:

22 (h) An employee who is eligible to elect transfer to the defined
23 contribution plan must do so not later than 12 months after the employee's
24 employer notifies the administrator that the employee's employer consents to
25 transfers of its employees under (i) of this section. The election to participate in the
26 defined contribution retirement plan must be made in writing on forms and in the
27 manner prescribed by the administrator. Before accepting an election to participate in
28 the defined contribution retirement plan, the administrator must provide the employee
29 planning on making an election to participate in the defined contribution retirement
30 plan with information, including calculations to illustrate the effect of moving the
31 employee's retirement plan from the defined benefit retirement plan to the defined

1 contribution retirement plan as well as other information to clearly inform the
2 employee of the potential consequences of the employee's election. An election made
3 under this subsection to participate in the defined contribution retirement plan is
4 irrevocable. Upon making the election, the participant shall be enrolled as a member
5 of the defined contribution retirement plan, the member's participation in the plan shall
6 be governed by the provisions of AS 39.35.700 - 39.35.990, and the member's
7 participation in the defined benefit retirement plan under AS 39.35.115 shall
8 terminate. The participant's enrollment in the defined contribution retirement plan
9 shall be effective the first day of the month after the administrator receives the
10 completed enrollment forms. An election made by an eligible member who is married
11 is not effective unless the election is signed by the individual's spouse.

12 * Sec. 33. AS 39.35.940(i) is amended to read:

13 (i) A member may make an election under this section only if the member's
14 employer participates in both the defined benefit retirement plan and the defined
15 contribution retirement plan and consents to transfers under this section. The employer
16 shall notify the administrator if the employer consents to allowing the employer's
17 members to choose to transfer from the defined benefit retirement plan to the defined
18 contribution retirement plan under this section. A period during which the
19 employer's members may choose to transfer commences on the first day of the
20 month following the administrator's receipt of notice under (b) of this section and
21 continues for 12 months unless the employer elects in the final month to extend
22 the period for another 12 months. An employer's notice to allow transfers is
23 irrevocable and applicable to all eligible employees of the employer.

24 * Sec. 34. AS 39.45 is amended by adding a new section to read:

25 Sec. 39.45.055. Appeals. A final decision made under AS 39.45.010 -
26 39.45.060 is subject to appeal under AS 44.64. The final decision under AS 44.64 is
27 delegated to the administrative law judge and shall issue within 180 days after the date
28 the administrator receives the appeal, unless the administrative law judge and all
29 parties agree to another time.

30 * Sec. 35. AS 44.64.030(a) is amended by adding new paragraphs to read:

31 (36) AS 39.30.165 (supplemental benefits system);

1 (37) AS 39.30.335 (teachers' and public employees' health
2 reimbursement arrangement plan);

3 (38) AS 39.35.522 (waiver of adjustments under public employees'
4 defined benefit plan)

5 (39) AS 39.45.055 (public employees' deferred compensation
6 program).

7 * Sec. 36. The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 EMPLOYER CONTRIBUTIONS FOR OCCUPATIONAL DISABILITY AND
10 DEATH BENEFITS IN THE TEACHERS' DEFINED CONTRIBUTION RETIREMENT
11 PLAN FOR THE FIRST FISCAL YEAR THE PLAN IS IN EFFECT. Notwithstanding
12 AS 14.25.350(e), for the first fiscal year in which the teachers' defined contribution retirement
13 plan is in effect, the employer contribution to full funding of the cost of providing
14 occupational disability and occupational death benefits under AS 14.25.485 and 14.25.487
15 shall be equal to 0.22 percent of the amount of compensation paid to all teachers who work
16 for the employer in that year and are members of the plan.

17 * Sec. 37. AS 14.25.045, 14.25.570, 14.25.580; and AS 39.35.050(a) are repealed.

18 * Sec. 38. This Act takes effect July 1, 2006.

24-LS1685Y
Wayne
3/1/06

CS FOR HOUSE BILL NO. 475()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE SEATON

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the supplemental employee benefit program; relating to teachers'
2 and public employees' defined benefit retirement plans; relating to teachers' and public
3 employees' defined contribution retirement plans; relating to the health reimbursement
4 arrangement plan for certain teachers and public employees; clarifying eligibility for
5 membership in the health reimbursement arrangement plan; relating to waiver of
6 adjustments under the teachers' defined benefit retirement plan and the public
7 employees' defined benefit retirement plan; relating to the administrator of the Public
8 Employees' Retirement System of Alaska; relating to employer contributions for
9 occupational disability and death benefits; repealing participation in the teachers'
10 defined contribution and defined benefit retirement plans by certain employees of the
11 National Education Association of Alaska; relating to requirements for employer
12 minimum contributions to the teachers' and the public employees' defined benefits

1 retirement systems; relating to the public employees' defined benefits deferred
2 compensation program; and providing for an effective date."

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

4 * Section 1. AS 14.25.006 is amended to read:

5 **Sec. 14.25.006. Appeals.** An employer, member, annuitant, or beneficiary may
6 appeal a decision made by the administrator to the office of administrative hearings
7 established under AS 44.64. The final decision under AS 44.64 is delegated to the
8 administrative law judge and shall issue within 180 days after the date the
9 administrator receives the appeal, unless the administrative law judge and all
10 parties agree to another time. An aggrieved party may appeal a final decision to the
11 superior court.

12 * Sec. 2. AS 14.25.070 is amended by adding a new subsection to read:

13 (d) The employer contribution rate may not be less than the rate required, after
14 subtracting the member contribution rate, to fully fund the actuarially calculated
15 benefits expected to be earned by active members during a fiscal year.

16 * Sec. 3. AS 14.25.125(c) is amended to read:

17 (c) Membership service for which contributions were refunded is not
18 creditable under this section [UNLESS THE REFUNDED CONTRIBUTIONS HAVE
19 BEEN REPAYED. FOR PURPOSES OF THIS SECTION, A MEMBER OR FORMER
20 MEMBER DOES NOT HAVE TO BE REEMPLOYED UNDER THIS PLAN IN
21 ORDER TO REPAY REFUNDED CONTRIBUTIONS. COMPOUND INTEREST
22 AT THE RATE PRESCRIBED BY REGULATION MUST BE ADDED TO THE
23 REINSTATEMENT INDEBTEDNESS FROM THE DATE OF THE REFUND TO
24 THE DATE OF REPAYMENT].

25 * Sec. 4. AS 14.25.350, as enacted by sec. 35, ch. 9, FSSLA 2005, is amended by adding a
26 new subsection to read:

27 (e) An employer shall make annual contributions to a trust account in the plan
28 in an amount determined by the board to be actuarially required to fully fund the cost
29 of providing occupational disability and occupational death benefits under
30 AS 14.25.485 and 14.25.487.

1 * Sec. 5. AS 14.25.470(g), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

2 (g) An eligible person shall make the irrevocable election to participate or not
3 participate in the retiree major medical insurance plan by reaching 70 1/2 years of age,
4 or upon application for retirement and medical benefits, whichever is later. The
5 administrator may require an eligible person who deferred participation in the
6 retiree major medical insurance plan at the time the person applied for
7 retirement to show evidence of insurability or provide a letter of coverage when
8 the person later applies to participate in the retiree major medical insurance
9 plan. If the person does not establish insurability or provide a letter of coverage,
10 the administrator may deny participation by the person in the retiree major
11 medical insurance plan.

12 * Sec. 6. AS 14.25.485(c), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

13 (c) If the disabled member becomes ineligible to receive occupational
14 disability benefits before the normal retirement date, the disabled member shall then
15 be entitled to receive retirement benefits if the member would have been eligible for
16 the benefit had employment continued during the period of disability. The period of
17 disability constitutes membership service for the purposes of [IN REGARD TO]
18 determining vesting in employer contributions under AS 14.25.390(b) and
19 eligibility for retirement and medical benefits under this chapter and AS 39.30.300
20 - 39.30.495.

21 * Sec. 7. AS 14.25.485(d), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

22 (d) The monthly amount of an occupational disability benefit is 40 percent of
23 the disabled member's gross monthly compensation at the time of termination due to
24 disability. A member is not entitled to elect distributions from the member's
25 individual contribution account under AS 14.25.410 while the member is
26 receiving disability benefits under this section. While a member is receiving
27 disability benefits, based on the disabled member's gross monthly compensation at the
28 time of termination due to disability, the employer shall make contributions to the

29 (1) member's individual account under AS 14.25.340 on behalf of the
30 member, without deduction from the member's disability payments; and

31 (2) appropriate accounts and funds on behalf of the member under

1 AS 14.25.350.

2 * Sec. 8. AS 14.25.485(g) is enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

3 (g) A disabled member's occupational disability benefit terminates the last
4 day of the month following the date [WHEN] the disabled member first qualifies
5 [ATTAINS ELIGIBILITY] for normal retirement. At that time, the member's
6 retirement benefit shall be determined under the provisions of AS 14.25.420 -
7 14.25.440, 14.25.470, and 14.25.480. A member whose occupational disability
8 benefit terminates under this subsection [RECEIVING DISABILITY BENEFITS
9 UP UNTIL ELIGIBILITY FOR RETIREMENT] shall be considered to have retired
10 directly from the plan.

11 * Sec. 9. AS 14.25.485(i), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

12 (i) Upon the death of a disabled member who is receiving or is entitled to
13 receive an occupational disability benefit, the administrator shall pay the surviving
14 spouse a surviving spouse's pension, equal to 40 percent of the member's monthly
15 compensation at the termination of employment because of occupational disability. If
16 there is no surviving spouse, the administrator shall pay the survivor's pension in equal
17 parts to the dependent children of the member. The first payment of the surviving
18 spouse's pension or of a dependent child's pension shall accrue from the first day of
19 the month following the member's death and is payable the last day of the month. The
20 last payment shall be made the last day of [FOR] the last month in which there is an
21 eligible surviving spouse or dependent child, or the last day of the month following
22 the earliest date the member would have first qualified for normal retirement if
23 the member had survived, whichever day comes sooner. A retirement benefit
24 shall be determined under the provisions of AS 14.25.420 - 14.25.440, 14.25.470,
25 and 14.25.480 based on [. ON] the date the member would have first qualified for
26 normal retirement [OF THE MEMBER WOULD HAVE OCCURRED] if the member
27 had survived. For the purpose of determining eligibility of a survivor who is
28 receiving a benefit under this subsection for medical benefits under AS 14.25.470
29 - 14.25.480, a [LIVED, THE RETIREMENT BENEFIT SHALL BE DETERMINED
30 UNDER THE PROVISIONS OF AS 14.25.420 - 14.25.440, 14.25.470, AND
31 14.25.480. A] member who died while receiving disability benefits shall be considered

1 to have retired directly from the plan on the date the member would have first
2 qualified for normal retirement [OF THE MEMBER WOULD HAVE OCCURRED]
3 if the member had survived. The period during which the member was eligible for
4 a disability benefit and the period during which a survivor's pension is paid to a
5 survivor under this subsection each constitute membership service for the
6 purposes of determining vesting in employer contributions under AS 14.25.390(b)
7 and eligibility for retirement and medical benefits under this chapter and
8 AS 39.30.300 - 39.30.495 [LIVED].

9 * Sec. 10. AS 14.25.487(b), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

10 (b) The first payment of the surviving spouse's pension or of a dependent
11 child's pension shall be made for the month following the month in which the member
12 dies. Payments [, AND PAYMENT] shall cease on the last day of the month in
13 which there is no longer an eligible spouse or eligible dependent child, or the last
14 day of the month following the earliest date [TO BE MADE BEGINNING WITH
15 THE MONTH IN WHICH] the member would have first qualified for normal
16 retirement if the member had survived, whichever day is sooner.

17 * Sec. 11. AS 14.25.487(c), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

18 (c) The monthly survivor's pension in (b) of this section for survivors of
19 members is 40 percent of the member's monthly compensation in the month in which
20 the member dies. While the monthly survivor's pension is being paid, the survivor
21 is not entitled to elect distributions from the member's individual contribution
22 account under AS 14.25.410, except as required by AS 14.25.440. While the
23 monthly survivor's pension is being paid, the employer shall make contributions on
24 behalf of the member's surviving spouse and member's surviving dependent
25 children [BENEFICIARIES] based on the deceased member's gross monthly
26 compensation at the time of occupational death

27 (1) to the member's individual account under AS 14.25.340, without
28 deduction from the survivor's pension; and

29 (2) to the appropriate accounts and funds on behalf of the member
30 under AS 14.25.350.

31 * Sec. 12. AS 14.25.487(e), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

1 (e) On the date the member would have first qualified for normal retirement
2 [OF THE MEMBER WOULD HAVE OCCURRED] if the member had survived
3 [LIVED], the retirement benefit shall be determined under the provisions of
4 AS 14.25.420 - 14.25.440, 14.25.470, and 14.25.480. A member who died and whose
5 survivors receive occupational death benefits under this section shall be considered to
6 have retired directly from the plan on the date the [NORMAL RETIREMENT OF
7 THE] member would have first qualified for normal retirement [OCCURRED] if
8 the member had survived. The period of time during which a survivor's pension is
9 paid under this section constitutes membership service for the purposes of
10 determining vesting in employer contributions under AS 14.25.390(b) and
11 eligibility for retirement and medical benefits under this chapter and
12 AS 39.30.300 - 39.30.495 [LIVED].

13 * Sec. 13. AS 14.25.540(d), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

14 (d) Upon a transfer, all membership service previously earned under the
15 defined benefit retirement plan shall be nullified for purposes of entitlement to a future
16 benefit under the defined benefit retirement plan but shall be credited for purposes of
17 determining vesting in employer contributions under AS 14.25.390(b) and
18 eligibility to elect medical benefits under AS 14.25.470. Membership service allowed
19 for credit toward medical benefits does not include any service credit purchased under
20 AS 14.25.075 for employment by an employer who is not a participating employer in
21 this chapter.

22 * Sec. 14. AS 14.25.540(h), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

23 (h) A member who is eligible to elect transfer to the defined contribution
24 plan must make the election not later than 12 months after the member's
25 employer notifies the administrator that the member's employer consents to
26 transfers of its members under (i) of this section. The election to participate in the
27 defined contribution retirement plan must be made in writing on forms and in the
28 manner prescribed by the administrator. Before accepting an election to participate in
29 the defined contribution retirement plan, the administrator must provide the employee
30 planning on making an election to participate in the defined contribution retirement
31 plan with information, including calculations to illustrate the effect of moving the

1 employee's retirement plan from the defined benefit retirement plan to the defined
2 contribution retirement plan as well as other information to clearly inform the
3 employee of the potential consequences of the employee's election. An election made
4 under this subsection to participate in the defined contribution retirement plan is
5 irrevocable. Upon making the election, the participant shall be enrolled as a member
6 of the defined contribution retirement plan, the member's participation in the plan shall
7 be governed by the provisions of AS 14.25.310 - 14.25.590, and the member's
8 participation in the defined benefit retirement plan under AS 14.25.009 - 14.25.220
9 shall terminate. The participant's enrollment in the defined contribution retirement
10 plan shall be effective the first day of the month after the administrator receives the
11 completed enrollment forms. An election made by an eligible member who is married
12 is not effective unless the election is signed by the individual's spouse.

13 * Sec. 15. AS 14.25.540(i), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

14 (i) A member may make an election under this section only if the member's
15 employer participates in both the defined benefit retirement plan and the defined
16 contribution retirement plan and consents to transfers under this section. The employer
17 shall notify the administrator if the employer consents to allowing the employer's
18 members to choose to transfer from the defined benefit retirement plan to the defined
19 contribution retirement plan under this section. The initial period during which the
20 employer's members may choose to transfer commences on the first day of the
21 month following the administrator's receipt of notice under this subsection and
22 continues for 12 months. An employer may consent to a second period of 12
23 months during which the employer's members may choose to transfer from the
24 defined benefit retirement plan to the defined contribution retirement plan under
25 this section. The second period commences on the first day of the month
26 following the administrator's receipt of notice under this subsection and
27 continues for 12 months. An employer's notice to allow transfers is irrevocable and
28 applicable to all eligible employees of the employer.

29 * Sec. 16. AS 14.25.540(j), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended by adding
30 a new paragraph to read:

31 (3) "membership service" has the meaning given in AS 14.25.220 and

1 does not include any service for which reinstatement indebtedness has not been fully
2 paid.

3 * Sec. 17. AS 39.30.160(a) is amended to read:

4 (a) The Department of Administration shall, in accordance with policies
5 prescribed by regulations adopted by the commissioner [OF THE ALASKA
6 RETIREMENT MANAGEMENT BOARD], provide to employees for whom special
7 individual employee benefit accounts are established under AS 39.30.150(c) the
8 following benefit options:

- 9 (1) supplemental health benefits;
- 10 (2) supplemental death benefits;
- 11 (3) supplemental disability benefits; and
- 12 (4) supplemental dependent care benefits.

13 * Sec. 18. AS 39.30.160(e) is amended to read:

14 (e) Regulations adopted by the commissioner [BOARD] implementing
15 AS 39.30.150 and this section are not subject to AS 44.62 (Administrative Procedure
16 Act).

17 * Sec. 19. AS 39.30 is amended by adding a new section to read:

18 **Sec. 39.30.165. Appeals.** A final decision made under AS 39.30.150 -
19 39.30.180 is subject to appeal under AS 44.64. The final decision under AS 44.64 is
20 delegated to the administrative law judge and shall issue within 180 days after the date
21 the administrator receives the appeal, unless the administrative law judge and all
22 parties agree to another time.

23 * Sec. 20. AS 39.30 is amended by adding a new section to read:

24 **Sec. 39.30.335. Appeals.** A final decision made under AS 39.30.300 -
25 39.30.495 is subject to appeal under AS 44.64. The final decision under AS 44.64 is
26 delegated to the administrative law judge and shall issue within 180 days after the date
27 the administrator receives the appeal, unless the administrative law judge and all
28 parties agree to another time.

29 * Sec. 21. AS 39.30.370, as enacted by sec. 80, ch. 9, FSSLA 2005, is amended to read:

30 **Sec. 39.30.370. Contributions by employers.** For each member of the plan,
31 an employer shall contribute to the teachers' and public employees' retiree health

1 reimbursement arrangement plan trust fund an amount equal to three percent of the
2 average annual compensation of all employees of employers in the plan
3 [EMPLOYER'S AVERAGE ANNUAL EMPLOYEE COMPENSATION]. The
4 administrator shall maintain a record for each member to account for employer
5 contributions on behalf of that member. The board shall establish by regulation the
6 rate of interest to be applied annually to the amount in a member's individual account.

7 * Sec. 22. AS 39.30.380, as enacted by sec. 80, ch. 9, FSSLA 2005, is amended to read:

8 **Sec. 39.30.380. Termination of employment.** A person who terminates
9 employment before meeting the eligibility requirements of AS 39.30.390
10 [AS 14.25.470 OR AS 39.35.870] loses any right to the contributions made on behalf
11 of the person to the teachers' and public employees' retiree health reimbursement
12 arrangement trust fund. If a person returns to employment with a participating
13 employer by December 31 of the year in which the person reaches 65 years of age, the
14 person's account balance shall be restored in the amount recorded on the date of
15 termination from the trust, adjusted for inflation at the rate of the Consumer Price
16 Index for Anchorage, Alaska. The earlier period of employment with a participating
17 employer shall be credited toward eligibility for medical benefits.

18 * Sec. 23. AS 39.30.390, as enacted by sec. 80, ch. 9, FSSLA 2005, is amended to read:

19 **Sec. 39.30.390. Eligibility and reimbursement.** Persons who meet the
20 eligibility requirements of AS 14.25.470 or [AND] AS 39.35.870 are eligible for
21 reimbursements from the individual account established for a member under the plan,
22 except members do not have to retire directly from the system. A person who is the
23 dependent child of an eligible member is eligible for reimbursements if the eligible
24 member and surviving spouse have both died so long as the person meets the
25 definition of dependent child.

26 * Sec. 24. AS 39.35.006 is amended to read:

27 **Sec. 39.35.006. Appeals.** An employer, member, annuitant, or beneficiary may
28 appeal a decision made by the administrator to the office of administrative hearings
29 established under AS 44.64. The final decision under AS 44.64 is delegated to the
30 administrative law judge and shall issue within 180 days after the date the
31 administrator receives the appeal, unless the administrative law judge and all

1 parties agree to another time. An aggrieved party may appeal a final decision to the
2 superior court.

3 * Sec. 25. AS 39.35.270 is amended by adding a new subsection to read:

4 (d) The employer contribution rate may not be less than the rate required, after
5 subtracting the member contribution rate, to fully fund the actuarially calculated
6 benefits expected to be earned by active members during a fiscal year.

7 * Sec. 26. AS 39.35.375(a) is amended to read:

8 (a) An active or inactive member who has never been vested in this plan or in
9 the teachers' retirement plan under AS 14.25.009 - 14.25.220, who has at least two
10 years of credited service in this plan, and who has membership service in the teachers'
11 retirement system may claim credited service in this plan in an amount equal to the
12 membership service the member has in the teachers' retirement system. The claimed
13 credited service may be added to service earned under AS 39.35.095 - 39.35.680 to
14 enable the member to qualify for a public service benefit under this section. The
15 member may not claim credited service for membership service for which the member
16 has received a refund under AS 14.25.150 [UNLESS THE MEMBER FULLY PAYS
17 THE INDEBTEDNESS AS ESTABLISHED UNDER AS 14.25.063]. The member
18 may not claim credited service in this plan based on unused sick leave under
19 AS 14.25.115.

20 * Sec. 27. AS 39.35.35(c) is amended to read:

21 (c) Credited service for which contributions were refunded is not creditable
22 under this section [UNLESS THE REFUNDED CONTRIBUTIONS HAVE BEEN
23 REPAYED. FOR PURPOSES OF (a) AND (b) OF THIS SECTION, A MEMBER OR
24 FORMER MEMBER DOES NOT HAVE TO BE REEMPLOYED UNDER THIS
25 PLAN IN ORDER TO PAY REFUNDED CONTRIBUTIONS. COMPOUND
26 INTEREST AT THE RATE PRESCRIBED BY REGULATION SHALL BE ADDED
27 TO THE REINSTATEMENT INDEBTEDNESS FROM THE DATE OF THE
28 REFUND TO THE DATE OF REPAYMENT].

29 * Sec. 28. AS 39.35.522(d) is amended to read:

30 (d) A ruling of the [THE] commissioner of administration denying a waiver
31 under this section may be appealed under AS 44.64. The administrative law

1 judge may reverse the ruling of the commissioner and may impose equitable
2 conditions on the granting of a waiver [WHICH IT CONSIDERS EQUITABLE].
3 These conditions may include requiring the member or beneficiary to make additional
4 contributions to the plan.

5 * Sec. 29. AS 39.35.680(3) is amended to read:

6 (3) "administrator" means [THE PERSON APPOINTED BY] the
7 commissioner of administration or the commissioner's designee appointed under
8 AS 39.35.003 [AS 39.35.050];

9 * Sec. 30. AS 39.35.750(e), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

10 (e) An employer shall make annual contributions to a trust account in the
11 plan in an amount determined by the board to be actuarially required to fully fund the
12 cost of providing occupational disability and occupational death benefits under
13 AS 39.35.890 and 39.35.892 and retirement benefits elected by disabled peace
14 officers and fire fighters under AS 39.35.890(h)(2). The contribution required under
15 this subsection for peace officers and fire fighters and the contribution required under
16 this subsection for other employees shall be separately calculated based on the
17 actuarially calculated costs for each group of employees.

18 * Sec. 31. AS 39.35.870(g), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

19 (g) An eligible person must make the irrevocable election to participate or not
20 participate in the retiree major medical insurance plan by reaching 70 1/2 years of age,
21 or upon application for retirement and medical benefits, whichever is later. The
22 administrator may require an eligible person who deferred participation in the
23 retiree major medical insurance plan at the time the person applied for
24 retirement to show evidence of insurability or provide a letter of coverage when
25 the person later applies to participate in the retiree major medical insurance
26 plan. If the person does not establish insurability or provide a letter of coverage,
27 the administrator may prohibit participation by the person in the retiree major
28 medical insurance plan.

29 * Sec. 32. AS 39.35.890(c), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

30 (c) If the disabled employee becomes ineligible to receive occupational
31 disability benefits before the normal retirement date, the disabled employee shall then

1 be entitled to receive retirement benefits if the employee would have been eligible for
2 the benefit had employment continued during the period of disability. The period of
3 disability constitutes membership service for the purposes of [IN REGARD TO]
4 determining vesting in employer contributions under AS 39.35.790(b) and
5 eligibility for retirement and medical benefits under this chapter and AS 39.30.300
6 - 39.30.495.

7 * Sec. 33. AS 39.35.890(d), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

8 (d) The monthly amount of an occupational disability benefit is 40 percent of
9 the disabled employee's gross monthly compensation at the time of termination due to
10 disability. An employee is not entitled to elect distributions from the employee's
11 individual contribution account under AS 39.35.810 while the employee is
12 receiving disability benefits under this section. While an employee is receiving
13 disability benefits, based on the disabled employee's gross monthly compensation at
14 the time of termination due to disability, the employer shall make contributions

15 (1) to the employee's individual account under AS 39.35.730 on behalf
16 of the employee, without deduction from the employee's disability payments; and

17 (2) on behalf of the employee under AS 39.35.750.

18 * Sec. 34. AS 39.35.890(g), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

19 (g) A disabled employee's occupational disability benefit terminates the last
20 day of the month [WHEN] the disabled employee first qualifies [ATTAINS
21 ELIGIBILITY] for normal retirement. At that time, the employee's retirement benefit
22 shall be determined under the provisions of AS 39.35.820 - 39.35.840, 39.35.870, and
23 39.35.880. An employee whose occupational disability benefit terminates under
24 this subsection [RECEIVING DISABILITY BENEFITS UP UNTIL ELIGIBILITY
25 FOR RETIREMENT] shall be considered to have retired directly from the plan.

26 * Sec. 35. AS 39.35.890(h), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

27 (h) Notwithstanding (g) of this section, at the time a peace officer or fire
28 fighter receiving occupational disability benefits under this section first attains
29 eligibility for normal retirement, the employee shall irrevocably elect to receive
30 retirement benefits in the amount calculated as the

31 (1) employee's retirement benefit calculated under the provisions of

1 AS 39.35.820 - 39.35.840; or

2 (2) employee's retirement benefit calculated as if the provisions of
3 AS 39.35.370(c) were to apply; however, retirement benefits paid under this paragraph
4 must be paid first from the peace officer's or fire fighter's individual contribution
5 account, and the remaining benefits must be paid from the trust account
6 established under AS 39.35.750(e); the peace officer or fire fighter may not elect
7 other distributions from the peace officer's or fire fighter's individual
8 contribution account under AS 39.35.810 while receiving retirement benefits
9 under this paragraph [MAY NOT BE MADE FROM THE TRUST FUND OF THE
10 PUBLIC EMPLOYEES' DEFINED BENEFIT RETIREMENT PLAN].

11 * Sec. 36. AS 39.35.890(k), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

12 (k) Upon the death of a disabled employee who is receiving or is entitled to
13 receive an occupational disability benefit, the administrator shall pay the surviving
14 spouse a surviving spouse's pension, equal to 40 percent of the employee's monthly
15 compensation at the termination of employment because of occupational disability. If
16 there is no surviving spouse, the administrator shall pay the survivor's pension in equal
17 parts to the dependent children of the employee. The first payment of the surviving
18 spouse's pension or of a dependent child's pension shall accrue from the first day of
19 the month following the employee's death and is payable the last day of the month.
20 The last payment shall be made the last day of [FOR] the last month in which there is
21 an eligible surviving spouse or dependent child, or the last day of the month
22 following the earliest date the employee would have first qualified for normal
23 retirement if the employee had survived, whichever day comes sooner. A
24 retirement benefit shall be determined under the provisions of AS 39.35.820 -
25 39.35.840, 39.35.870, and 39.35.880 based on [. ON] the date the employee would
26 have first qualified for normal retirement [OF THE EMPLOYEE WOULD HAVE
27 OCCURRED] if the employee had survived. For the purpose of determining
28 eligibility of an employee's survivor who is receiving a benefit under this
29 subsection for medical benefits under AS 39.35.870 - 39.35.880, an employee
30 [LIVED, THE RETIREMENT BENEFIT SHALL BE DETERMINED UNDER THE
31 PROVISIONS OF AS 39.35.820 - 39.35.840, 39.35.870, AND 39.35.880. AN

1 EMPLOYEE] who died while receiving disability benefits shall be considered to have
2 retired directly from the plan on the date the employee would have first qualified for
3 normal retirement if the employee had survived. The period during which the
4 employee was eligible for a disability benefit and the period during which a
5 survivor's pension is paid to a survivor under this subsection each constitute
6 membership service for the purposes of determining vesting in employer
7 contributions under AS 39.35.790(b) and eligibility for retirement and medical
8 benefits under this chapter and AS 39.30.300 - 39.30.495 [NORMAL
9 RETIREMENT OF THE EMPLOYEE WOULD HAVE OCCURRED IF THE

10 EMPLOYEE HAD LIVED].

11 * Sec. 37. AS 39.35.892(b), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

12 (b) The first payment of the surviving spouse's pension or of a dependent
13 child's pension shall be made for the month following the month in which the
14 employee dies. Payments [, AND PAYMENT] shall cease on the last day of the
15 month in which there is no longer an eligible spouse or eligible dependent child,
16 or the last day of the month following the earliest date [TO BE MADE
17 BEGINNING WITH THE MONTH IN WHICH] the employee would have first
18 qualified for normal retirement if the employee had survived, whichever day is
19 sooner.

20 * Sec. 38. AS 39.35.892(c), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

21 (c) The monthly survivor's pension in (b) of this section for survivors of
22 employees who were not peace officers or fire fighters is 40 percent of the employee's
23 monthly compensation in the month in which the employee dies. The monthly
24 survivor's pension in (b) of this section for survivors of employees who were peace
25 officers or fire fighters is 50 percent of the monthly compensation in the month in
26 which the employee dies. While the monthly survivor's pension is being paid, the
27 survivor is not entitled to elect distributions from the employee's individual
28 contribution account under AS 39.35.810, except as required by AS 39.35.840.
29 While the monthly survivor's pension is being paid, the employer shall make
30 contributions on behalf of the employee's surviving spouse and employee's
31 surviving dependent children [BENEFICIARIES] based on the deceased employee's

1 gross monthly compensation at the time of occupational death

2 (1) to the employee's individual account under AS 39.35.730, without
3 deduction from the survivor's pension; and

4 (2) to the appropriate accounts and funds under AS 39.35.750.

5 * Sec. 39. AS 39.35.892(e), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

6 (e) On the date the employee would have first qualified for normal
7 retirement [OF THE EMPLOYEE WOULD HAVE OCCURRED] if the employee
8 had survived [LIVED], the retirement benefit shall be determined under the
9 provisions of AS 39.35.820 - 39.35.840, 39.35.870, and 39.35.880. An employee who
10 died and whose survivors receive occupational death benefits under this section shall
11 be considered to have retired directly from the plan on the date the [NORMAL
12 RETIREMENT OF THE] employee would have first qualified for normal
13 retirement [OCCURRED] if the employee had survived. The period of time during
14 which a survivor's pension is paid under this section constitutes membership
15 service for the purposes of determining vesting in employer contributions under
16 AS 39.35.790(b) and eligibility for retirement and medical benefits under this
17 chapter and AS 39.30.300 - 39.30.495 [LIVED].

18 * Sec. 40. AS 39.35.940(d), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

19 (d) Upon a transfer, all membership service previously earned under the
20 defined benefit retirement plan shall be nullified for purposes of entitlement to a future
21 benefit under the defined benefit retirement plan but shall be credited for purposes of
22 determining vesting in employer contributions under AS 39.35.790(b) and
23 eligibility to elect medical benefits under AS 39.35.870. Membership service allowed
24 for credit toward medical benefits does not include any service credit purchased for
25 employment by an employer who is not a participating employer in this chapter.

26 * Sec. 41. AS 39.35.940(h), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

27 (h) An employee who is eligible to elect transfer to the defined
28 contribution plan must make the election not later than 12 months after the
29 employee's employer notifies the administrator that the employee's employer
30 consents to transfers of its employees under (i) of this section. The election to
31 participate in the defined contribution retirement plan must be made in writing on

1 forms and in the manner prescribed by the administrator. Before accepting an election
2 to participate in the defined contribution retirement plan, the administrator must
3 provide the employee planning on making an election to participate in the defined
4 contribution retirement plan with information, including calculations to illustrate the
5 effect of moving the employee's retirement plan from the defined benefit retirement
6 plan to the defined contribution retirement plan as well as other information to clearly
7 inform the employee of the potential consequences of the employee's election. An
8 election made under this subsection to participate in the defined contribution
9 retirement plan is irrevocable. Upon making the election, the participant shall be
10 enrolled as a member of the defined contribution retirement plan, the member's
11 participation in the plan shall be governed by the provisions of AS 39.35.700 -
12 39.35.990, and the member's participation in the defined benefit retirement plan under
13 AS 39.35.115 shall terminate. The participant's enrollment in the defined contribution
14 retirement plan shall be effective the first day of the month after the administrator
15 receives the completed enrollment forms. An election made by an eligible member
16 who is married is not effective unless the election is signed by the individual's spouse.

17 * Sec. 42. AS 39.35.940(i), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

18 (i) A member may make an election under this section only if the member's
19 employer participates in both the defined benefit retirement plan and the defined
20 contribution retirement plan and consents to transfers under this section. The employer
21 shall notify the administrator if the employer consents to allowing the employer's
22 members to choose to transfer from the defined benefit retirement plan to the defined
23 contribution retirement plan under this section. The initial period during which the
24 employer's members may choose to transfer commences on the first day of the
25 month following the administrator's receipt of notice under this subsection and
26 continues for 12 months. An employer may consent to a second period of 12
27 months during which the employer's members may choose to transfer from the
28 defined benefit retirement plan to the defined contribution retirement plan under
29 this section. The second period commences on the first day of the month
30 following the administrator's receipt of notice under this subsection and
31 continues for 12 months. An employer's notice to allow transfers is irrevocable and

1 applicable to all eligible employees of the employer.

2 * Sec. 43. AS 39.35.940(j), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended by
3 adding a new paragraph to read:

4 (3) "membership service" means service with a participating employer
5 under AS 39.35.095 - 39.35.680 for which contributions have been paid and does not
6 include any service for which reinstatement indebtedness has not been fully paid.

7 * Sec. 44. AS 39.35.990(16), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to
8 read:

9 (16) "member" or "employee" means a person who is eligible to
10 participate in the plan and who is covered by [AN EMPLOYEE OF AN
11 EMPLOYER OR FORMER EMPLOYEE OF AN EMPLOYER WHO RETAINS A
12 RIGHT TO BENEFITS UNDER] the plan, but does not include full-time or part-time
13 instructors of the Department of Labor and Workforce Development and the
14 Department of Education and Early Development in positions that require a
15 teaching certificate;

16 * Sec. 45. AS 39.35.990(20), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to
17 read:

18 (20) "peace officer" or "fire fighter" means an employee occupying a
19 position as a peace officer, chief of police, regional public safety officer,
20 correctional officer, correctional superintendent, fire fighter, fire chief, or
21 probation officer, but does not include a village public safety officer employed by
22 a village public safety officer program established under AS 18.65.670 [HAS THE
23 MEANING GIVEN IN AS 39.35.680];

24 * Sec. 46. AS 39.45 is amended by adding a new section to read:

25 Sec. 39.45.055. Appeals. A final decision made under AS 39.45.010 -
26 39.45.060 is subject to appeal under AS 44.64. The final decision under AS 44.64 is
27 delegated to the administrative law judge and shall issue within 180 days after the date
28 the administrator receives the appeal, unless the administrative law judge and all
29 parties agree to another time.

30 * Sec. 47. AS 44.64.030(a) is amended by adding new paragraphs to read:

31 (36) AS 14.25.175 (waiver of adjustments under teachers' defined

1 benefit plan);

2 (37) AS 39.30.165 (supplemental benefits system);

3 (38) AS 39.30.335 (teachers' and public employees' health
4 reimbursement arrangement plan);

5 (39) AS 39.35.522 (waiver of adjustments under public employees'
6 defined benefit plan)

7 (40) AS 39.45.055 (public employees' deferred compensation
8 program).

9 * Sec. 48. AS 14.25.045, 14.25.070(b), 14.25.570; AS 39.35.050(a), and 39.35.270(b) are
10 repealed.

11 * Sec. 49. AS 39.35.375(f) is repealed July 1, 2010.

12 * Sec. 50. The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 EMPLOYER CONTRIBUTIONS FOR OCCUPATIONAL DISABILITY AND
15 OCCUPATIONAL DEATH BENEFITS IN THE TEACHERS' DEFINED CONTRIBUTION
16 RETIREMENT PLAN FOR THE FIRST FISCAL YEAR THE PLAN IS IN EFFECT.
17 Notwithstanding AS 14.25.350(e), added by sec. 4 of this Act, for the first fiscal year in which
18 the teachers' defined contribution retirement plan is in effect, the employer contribution to
19 fully fund the cost of providing occupational disability and occupational death benefits under
20 AS 14.25.485 and 14.25.487 shall be equal to 0.22 percent of the amount of compensation
21 paid to all teachers who work for the employer in that year and are members of the plan.

22 * Sec. 51. Sections 2 and 25 of this Act take effect July 1, 2008.

23 * Sec. 52. Sections 3, 26, and 27 of this Act take effect on July 1, 2010. .

24 * Sec. 53. Except as provided in secs. 51 and 52 of this Act, this Act takes effect July 1,
25 2006.

AMENDMENT # / Passes

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 475() Work Draft "Y"

Page 5, following line 8:

Insert new bill sections to read:

* **Sec. 10.** AS 14.25. is amended by adding new sections to read:

Sec. AS 14.25.486. Disability benefit adjustment. (a) Once each year, the administrator shall increase disability benefits. The amount of the increase is a percentage of the current disability benefit equal to the lesser of 75 percent of the increase of the cost of living in the preceding calendar year or nine percent.

(b) If a disabled member was not receiving a benefit during the entire preceding calendar year, the increase in the benefit under this section shall be adjusted by multiplying it by a fraction, the numerator of which is the number of months for which the benefit was received in the preceding calendar year and the denominator of which is 12.

(c) An increase in benefit payments under this section is effective July 1 of each year and is based on the percentage increase in the consumer price index for urban wage earners and clerical workers for Anchorage, Alaska during the previous calendar year as determined by the United States Department of Labor, Bureau of Labor Statistics.

(d) Benefit adjustments under this section shall terminate the last day of the month following the date in which a disabled member is no longer receiving a disability benefit under AS 14.25.485.

Sec. AS 14.25.488. Survivor's pension adjustment. (a) Once each year, the administrator shall increase payments to persons age 60 or older receiving a survivor's pension under AS 14.25.485(i) or AS 14.25.487(c) and to persons who have received a survivor's pension under AS 14.25.485(i) or AS 14.25.487(c) for at least 8 years who are not otherwise eligible for an increase under this section.

(b) The amount of the increase is a percentage of the current survivor's pension equal to the lesser of 50 percent of the increase in the cost of living in the preceding calendar year or six percent.

(c) If a survivor was not receiving a pension during the entire preceding calendar year, the increase in the survivor's pension under this section shall be adjusted by multiplying it by a fraction, the numerator of which is the number of months for which the pension was received in the preceding calendar year and the denominator of which is 12.

(d) The administrator shall increase the initial survivor's pension paid to a survivor of a member who died while receiving disability benefits by a percentage equal to the total cumulative percentage that has been applied to the member's disability benefit under AS 14.25.486.

(e) An increase in benefit payments under this section is effective July 1 of each year and is based on the percentage increase in the consumer price index for urban wage earners and clerical workers for Anchorage, Alaska during the previous calendar year as determined by the United States Department of Labor, Bureau of Labor Statistics.

(f) Pension adjustments under this section shall terminate the last day of the month following the date in which a survivor is no longer receiving a survivor's pension under AS 14.25.485(i) or AS 14.25.487(e).

Sec. AS 14.25.489. Premiums for retiree major medical insurance coverage upon termination of disability benefits or survivor's pension. The premium for retiree major medical insurance coverage payable by a member whose disability benefit is terminated under AS 14.25.485(g) or by an eligible survivor whose survivor pension is terminated under AS 14.25.485(i) or AS 14.25.487(e) when the member would have been eligible for normal retirement if the member had survived shall be determined under AS 14.25.480(g)(2) as if the member or survivor were eligible for Medicare.

Renumber the following bill sections accordingly.

AMENDMENT # 2 Pass

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 475() Work Draft "Y"

Page 14, following line 10:

Insert new bill sections to read:

* **Sec. 37.** AS 39.35 is amended by adding new sections to read:

Sec. AS 39.35.391. Disability benefit and disabled peace officer or fire fighter retirement benefit adjustment. (a) Once each year, the administrator shall increase disability benefits and retirement benefits elected by disabled peace officers or firefighters under AS 39.35.890(h)(2). The amount of the increase is a percentage of the current disability benefit or retirement benefit equal to the lesser of 75 percent of the increase of the cost of living in the preceding calendar year or nine percent.

(b) If a disabled member was not receiving a benefit during the entire preceding calendar year, the increase in the benefit under this section shall be adjusted by multiplying it by a fraction, the numerator of which is the number of months for which the benefit was received in the preceding calendar year and the denominator of which is 12.

(c) If a disabled peace officer or fire fighter elects to receive a retirement benefit in the amount calculated under AS 39.35.890(h)(2), the administrator shall, at the time the disabled peace officer or firefighter is appointed to retirement, increase the retirement benefit by a percentage equal to the total cumulative percentage that has been applied to the disabled peace officer's or fire fighter's disability benefit under this section.

(d) An increase in benefit payments under this section is effective July 1 of each year and is based on the percentage increase in the consumer price index for urban wage earners and clerical workers for Anchorage, Alaska during the previous calendar year as determined by the United States Department of Labor, Bureau of Labor Statistics.

(e) Benefit adjustments under this section shall terminate the last day of the month following the date in which a disabled member is no longer receiving a disability benefit under AS 39.35.890 unless the member is a disabled peace officer or fire fighter and has chosen a retirement benefit under AS 39.35.890(h)(2).

Sec. AS 39.35.893. Survivor's pension adjustment. (a) Once each year, the administrator shall increase payments to persons age 60 or older receiving a survivor's pension under AS 39.35.890(k) or AS 39.35.892(c) and to persons who have received a survivor's pension under AS 39.35.890(k) or AS 39.35.892(c) for at least 5 years who are not otherwise eligible for an increase under this section.

(b) The amount of the increase is a percentage of the current survivor's pension equal to the lesser of 50 percent of the increase in the cost of living in the preceding calendar year or six percent.

(c) If a survivor was not receiving a pension during the entire preceding calendar year, the increase in the survivor's pension under this section shall be adjusted by multiplying it by a fraction, the numerator of which is the number of months for which the pension was received in the preceding calendar year and the denominator of which is 12.

(d) The administrator shall increase the initial survivor's pension paid to a survivor of a member who died while receiving disability benefits by a percentage equal to the total cumulative percentage that has been applied to the member's disability benefit under AS 39.35.891.

(e) An increase in benefit payments under this section is effective July 1 of each year and is based on the percentage increase in the consumer price index for urban wage earners and clerical workers for Anchorage, Alaska during the previous calendar year as determined by the United States Department of Labor, Bureau of Labor Statistics.

(f) Pension adjustments under this section shall terminate the last day of the month following the date in which a survivor is no longer receiving a survivor's pension under AS 39.35.890(k) or AS 39.35.892(e).

Sec. AS 39.35.894. Premiums for retiree major medical insurance coverage upon termination of disability benefits or survivor's pension. The premium for retiree major medical insurance coverage payable by an employee whose disability benefit is terminated under AS 39.35.890(g) or by an eligible survivor whose survivor pension is terminated under AS 39.35.890(k) or AS 39.35.892(e) when the employee would have been eligible for normal retirement if the employee had survived shall be determined under AS 39.35.880(g)(2) as if the employee or survivor were eligible for Medicare.

Renumber the following bill sections accordingly.

AMENDMENT #3 Passed

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 475() Work Draft "Y"

Page 10, following line 2:

Insert new bill sections to read:

**** Sec. 25.** AS 39.35.250(a) is amended to read:

(a) An employer shall make contributions to the plan in amounts determined in accordance with this section. For the purposes of this section, the past service date for each employer is the entry date of the employer or December 31, 1972, whichever is later. After December 31, 1972, if amendments to AS 39.35.095 - 39.35.680 are enacted that substantially affect benefits accrued before the effective date of the amendment, the past service date will be changed to December 31 of the year immediately preceding that in which the amendment is enacted. The contribution rate is the sum of the consolidated employer normal cost rate and the past service rate as certified by the board.

*** Sec. 26.** AS 39.35.250(b) is amended to read:

(b) In (a) of this section, "consolidated employer normal cost rate" means the percentage of compensation of all active employees in the plan which, if paid over the period of [THEIR] credited service of active employees in the plan after the [THEIR] past service date and when combined with all employee contributions to the plan, is sufficient to provide the benefits earned after such past service dates. This percentage is [UNIFORMLY] determined at the plan level for all employers and is applicable to each employer.

* Sec. 27. AS 39.35.250(c) is amended to read:

(c) In (a) of this section, "past service rate" means the percentage of compensation of all active employees in the system [PLAN] necessary to provide the annual amount required to amortize the unfunded obligations of the employer for benefits earned by the employer's members in the plan before the [EMPLOYER'S PAST SERVICE DATE] date of the last actuarial valuation over a period not to exceed [40 YEARS] the maximum allowed by the governmental accounting standards board. [THE PERIOD OF AMORTIZATION BEGINS AT THE PAST SERVICE DATE OF EACH EMPLOYER.] The percentage is separately determined for each employer.

* Sec. 28. AS 39.35.270 (a) is amended to read:

(a) The amount of each employer's contributions shall be determined by applying the [EMPLOYER'S CONTRIBUTION] consolidated employer normal cost rate [,AS CERTIFIED BY THE BOARD,] to the total compensation paid to the employer's active employees of the [EMPLOYER] plan and by applying the employer's past service rate to the total compensation paid to the employer's active employees in the system for each payroll period [AND BY], including any adjustments to contributions required by AS 39.35.520 (a). This amount shall be remitted by the employer to the administrator in accordance with AS 39.35.610."

Renumber the following bill sections accordingly.

Reason: The current statutes defining contributions by employers calculate the contribution rates as a percentage of the "compensation of all active employees in the plan." The "plan" is defined as the retirement plan established under AS 39.35.095-39.35.680, or the DB plan. This amendment allows for the normal cost rate to be applied to the payroll base of the employer's DB plan members and the past service rate to be applied to the payroll base of all the employer's members in the system, thus keeping employer contribution rates for the DB plan lower than would otherwise be calculated.

Consequence: Employer rates for past service costs under the DB plan will continue to rise as the amortized liability is applied to a shrinking payroll paid to members of the DB plan. However, this will neither increase the employers liability nor will it relieve the employers of the liability, it merely restates the liability as a higher percentage of applicable payroll.

AMENDMENT # 4 *Passes*

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 475() Work Draft "Y"

Page 2, following line 11:

Insert new bill sections to read:

**** Sec. 2.** AS 14.25.070(a) is amended to read:

(a) An employer shall make contributions to the plan in accordance with this section and as certified by the board in an amount sufficient, after subtracting member contributions, to provide the benefits of AS 14.25.009 - 14.25.220. The amount shall be calculated by applying the normal cost rate to the sum total of the base salaries paid to members in the plan and by applying the past service rate to the sum total of the base salaries paid to members in the system [AN EMPLOYER CONTRIBUTION RATE, CERTIFIED BY THE BOARD, AGAINST THE SUM TOTAL OF THE BASE SALARIES PAID TO MEMBERS], including any adjustments to contributions required by as 14.25.173(a). This amount shall be remitted by the employer to the administrator in accordance with AS 14.25.065.

*** Sec 3.** AS 14.25.070 is amended by adding a new section to read:

(c) In (a) of this section, "normal cost rate" means the percentage of compensation of all active members in the plan which, when combined with the member contribution rate of active members in the plan, is sufficient to provide the benefits which are expected to be credited with respect to service during the year beginning after the last valuation date. This percentage is uniformly determined for all employers and is applicable to each employer.

* **Sec 4.** AS 14.25.070 is amended by adding a new section to read:

(d) In (a) of this section, "past service rate" means the percentage of compensation of all active members in the system necessary to provide the annual amount required to amortize the unfunded obligations of the employers for benefits earned by members in the plan before the date of the last actuarial valuation over a period not to exceed the maximum period allowed by the governmental accounting standards board. This percentage is uniformly determined for all employers and is applicable to each employer."

Renumber the following bill sections accordingly.

Reason: The statutes defining contributions by employers reference contributions to the "plan," and specify that the employer contribution rate will be applied to the salaries paid to "members." The "plan" is defined as the retirement plan established under AS 14.25.009-14.25.220, or the DB plan. A member in the DB plan is defined as "a person eligible to participate in the plan and who is covered by the plan....". This amendment allows for the normal cost rate to be applied to the payroll base of the employer's DB plan members and the past service rate to be applied to the payroll base of all the employer's members in the system, thus keeping employer contribution rates for the DB plan lower than would otherwise be calculated.

Consequence: Employer rates for past service costs under the DB plan will continue to rise as the amortized liability is applied to a shrinking payroll paid to members of the DB plan. However, this will neither increase the employers liability nor will it relieve the employers of the liability, it merely restates the liability as a higher percentage of applicable payroll.

AMENDMENT #5 *Pass*

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 475() Work Draft "Y"

Page 2, line 27, following "plan":

Insert: ", applied as a percentage of compensation paid to members in the plan from July 1 to the following June 30,"

Page 11, line 11, following "plan":

Insert: ", applied as a percentage of compensation paid to employees in the plan from July 1 to the following June 30,"

Page 18, following line 21:

Insert new bill section to read:

"Sec. 51. Sec. 134 of ch.9, FSSLA 2005, is amended to read:

Sec. 134. The uncodified law of the State of Alaska is amended by adding a new section to read:

EMPLOYER CONTRIBUTIONS FOR OCCUPATIONAL DISABILITY AND DEATH BENEFITS IN THE PUBLIC EMPLOYEES' DEFINED CONTRIBUTION RETIREMENT PLAN FOR THE FIRST FISCAL YEAR THE PLAN IS IN EFFECT.

Notwithstanding AS 39.35.750(e), added by sec. 122 of this Act, for the first fiscal year in which the public employees' defined contribution retirement plan is in effect, the employer contribution to fully fund the cost of providing occupational disability and occupational death benefits under AS 39.35.890 and 39.35.892 shall be equal to

(1) 0.4 percent of the compensation for peace officers and fire fighters who are members in the plan; and

(2) 0.3 percent of the compensation for all other employees who are members in the plan."

Renumber the following bill sections accordingly.

CONCEPTUAL AMENDMENT # 6 *pas*

OFFERED IN THE HOUSE

BY REPRESENTATIVE SEATON

TO: CSHB 475() Work Draft "Y"

Page 17, following line 15:

Insert new bill sections to read:

**** Sec. 45.** AS 39.35 is amended by adding new sections to read:

Sec. 39.35.957. Designation of eligible employees, agreement to contribute, and amendment of participation. (a) A political subdivision or public organization shall designate the departments, groups, or other classifications of employees eligible to participate in the plan, and shall agree to make contributions each year in the amounts required for members of the plan under AS 39.35.750.

(b) If the employer does not participate in the defined benefit retirement plan under AS 39.35.095-39.35.680, an employee who is eligible under (a) of this section and who is a member of the defined benefit retirement plan under AS 39.35.095 – 39.35.680 shall not accrue credited service or make contributions under that plan, but shall be a member of the defined contribution retirement plan under AS 39.35.700-39.35.990 and make contributions under that plan.

(c) An employer may request to amend its participation in the plan to add or exclude departments, groups, or other classifications of employees by filing a resolution as provided by AS 39.35.950 or AS 39.35.955 with the administrator.

Sec. 39.35.958. Termination of participation in the plan. (a) A political subdivision or public organization may request that its participation in the plan be terminated. The request may be made only after adoption of a resolution by the legislative body of the political subdivision and approval of the resolution by the person required by law to approve the resolution, or, in the case of a public organization, after adoption of a resolution by the governing body of that public organization. A certified copy of the resolution shall be filed with the administrator.

(b) If contributions are not transmitted to the plan within the prescribed time limit, the commissioner of administration may grant an extension and shall assess interest on the outstanding contributions at the rate established under AS 39.35.610. If the political subdivision or public organization is in default at the end of the extension, participation in the plan is terminated, and it shall be sent notice of termination.

(c) When an employer's participation in the plan is terminated, or when an employer terminates coverage of a department, group, or other classification of employees under AS 39.35.957(c), the administrator shall assess the employer an amount that the administrator determines is actuarially required to fully fund the costs to the plan for employees whose coverage is terminated, including the cost of providing the employer's share of retiree health benefits under AS 39.35.880, occupational disability and occupational death benefits under AS 39.35.890 and 39.35.892, and retirement benefits elected under AS 39.35.890(h)(2).

(d) An employee whose coverage under the plan is terminated as a result of termination of an employer's participation under this section or amendment of the employer's agreement under AS 39.35.957(c) shall be considered fully vested in employer contributions under AS 39.35.790(b) and in the individual account established for the employee under AS 39.30.370. If the employee is later employed with a participating employer, the employee's membership service earned under the plan during employment with a terminated employer shall be credited for purposes of determining vesting in employer contributions under AS 39.35.790(b) and eligibility for retirement and medical benefits under this chapter and AS 39.30.300-39.35.495."

By Bruening

CONCEPTUAL AMENDMENT # 7
TO HB475 (STA) "y" version → FAILS 24.LS1356A

SENATE BILL NO. 293

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY SENATOR ELTON

Introduced: 2/14/06
Referred: State Affairs, Finance

- Rm - No
- Gov - yes
- Grue - yes
- G.H. - No
- Elk - No
- Lyn - yes
- Sch - no

A BILL

FOR AN ACT ENTITLED

Change title as necessary

1 "An Act relating to the teachers' and public employees' retirement systems and creating
 2 defined contribution and health reimbursement plans for members of the teachers'
 3 retirement system and the public employees' retirement system who are first hired after
 4 July 1, 2008; providing for an effective date by amending the effective date section of
 5 sec. 148, ch. 9, FSSLA 2005~~x~~ and providing for an effective date."

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

Add the following sections to the bill - insert in appropriate places

7 * Section 1. AS 14.25.009 is amended to read:
 8 Sec. 14.25.009. Applicability of AS 14.25.009 - 14.25.220. The provisions of
 9 AS 14.25.009 - 14.25.220 apply only to members first hired before July 1, 2008
 10 [2006].
 11 * Sec. 2. AS 14.25.012(c) is amended to read:
 12 (c) Employees first hired after June 30, 2008 [2006], are not eligible to
 13 participate in the plan established in AS 14.25.009 - 14.25.220.

1 * **Sec. 3.** AS 14.25.310 is amended to read:

2 **Sec. 14.25.310. Applicability of AS 14.25.310 - 14.25.590.** The provisions of
3 AS 14.25.310 - 14.25.590 apply only to teachers who first become members on or
4 after July 1, 2008 [2006], or to members who transfer into the defined contribution
5 plan under AS 14.25.540.

6 * **Sec. 4.** AS 14.25.320(b) is amended to read.

7 (b) The defined contribution retirement plan includes a plan in which savings
8 are accumulated in an individual account for the exclusive benefit of the member or
9 beneficiaries. The plan is established effective July 1, 2008 [2006], at which time
10 contributions by employers and members begin.

11 * **Sec. 5.** AS 14.25.330(a) is amended to read:

12 **Sec. 14.25.330. Membership.** (a) A teacher who first becomes a member on or
13 after July 1, 2008 [2006], shall participate in the plan as a member of the defined
14 contribution retirement plan.

15 * **Sec. 6.** AS 39.30.300 is amended to read:

16 **Sec. 39.30.300. State of Alaska Teachers' and Public Employees' Retiree**
17 **Health Reimbursement Arrangement Plan established.** The State of Alaska
18 Teachers' and Public Employees' Retiree Health Reimbursement Arrangement Plan is
19 established for teachers who first become members of the defined contribution plan of
20 the teachers' retirement system under AS 14.25.310 - 14.25.590 on or after July 1,
21 2008 [2006], and employees of the state, political subdivisions of the state, and public
22 organizations of the state who first become members of the defined contribution plan
23 of the public employees' retirement system under AS 39.35.700 - 39.35.990 on or after
24 July 1, 2008 [2006].

25 * **Sec. 7.** AS 39.30.310(b) is amended to read:

26 (b) The plan becomes effective July 1, 2008 [2006], at which time
27 contributions by employers begin.

28 * **Sec. 8.** AS 39.35.095 is amended to read:

29 **Sec. 39.35.095. Applicability of AS 39.35.095 - 39.35.680.** The following
30 provisions of this chapter apply only to members first hired before July 1, 2008
31 [2006]: AS 39.35.095 - 39.35.680.

1 * **Sec. 9.** AS 39.35.700 is amended to read:

2 **Sec. 39.35.700. Applicability of AS 39.35.700 - 39.35.990.** The provisions of
3 AS 39.35.700 - 39.35.990 apply only to members first hired on or after July 1, 2008
4 [2006], or to members who transfer into the defined contribution plan under
5 AS 39.35.940.

6 * **Sec. 10.** AS 39.35.710(b) is amended to read:

7 (b) The defined contribution retirement plan is a plan in which savings are
8 accumulated in an individual retirement account for the exclusive benefit of the
9 member or beneficiaries. The plan is established effective July 1, 2008 [2006], at
10 which time contributions by employers and members begin.

11 * **Sec. 11.** AS 39.35.720 is amended to read:

12 **Sec. 39.35.720. Membership.** An employee who becomes a member on or
13 after July 1, 2008 [2006], shall participate in the plan set out in AS 39.35.700 -
14 39.35.990.

15 * **Sec. 12.** AS 39.35.750(c) is amended to read:

16 (c) Notwithstanding (b) of this section, the employer contribution for retiree
17 major medical insurance for fiscal year 2009 [2007] shall be 1.75 percent of each
18 member's compensation from July 1 to the following June 30.

19 ***Sec. 11.** Section 148, ch. 9, FSSLA 2005, is amended to read:

20 Sec. 148. Sections 2, 8, 25, 40, 46, 61, 69, 80, 82, 122, and 134 of this Act take
21 effect July 1, 2008 [2006].

22 * **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 **CONDITIONAL RETROACTIVITY.** If secs. 1 - 13 of this Act take effect after
25 July 1, 2006, secs. 1 - 13 of this Act are retroactive to July 1, 2006.

26 (~~* Sec. 14.~~ *These sections shall* This Act take effect immediately under AS 01.10.070(c).)

Consolidated Sectional Analysis for HB 475

1. Clarifies the procedure for an appeal to the Office of Administrative Hearings (OAH)

Sec. 1, Sec. 19, Sec. 24, Sec. 28, Sec. 46, Sec. 47, Sec. 20

Change: Changes the time the OAH has to issue a decision on appeals from 120 to 180 days. Adds the Supplemental-benefit-annuity Plan (SBS), Health Reimbursement Arrangement (HRA) Plan, Deferred Compensation Plan, and waivers of adjustment under the PERS and TRS Defined Benefit (DB) plans to the jurisdiction of the OAH. Gives members the authority to appeal the administrator's decision to the OAH.

Reason: 120 days was not sufficient time to issue a decision on an appeal. SB 141 transferred appeals from the TRS and PERS boards to OAH. These changes are necessary to give all applicable appellants the authority to appeal to the OAH.

2. Requires employers to contribute at least the normal cost rate starting in 2008

Sec. 2, Sec. 25, Sec. 48, Sec. 51

Change: Repeals the provision in SB 141 that establishes a floor on employer contributions and reinserts it with a delayed effective date (2008).

Reason: A handful of communities have assets that exceed their liabilities. By delaying the effective date they have a few years to contribute below the normal cost rate so their assets can match their liabilities before the minimum normal cost contribution rate will be required.

3. Changes the requirements to receive a conditional service benefit and a public service benefit.

Sec. 3, Sec. 26, Sec. 27, Sec. 49, Sec. 52

Change: Removes the provision that allows PERS and TRS employees to repay refunded contributions for the purpose of obtaining a conditional/ public service benefit with a delayed effective date (2010).

Reason: Right now a member who refunded out of one plan (TRS or PERS) could qualify for retirement benefits in the other plan. By paying back a minimum of 2 years of indebtedness in the first plan a person could be eligible for a pension and medical benefit in *both* plans. Also, currently any member that has refunded out of the system can re-enter employment, pay back their indebtedness, and become a member of the Tier they belonged to at the time of employment. This represents a significant unknown liability to the system. The above change gives former PERS/TRS members four years to re-enter employment and payback their service.

4. Clarifies provisions regarding PERS/TRS death and disability benefits, including how those benefits will be funded.

4a. Funding death and disability benefits

Sec. 4, Sec. 30, Sec. 50 Amendment 5

Change: Establishes that the amount an employer needs to contribute for death and disability benefits will be actuarially calculated each year and placed into a separate trust account, except for the first year when contributions for police/fire will be .4%, PERS others .3% and TRS .22%.

Reason: If death and disability are not funded it creates an unfunded liability to the system. All employers need to pay into a system wide trust so the benefit is not a liability to each employer individually.

4b. The structure of death and disability benefits

Sec. 6, Sec. 7, Sec. 8, Sec. 32, Sec. 33, Sec. 34, Sec. 35, Amendment 1, Amendment 2

Change: A period spent receiving disability benefits counts as membership service towards vesting. A member is not allowed to take money out of their DC account while receiving disability benefits. Disability benefits terminate when the member first qualifies for normal retirement. However, a member who becomes eligible for normal retirement while receiving disability will be treated as if they were Medicare eligible age for the purpose of qualifying for retiree medical benefits. Death and disability benefits for PERS and TRS members mirror current Tier III benefits. Upon reaching normal retirement age, a disabled police/fire or survivor may choose either their DC account or a pension benefit as if they were in Tier III. If they elect to have their retirement in a monthly pension, the pension will first be paid out of the members individual DC trust account.

Reason: Details of death and disability benefits were not provided in SB 141. These changes clarify the intent of the legislature last year to provide death and disability benefits for all members.

4c. Survivor benefits

Sec. 9, sec. 10, Sec. 11, Sec. 36, Sec. 37, sec. 38, Sec. 39

Change: Clarifies that a survivor's benefit terminates when the beneficiary is no longer eligible or the deceased member would have reached normal retirement. A period spent receiving death benefits counts as membership service for vesting purposes. A survivor is not allowed to take money out of the deceased member's DC account while receiving survivor benefits.

5. Clarifies the eligibility requirements for medical benefits.

Sec. 5, Sec. 22, Sec. 23, Sec. 31

Change: Requires someone who originally declined to participate in the retiree major medical and later so wishes must provide a letter that proves they have had continuous coverage or demonstrate proof of insurability. Clarifies that a member has access to their Health Reimbursement Arrangement (HRA) without retiring directly from the system. Fixes a drafting error that requires a member to meet eligibility requirements for both PERS and TRS to qualify for the HRA.

6. Clarifies requirements for non-vested Tier II or Tier III employees who wish to transfer to Tier IV

Sec. 13, Sec. 14, Sec. 15, Sec. 16, Sec. 40, Sec. 41, Sec. 42, Sec. 43

Change: Gives employees 12 months from when they are notified that they can transfer from the DB plan to the DC plan to do so. Allows employers to open the transfer option up to employees for a second 12-month period. Clarifies that membership service under a DB plan counts towards vesting once you transfer to the DC plan. However, refunded service by a member will not count towards vesting unless the member has paid back the indebtedness.

7. Clarifies the basis for calculating employer contribution rates

Amendment 3, Amendment 4

Change: Specifies that the past service cost will be applied to the employer's entire wage base.

Reason: Even though DC members do not have a past service cost, all of the previous calculations and analysis use the entire wage base to calculate the past service cost payment as a percentage rate. Though the dollar contributions would remain the same, without this the past service cost rate would escalate to over 100% for DB members. This change provides consistency.

8. Gives regulatory authority to the appropriate party

Sec. 17, Sec. 18

Change: Changes the authority for adopting SBS regulations from the ARM board to the Commissioner of Administration.

Reason: In the transfer of authorities under SB 141, this section was overlooked.

9. Changes the basis for calculating HRA contributions to meet IRS tax qualified status

Sec. 21

Change: Changes the basis for calculating the 3% employer contribution for the HRA from the wage base of each individual employer to the wage base of the plan.

Reason: Without this change there is discrimination in the plan and it would not qualify for IRS tax exempt status.

10. Definitions

Sec. 29, Sec. 45, Sec. 48

Change: Repeals duplicative section regarding the definition of administrator. Provides a clear definition of peace officer and fire fighter under the DC plan.

11. Disallows employment with National Education Association (NEA) as counting towards Tier IV retirement eligibility

Sec. 48

Change: Repeals participation of NEA employees in TRS.

Reason: NEA is no longer an eligible TRS employer, however, statutes were duplicated during the drafting of SB 141 and this section was inadvertently included.

12. Establishes provisions for employer termination

Amendment

Establishes the procedure for employer termination in the DC plan, mirroring DB language. An employer can choose to terminate participation for subgroups of its employees. When the employer terminates the employee is considered fully vested in the employer and employee contributions and the HRA. A new employer may choose to participate only in the DC plan.

Reason: Currently employers can terminate participation in the Tier I, II and III plans, however no provisions were included in SB 141 to allow employer termination from the Tier IV plan.

Committee Substitute for House Bill 475() Work Draft \Y

Sectional Analysis

Sec. 1 AS 14.25.006. Changes the statutory deadline for a decision by the Office of Administrative Hearings on TRS appeals from 120 days to 180 days.

Reason: This change is specific to appeals from decisions of the TRS administrator. Prior to SB 141, there were no statutory time limits for appeals and cases could take as long as 18 months to resolve. However, 120 days is simply insufficient time, especially in disability appeals which often involve complex evidentiary issues that must be developed on appeal, and in which scheduling of proceedings can revolve around the availability of medical witnesses.

Consequence: The office of administrative hearings may consider the statutory deadlines to be "directory" rather than "mandatory." However, because of the pressure to meet the deadlines, the consequence of not providing a longer time for issuance of a decision in TRS appeals is that cases may proceed without adequate development, with resulting impacts on TRS trust funds.

Related bill sections: Sec. 24, AS 39.35.006.

Sec. 2 AS 14.25.070(d). Establishes a floor on the employer contribution rate at no less than the normal cost rate, effective July 1, 2008.

Reason: This change, combined with the repeal of AS 14.25.070(b) and the effective date in Sec. 51, delays the effective date of the requirement of SB 141 that the employer contribution rate must be not less than the normal cost rate.

Related bill sections: Sec. 25, AS 39.35.270(d).

Sec. 3 AS 14.25.125(c). Effective July 1, 2010, removes the provision that allows members to repay refunded contributions for the purpose of obtaining a conditional service benefit.

Reason: This statute was overlooked in the repeal by SB 141 of the reinstatement of service provisions. AS 14.25.125 allows persons who are eligible for a normal or early retirement salary under PERS to qualify for a normal or early "conditional service" retirement benefit under TRS if he or she has at least two years of credited service in TRS. Members are allowed to reinstate refunded service credit in order to qualify for the conditional service benefit under AS 14.25.125(c). The conditional service benefit is very expensive because it results in payment of medical premiums and other medical charges from both the PERS and TRS for a single retiree.

Consequence: Without change, refunded TRS members will be treated differently under separate statutes. It would also continue to allow an "off-books" liability in the DB plan, one that can be neither accounted for nor paid until an eligible member applies for the benefit.

Related bill sections: Sec. 27, AS 39.35.385(c).

Sec. 4 AS 14.25.350(e). Requires employers in the Teachers' Retirement System (TRS) to pay occupational disability and death benefits through contributions actuarially calculated, which will be deposited to a separate trust account.

Reason: This was an inadvertent omission in drafting the bill in conference committee. The "trust account" language clarifies that these contributions are treated differently and kept separate from the contributions to the plan's individual member accounts.

Consequence: The consequence of not enacting this amendment is that there will be no funding source from which to pay TRS occupational disability and death benefits.

Related bill sections: Sec. 30, AS 39.35.750(e).

Sec. 5 AS 14.25.470(g). Requires a person who originally chose not to participate in the retiree major medical plan, but who later chooses to participate, to provide a letter of continuous coverage or proof of insurability.

Reason: The Division of Retirement and Benefits had anticipated the provisions for application for retirement and medical benefits would be handled by regulation. However, the plain wording of the statute seems to leave the choice to the eligible person regardless of their health status.

Consequence: Without amendment, the statute leaves the retiree major medical insurance plan open to adverse selection and unpredictable costs.

Related bill sections: Sec. 31, AS 39.35.870(g).

Sec. 6 AS 14.25.485(c). Clarifies that a period of disability benefits constitutes membership service in regard to determining vesting in employer contributions and related earnings, as well as eligibility for retirement and medical benefits including the Health Reimbursement Arrangement (HRA).

Reason: The statutes do not mention vesting in employer contributions and related earnings during a period of disability benefits. However, the intent is implied by the requirement for continuing employer contributions into the individual account, the HRA, and health insurance fund while a member is receiving disability benefits. The employer must also make the member's contributions to the individual contribution account.

Related bill sections: Sec. 32, AS 39.35.890(c).

Sec. 7 AS 14.25.485(d). Clarifies that a member is not entitled to elect distributions from the member's individual account while receiving disability benefits.

Reason: Because a disabled member must terminate employment, the disabled member will arguably become eligible for distributions from the individual contribution account under AS 14.25.410. The apparent intent of the disability benefit is to provide an income until such time as a disabled member becomes eligible for the benefits from a "normal retirement." During a period of disability benefits, the employer is required to make continuing employer contributions into the individual account, the HRA, and health insurance fund. The employer must also make the member's contributions to the individual contribution account. The purpose of these contributions would seem to be to accumulate funding for retirement benefits available to the member once the normal retirement date is reached and disability benefits end.

Consequence: If this amendment is not enacted, a disabled member may be able to elect distributions from the member's individual account prior to becoming eligible for normal retirement. This could be regarded as "double dipping," and as thwarting the intent of the legislature to provide a retirement benefit once the disability benefit ends.

Related bill sections: Sec. 11, AS 14.25.487(c); Sec. 33, AS 39.35.890(d); Sec. 38 AS 39.35.892(c).

Sec. 8 AS 14.25.485(g). Clarifies the termination of disability benefits when a disabled member first qualifies for normal retirement.

Reason: Technical for administrative purposes. Conforms to other benefit payment provisions.

Sec. 9 AS 14.25.485(i). Changes made to this subsection, which is related to the benefits for a survivor of a disabled member who dies while receiving disability benefits, mirror other changes being made to the disability and death statutes throughout this bill. The changes are: (1) clarifies the termination of a survivor's pension; and (2) clarifies that the period of disability benefits and the period of survivor benefits constitute membership service for vesting in employer contributions, and eligibility for medical benefits and the Health Reimbursement Arrangement.

Reason: This is a conforming amendment. See the related bill sections referenced below.

Related bills sections: Sec. 6, AS 14.25.485(c); Sec. 10, AS 14.25.487(b); Sec. 12, 14.25.487(e); Sec. 36, AS 39.35.890(k).

Sec. 10 AS 14.25.487(b). Clarifies the termination of a survivor's pension under the occupational death benefit provisions, including the end of death benefits when a dependent child no longer meets the definition of dependent.

Reason: The death benefit statute unambiguously states when the benefits will begin and when they will end, omitting termination of the death benefit the last month in which there is an eligible child. A dependent child receiving occupational death benefits might argue that death benefits must be paid until the date the deceased member would have retired, without regard to the age of the child. The disability statute [AS 14.25.485(i)], however, includes language terminating a survivor's benefit (from a disabled member who died while receiving disability) the last month in which there is an eligible surviving spouse or child. This appears to be a conflict of intent.

Consequence: Failure to amend this statute may jeopardize plan qualification because the IRC definition of "dependent" [26 USC, §151 and §152] includes age requirements for distribution to a dependent child under a qualified plan.

Related bill sections: Sec. 37, AS 39.35.892(b).

Sec. 11 AS 14.25.487(c). Clarifies that a survivor of a deceased member is not entitled to elect distributions from the member's individual account while receiving survivor benefits. Also clarifies that the continuing contributions required by the employer are made on behalf of the surviving spouse and member's dependent children rather than "beneficiaries."

Reason: The death benefit provides an income, and eventually retirement benefits, for the family of a member who dies in the line of duty. An employer is required to make the same continuing contributions as required for disabled members. The purpose of these contributions would seem to be to accumulate funding for retirement benefits available to the deceased member's surviving spouse once the normal retirement date is reached and death benefits end. However, the beneficiaries of a deceased member are arguably immediately eligible for distributions from the individual contribution account under AS 14.25.410. Additionally, the beneficiaries may not solely be the surviving spouse and or dependent children. The situation is similar to that described under Sec. 7 [AS 14.25.485(d)].

Consequence: If the clarifications are not enacted, a deceased member's surviving spouse, dependent children, or other beneficiaries may be able to elect distributions from the member's individual account prior to the date the member would have qualified for normal retirement had the member lived. As with distributions taken during a member's disability, this could be regarded as "double dipping," and as thwarting the intent of the legislature to provide eligible survivors with a retirement benefit once the death benefit ends. This scenario has more complications – including possible tax reporting requirements – than the disability provisions because the member's surviving spouse and/or dependent children may not be the only beneficiaries.

Related bill sections: Sec. 7, AS 14.25.485(d); Sec. 38, AS 39.35.892(c).

Sec. 12 AS 14.25.487(e). Clarifies that the period of death benefits constitutes membership service for determining vesting in employer contributions and eligibility for medical benefits and the Health Reimbursement Arrangement.

Reason: This appears to have been an omission in drafting because the disability benefits have the provision that a period of disability counts toward eligibility for retirement. It is also implied by the requirement for continuing employer contributions as well as the provisions of subsection (e) which reference the normal retirement date if the member had lived.

Related bill sections: Sec. 9, AS 14.25.485(i); Sec. 39, AS 39.35.892(e).

Sec. 13 AS 14.25.540(d). Clarifies that transferred membership from the defined benefit (DB) plan to the defined contribution retirement (DCR) plan will be applied to vesting in both the employer's matching contribution and subsequent contributions.

Reason: The bill is silent on this issue. Ambiguity about whether a member's DB plan service applies to vesting in DCR plan employer contributions may prevent members who would otherwise benefit from transferring from making the decision to transfer.

Related bill sections: Sec. 40, AS 39.35.940(d).

Sec. 14 AS 14.25.540(h). Provides a time limit -- 12 months from the date the employer consents to the conversion -- within which an eligible member must make the decision to transfer from the DB plan to the DCR plan.

Reason: An employer's decision to allow its employees to convert is irrevocable and employees have up until the day before they become vested in the Public Employees' Retirement System (PERS) or Teachers' Retirement System DB plans to convert. This pushes the last potential conversion date out conceivably 5 to 8 years (or longer, if terminated non-vested members return to work for a participating employer) depending on the plan and the employee's initial hire date.

Consequence: If the statute is not amended, employers that would otherwise benefit from consenting to transfers may make the decision not to consent because of annual budgeting uncertainty. Additionally, if there is no time limit for an employee's election to transfer, an employer that consents to transfers may incur greater liability for matching employee account balances that were earned largely while employees worked for other employers that elect not to consent to transfers.

Related bill sections: Sec. 15, AS 14.25.540(i); Sec. 41, AS 39.35.940(h).

Sec. 15 AS 14.25.540(i). An employer who makes a conversion election will have an initial 12-month window open to its eligible employees for transfer from the DB plan to the DCR plan. At the end of the initial 12-month period, the employer may consent to an additional 12-month period in which the employer's eligible employees may choose to transfer.

Reason: See explanation for amendment to AS 14.25.540(h), above. Allowing an employer to elect to consent to allowing transfers during an additional 12-month period provides the employer with the opportunity to achieve greater cost savings if the employer determines that consenting to additional transfers is beneficial.

Related bill sections: Sec. 14, AS 14.25.540(h); Sec. 42, AS 39.35.940(i).

Sec. 16 AS 14.25.540(j). Adds a definition of "membership service" for purposes of clarifying what service credit is eligible for transfer from the DB plan to the DCR plan and disallows years of service for which contributions have not been fully repaid; i.e., reinstatement of refunded contributions, or indebtedness.

Reason: If a DB plan member has an outstanding indebtedness for refunded contributions, the years of service associated with that indebtedness are not credited back to the member until the indebtedness, including interest, has been fully paid. This change clarifies this process for the conversion option so there is no ambiguity as to: (1) the dollar amount of the member's contributions to be transferred and matched by the employer; and (2) the number of years of service to be counted toward vesting in benefits of the DCR plan.

Consequence: Without amendment, it is unclear whether full service, partial service, or no service credit associated with an indebtedness should be transferred to the new plan. To allow such service to be transferred would be inconsistent with the current administration of the DB plan.

Related bill sections: Sec. 43, AS 39.35.940(j).

Sec. X AS 14.25.580. Requires an employee of the Special Education Service Agency who participates in the TRS DCR plan to occupy a position that requires certification as a condition of employment.

Reason: The definition of "teacher" contained in AS 14.25.590(27) does not include "eligibility to possess" a teacher certificate. The statute requires that the teacher be employed in a position requiring possession of a State of Alaska teaching certificate. Currently, AS 14.25.580 contradicts this requirement and possibly opens TRS to SESA, PERS members holding teacher certificates, or who are eligible to hold a certificate, but who are not employed in positions requiring a certificate.

Consequence: Without amendment, AS 14.25.580 contradicts the TRS definition of "teacher."

Sec. 17 AS 39.30.160(a). Changes the authority for adopting regulations for the Supplemental Benefits System-Annuity Plan (SBS) program from the Alaska Retirement Management Board (ARMB) to the Commissioner of Administration.

Reason: Part of the reform to the retirement systems was a regulation authority change from the prior Public Employees' Retirement Board (PERB) to the Commissioner of Administration. The reference to the PERB in the SBS statute that provides authority for adoption of regulations was changed to the ARMB along with the many other reference changes. SBS regulations, like PERS regulations, relate to administrative matters to be adopted by the Commissioner.

Consequence: If the amendment is not made, in practice, the Division of Retirement and Benefits will draft regulations for administration of the SBS plan for the ARMB's review and approval.

Related bill sections: Sec. 18, AS 39.30.160(e).

Sec. 18 AS 39.30.160(e). Changes the reference from "board" to "commissioner".

Reason: This completes the change of authority for adopting regulations for the SBS program. See Sec. 17 above.

Related bill sections: Sec. 17, AS 39.30.160(a).

Sec. 19 AS 39.30.165. Adds a provision under the Supplemental Benefits System-Annuity Plan program for a member, annuitant, or beneficiary to appeal a decision of the administrator to the Office of Administrative Hearings (OAH).

Reason: This was an inadvertent omission in transferring all appeals functions to the OAH.

Consequence: Without amendment, appeals will have to be sent to the superior court.

Related bill sections: Sec. 20, AS 39.30.335; Sec. 46, AS 39.45.055.

Sec. 20 AS 39.30.335. Adds a provision under the Health Reimbursement Arrangement Plan for a member to appeal a decision of the administrator to the Office of Administrative Hearings.

Reason: This was an inadvertent omission in transferring all appeals functions to the OAH.

Consequence: Without amendment, appeals will have to be sent to the superior court.

Related bill sections: Sec. 19, AS 39.30.165; Sec. 46, AS 39.45.055.

Sec. 21 AS 39.30.370. Changes the employer contribution from an individual employer contribution amount to a uniform employer contribution amount for all participants of the Health Reimbursement Arrangement Plan.

Reason: As currently written, the HRA statutes require a separate calculation for each employer on that employer's average annual employee compensation, resulting in a different employer contribution amount for each of the 214 participating employers under PERS and TRS. Employer data for FY 2005 shows the average annual employee compensation for employers is diverse, especially within the PERS. Calculations for PERS demonstrate a probable range of monthly employer contributions from as little as \$11 per member to as high as \$205 per member (see Attachment #1). There is less difference among TRS employers but there is still disparity. Additionally, the data shows a PERS employer *group* average would result in a \$100 per month per member contribution whereas a TRS employer *group* average would result in a \$138 per month per member contribution. Employers that participate in both PERS and TRS (primarily school districts) will have different contributions for their PERS and TRS employees.

The disparity in the amount of contributions that will be made by employers to the HRA if it is implemented as it is currently written raises issues of discrimination under federal tax law [Internal Revenue Code 105(h)]. The Department of Law and the Division of Retirement and Benefits are consulting with contracted outside tax counsel on this. There is no discrimination issue if the contribution rate is changed to a uniform amount for all HRA Plan participants.

Consequence: There are several consequences of not changing the statute. Members of the same plan will be receiving different contribution amounts depending on their employer, and members that work for the same school district will receive different amounts depending on their retirement system membership (PERS or TRS). The Division of Retirement and Benefits will need to submit a private letter ruling request to the IRS regarding compliance of the current formula. That ruling is likely to take a year or longer (the IRS is not addressing section 105(h) issues at this time) and may still require a legislative amendment.

Sec. 22 AS 39.30.380. Removes the conflict between eligibility for retirement and medical benefits and the statutes that define eligibility for the Health Reimbursement Arrangement Plan.

Reason: One of the medical benefits available under AS 14.25.480 and AS 39.35.880 is access to the HRA. It is not clear whether the eligibility language in AS 14.25.470 and AS 39.35.870 requiring a member to have been an active member for 12 months before application for retirement is only associated with the "retire directly from the system" requirement or whether it is one of the eligibility requirements the legislature intended to apply for purposes of eligibility for HRA reimbursements.

Consequence: Without amendment, there is an ambiguity in the HRA eligibility provisions.

Sec. 23 AS 39.30.390. Changes eligibility for reimbursement from the Health Reimbursement Arrangement to persons who meet the eligibility requirements for retirement and medical benefits under either PERS or TRS, rather than under both.

Reason: This is a clarification. It is unlikely that the legislature intended that a member be eligible for retirement and medical benefits under both TRS and PERS in order to be eligible for HRA benefits.

Sec. 24 AS 39.35.006. Changes the statutory deadline for a decision by the Office of Administrative Hearings on PERS appeals from 120 days to 180 days.

Reason: This change is specific to appeals from decisions of the PERS administrator. Prior to SB 141, there were no statutory time limits for appeals and cases could take as long as 18 months to resolve. However, 120 days is simply insufficient time, especially in disability appeals which often involve complex evidentiary issues that must be developed on appeal, and in which scheduling of proceedings can revolve around the availability of medical witnesses.

Consequence: The office of administrative hearings may consider the statutory deadlines to be "directory" rather than "mandatory." However, because of the pressure to meet the deadlines, the consequence of not providing a longer time for issuance of a decision in PERS appeals is that cases may proceed without adequate development, with resulting impacts on PERS trust funds.

Related bill sections: Sec. 1, AS 14.25.006.

Sec. 25 AS 39.35.270(d). This change, combined with the repeal of AS 39.35.270(b) and the effective date in Sec. 51, delays the effective date of the requirement of SB 141 that the employer contribution rate must be not less than the normal cost rate.

Reason: This is the same language that currently exists under AS 39.35.270(b) as enacted by sec. 96, ch. 9, FSSLA 2005, which was effective July 1, 2005. A number of employers that did not have the opportunity to budget for the new contribution rates that resulted from this new requirement have been assessed contribution rates that are higher than anticipated for the current fiscal year.

Consequence: If this amendment and Sec. 48 are not enacted, 24 currently active PERS employers will pay an increased contribution rate in FY 2006.

Related bill sections: Sec. 2, AS 14.25.070(d).

Sec. 26 AS 39.35.375(a). Effective July 1, 2010, removes the provision that allows employees to repay refunded contributions for the purpose of obtaining a public service benefit.

Reason: This statute was overlooked in the repeal by SB 141 of the reinstatement of service provisions. AS 39.35.375 allows an active PERS member who has never vested in TRS or PERS and who has cashed out TRS service to reinstate the TRS service credit to establish a "public service benefit."

Consequence: Without change, refunded PERS members will be treated differently under separate statutes. It would also continue to allow an "off-books" liability in the DB plan, one that can be neither accounted for nor paid until an eligible member applies for the benefit.

Related bill sections: Sec. 49, AS 39.35.375(f).

Sec. 27 AS 39.35.385(c). Effective July 1, 2010, removes the provision that allows employees to repay refunded contributions for the purpose of obtaining a conditional service benefit.

Reason: This statute was overlooked in the repeal by SB 141 of the reinstatement of service provisions. AS 39.35.385 allows persons who are eligible for a normal or early retirement salary under TRS to qualify for a normal or early "conditional service" retirement benefit under PERS if he or she has at least two years of credited service in PERS. Members are allowed to reinstate refunded service credit in order to qualify for the conditional service benefit under AS 39.35.385(c). The conditional service benefit is very expensive because it results in payment of medical premiums and other medical charges from both the PERS and TRS for a single retiree.

Consequence: Without change, refunded PERS members will be treated differently under separate statutes. It would also continue to allow an "off-books" liability in the DB plan, one that can be neither accounted for nor paid until an eligible member applies for the benefit.

Related bill sections: Sec. 3, AS 14.25.125(c).

Sec. 28 AS 39.35.522(d). Adds a provision for appeal to the Office of Administrative Hearings of the Commissioner's decisions on waiver requests under PERS.

Reason: SB 141 established a new procedure for persons seeking a waiver of adjustment to benefits paid made by the administrator. The new procedure requires filing a request with the Commissioner of Administration for the waiver. While the TRS statutes allow an appeal of the Commissioner's decision to the OAH, the PERS statutes do not. This was a drafting error.

Consequence: If the amendment is not made, PERS appeals from the Commissioner's waiver decisions will have to be sent to the superior court, which is costly. An alternative would be for the Commissioner to delegate authority to the OAH to make the PERS waiver decisions [AS 44.64.030(b)]. Under this scenario, the OAH could bill the Division for these services.

Sec. 29 AS 39.35.680(3). Incorporates the reference to the new administrator section AS 39.35.003 into the definition of "administrator" under the PERS DB plan.

Reason: AS 39.35.059(a) is repealed in section 48 of the bill. This is a duplicative section regarding the administrator that was replaced with AS 39.35.003 in SB 141.

Sec. 30 AS 39.35.750(e). Adds a fund source in statute to pay for the monthly pension that may be elected by a disabled peace officer or fire fighter upon eligibility for normal retirement. Clarifies that the employer contributions for the defined benefits under this subsection (occupational disability, occupational death, and disabled peace officer/fire fighter retirement benefits) will be deposited to a separate trust account.

Reason: The legislature specified that a monthly pension benefit calculated under AS 39.35.370(c) elected by a disabled peace officer or fire fighter would *not* be paid out of the PERS defined benefit trust (AS 39.35.890(h)(2)); however, the legislature did not specify a funding source for those benefits. The "trust account" is new language to clarify these employer contributions are treated differently and kept separate from the contributions to the plan's individual member accounts. This language is also present in new subsection (e) of AS 14.25.350.

Consequence: The consequence of not enacting this amendment is that there will be no funding source from which to pay retirement benefits for disabled peace officers and fire fighters who elect to have their retirement benefits calculated under AS 39.35.370(c) once the normal retirement date is reached and disability benefits end.

Related bill sections: Sec. 4, AS 14.25.350(e); Sec. 35, AS 39.35.890(h).

Sec. 31 AS 39.35.870(g). Requires a person who originally chose not to participate in the retiree major medical plan, but who later chooses to participate, to provide a letter of continuous coverage or proof of insurability.

Reason: The Division of Retirement and Benefits had anticipated the provisions for application for retirement and medical benefits would be handled by regulation. However, the plain wording of the statute seems to leave the choice to the eligible person regardless of their health status.

Consequence: Without amendment, the statute leaves the retiree major medical insurance plan open to adverse selection and unpredictable costs.

Related bill sections: Sec. 5, AS 14.25.470(g).

Sec. 32 AS 39.35.890(c). Clarifies that a period of disability benefits constitutes membership service in regard to determining vesting in employer contributions and related earnings, as well as eligibility for retirement and medical benefits including the Health Reimbursement Arrangement.

Reason: The statutes do not mention vesting in employer contributions and related earnings during a period of disability benefits. However, the intent is implied by the requirement for continuing employer contributions into the individual account, the HRA, and health insurance fund while a member is receiving disability benefits. The employer must also make the member's contributions to the individual contribution account.

Related bill sections: Sec. 6, AS 14.25.485(c).

Sec. 33 AS 39.35.890(d). Clarifies that a member is not entitled to elect distributions from the member's individual account while receiving disability benefits.

Reason: Because a disabled member must terminate employment, the disabled member will arguably become eligible for distributions from the individual contribution account under AS 39.35.810. The apparent intent of the disability benefit is to provide an income until such time as a disabled member becomes eligible for the benefits from a "normal retirement." During a period of disability benefits, the employer is required to make continuing employer contributions into the individual account, the HRA, and health insurance fund. The employer must also make the member's contributions to the individual contribution account. The purpose of these contributions would seem to be to accumulate funding for retirement benefits available to the member once the normal retirement date is reached and disability benefits end.

Consequence: If this amendment is not enacted, a disabled member may be able to elect distributions from the member's individual account prior to becoming eligible for normal retirement. This could be regarded as "double dipping," and as thwarting the intent of the legislature to provide a retirement benefit once the disability benefit ends.

Related bill sections: Sec. 7, AS 14.25.485(d); Sec. 11, AS 14.25.487(c); Sec. 38, AS 39.35.892(c).

Sec. 34 AS 39.35.890(g). Clarifies the termination of disability benefits when a disabled member first qualifies for normal retirement.

Reason: Technical for administrative purposes. Conforms to other benefit payment provisions.

Sec. 35 AS 39.35.890(h). Specifies that the monthly pension benefit elected by a disabled peace officer or fire fighter under (2) of this subsection will be paid first from the member's individual account and then from the trust account established under AS 39.35.750(e). Also clarifies that a member who is a peace officer or fire fighter is not entitled to elect distributions from the member's individual account while receiving disability benefits.

Reason. This change is consistent with the method of payment applied under the current defined benefit plan. In the DB plan, the peace officer or fire fighter member who chooses the option to have a monthly benefit calculated under the provisions of the disability benefit is still receiving a normal retirement benefit. The employee contribution account is transferred to the Retirement Reserve account and benefits are paid from that account each month. The employee contribution account is drawn down first, then benefits are paid from the employer's contributions.

Consequence: The consequence of not enacting this amendment is that there will be an ambiguity in the statutes regarding the accounts used for payment of these benefits. See also Sec. 33, above.

Related bill sections: Sec. 33, AS 39.35.890(d).

Sec. 36 AS 39.35.890(k). Changes made to this subsection, which is related to the benefits for a survivor of a disabled member who dies while receiving disability benefits, mirror other changes being made to the disability and death statutes throughout this bill. The changes are: (1) clarifies the termination of a survivor's pension; and (2) clarifies that the period of disability benefits and the period of survivor benefits constitute membership service for vesting in employer contributions, and eligibility for medical benefits and the Health Reimbursement Arrangement.

Reason: This is a conforming amendment. See the related bill sections referenced below.

Related bills sections: Sec. 9, AS 14.25.485(i); Sec. 32, AS 39.35.890(c); Sec. 37, AS 39.35.892(b); Sec. 39, AS 39.35.892(e).

Sec. 37 AS 39.35.892(b). Clarifies the termination of a survivor's pension under the occupational death benefit provisions, including the end of death benefits when a dependent child no longer meets the definition of dependent.

Reason: The death benefit statute unambiguously states when the benefits will begin and when they will end, omitting termination of the death benefit the last month in which there is an eligible child. A dependent child receiving occupational death benefits might argue that death benefits must be paid until the date the deceased member would have retired, without regard to the age of the child. The disability statute [AS 39.35.890(k)], however, includes language terminating a survivor's benefit (from a disabled member who died while receiving disability) the last month in which there is an eligible surviving spouse or child. This appears to be a conflict of intent.

Consequence: Failure to amend this statute may jeopardize plan qualification because the IRC definition of "dependent" [26 USC, §151 and §152] includes age requirements for distribution to a dependent child under a qualified plan.

Related bill sections: Sec. 10, AS 14.25.487(b).

Sec. 38 AS 39.35.892(c). Clarifies that a survivor of a deceased member is not entitled to elect distributions from the member's individual account while receiving survivor benefits. Also clarifies that the continuing contributions required by the employer are made on behalf of the surviving spouse and member's dependent children rather than "beneficiaries."

Reason: The death benefit provides an income and eventually retirement benefits, for the family of a member who dies in the line of duty. An employer is required to make the same continuing contributions as required for disabled members. The purpose of these contributions would seem to be to accumulate funding for retirement benefits available to the deceased member's surviving spouse once the normal retirement date is reached and death benefits end. However, the beneficiaries of a deceased member are arguably immediately eligible for distributions from the individual contribution account under AS 39.35.810. Additionally, the beneficiaries may not solely be the surviving spouse and or dependent children. The situation is similar to that described under Sec. 33 [AS 39.35.890(d)].

Consequence: If the clarifications are not enacted, a deceased member's surviving spouse, dependent children, or other beneficiaries may be able to elect distributions from the member's individual account prior to the date the member would have qualified for normal retirement had the member lived. As with distributions taken during a member's disability, this could be regarded as "double dipping," and as thwarting the intent of the legislature to provide eligible survivors with a retirement benefit once the death benefit ends. This scenario has more complications – including possible tax reporting requirements – than the disability provisions because the member's surviving spouse and/or dependent children may not be the only beneficiaries.

Related bill sections: Sec. 11, AS 14.25.487(c); Sec. 33, AS 39.35.890(d).

Sec. 39 AS 39.35.892(e). Clarifies that the period of death benefits constitutes membership service for determining vesting in employer contributions and eligibility for medical benefits and the Health Reimbursement Arrangement.

Reason: This appears to have been an omission in drafting because the disability benefits have the provision that a period of disability counts toward eligibility for retirement. It is also implied by the requirement for continuing employer contributions as well as the provisions of subsection (e) which reference the normal retirement date if the member had lived.

Related bill sections: Sec. 12, 14.25.487(e); Sec. 36, AS 39.35.890(k).

Sec. 40 AS 39.35.940(d). Clarifies that transferred membership from the DB plan to the DCR plan will be applied to vesting in both the employer's matching contribution and subsequent contributions.

Reason: The bill is silent on this issue. Ambiguity about whether a member's DB plan service applies to vesting in DC plan employer contributions may prevent members who would otherwise benefit from transferring from making the decision to transfer.

Related bill sections: Sec. 13, AS 14.25.540(d).

Sec. 41 AS 39.35.940(h). Provides a time limit -- 12 months from the date the employer consents to the conversion -- within which an eligible member must make the decision to transfer from the DB plan to the DCR plan.

Reason: An employer's decision to allow its employees to convert is irrevocable and employees have up until the day before they become vested in the PERS or TRS DB plans to convert. This pushes the last potential conversion date out conceivably 5 to 8 years (or longer, if terminated non-vested members return to work for a participating employer depending on the plan and the employee's initial hire date).

Consequence: If the statute is not amended, employers that would otherwise benefit from consenting to transfers may make the decision not to consent because of annual budgeting uncertainty. Additionally, if there is no time limit for an employee's election to transfer, an employer that consents to transfers may incur greater liability for matching employee account balances that were earned largely while employees worked for other employers that elect not to consent to transfers.

Related bill sections: Sec. 14, AS 14.25.540(h); Sec. 42, AS 39.35.940(i).

Sec. 42 AS 39.35.940(i). An employer who makes a conversion election will have an initial 12-month window open to its eligible employees for transfer from the DB plan to the DCR plan. At the end of the initial 12-month period, the employer may consent to an additional 12-month period in which the employer's eligible employees may choose to transfer.

Reason: See explanation for amendment to AS 39.35.940(h), above. Allowing an employer to elect to consent to allowing transfers during an additional 12-month period provides the employer with the opportunity to achieve greater cost savings if the employer determines that consenting to additional transfers is beneficial.

Related bill sections: Sec. 15, AS 14.25.540(i); Sec. 41, AS 39.35.940(h).

Sec. 43 AS 39.35.940(j). Adds a definition of "membership service" for purposes of clarifying what service credit is eligible for transfer from the DB plan to the DCR plan and disallows years of service for which contributions have not been fully repaid; i.e., reinstatement of refunded contributions, or indebtedness.

Reason: If a DB plan member has an outstanding indebtedness for refunded contributions, the years of service associated with that indebtedness are not credited back to the member until the indebtedness, including interest, has been fully paid. Also, there is no definition of "membership service" under the PERS DB statutes. This change clarifies the definition for the conversion option so there is no ambiguity as to: (1) the dollar amount of the member's contributions to be transferred and matched by the employer; and (2) the number of years of service to be counted toward vesting in benefits of the DCR plan.

Consequence: Without amendment, it is unclear whether full service, partial service, or no service credit associated with an indebtedness should be transferred to the new plan. To allow such service to be transferred would be inconsistent with the current administration of the DB plan.

Related bill sections: Sec. 16, AS 14.25.540(j).

Sec. 44 AS 39.35.990(16). Clarifies that "member" and "employee" have the same meaning throughout the PERS DCR statutes and excludes instructors at the Department of Labor and Workforce Development (DLW&D) and the Department of Education and Early Development (DEED) in positions requiring a teacher certificate.

Reason: "Member" and "employee" are both used inconsistently throughout the PERS statutes. This change clarifies they are intended to be used interchangeably. Also, the DLWD is changing their position requirements for some of its vocational education positions to *not* require a teacher certificate.

Consequence: Without amendment, instructors at the DLW&D and DEED may be precluded from being members of PERS if they work in a position that does not require a teacher certificate.

Sec. 45 AS 39.35.990(20). Provides a clear definition of peace officer and fire under the DCR plan.

Reason: This is a technical change to clarify the job classes eligible for classification as a peace officer or fire fighter.

Consequence: Without amendment, this definition references back to the definition under AS 39.35.680(29) which contains the same job classes.

Sec. 46 AS 39.45.055. Adds a provision under the Deferred Compensation program for a member to appeal a decision of the administrator to the Office of Administrative Hearings.

Reason: This was an inadvertent omission in transferring all appeals functions to the OAH.

Consequence: Without amendment, appeals will have to be sent to the superior court.

Related bill sections: Sec. 19, AS 39.30.165, Sec. 20, AS 39.30.335.

Sec. 47 AS 44.64.030(a). Adds the Supplemental Benefit-Annuity Plan, Health Reimbursement Arrangement Plan, Deferred Compensation Plan, and waivers of adjustment under the PERS and TRS defined benefit plans to the jurisdiction of the Office of Administrative Hearings.

Reason: This is a required change for statutory authority of the appeals delegated under the above programs.

Related bill sections: Sec. 19, AS 39.30.165; Sec. 20, AS 39.30.335; Sec. 28, AS 39.35.522(d); Sec. 46, AS 39.45.055.

Sec. 48 AS 14.25.070(b) and AS 39.35.270(b). Repeals the requirement enacted in SB 141 that the employer contribution rate must not be less than the normal cost rate.

Reason: The statutes added by SB 141 were effective July 1, 2005. This section combines with sections 2, 25, and 51 of the bill to delay the effective date of the contribution rate "floor" to July 1, 2008.

Sec. 48 AS 14.25.045 and 14.25.570. Repeals participation of National Education Association (NEA) employees in the TRS.

Reason: Although NEA had been included by the legislature in the TRS DB plan in statute, NEA is a non-profit organization and they do not qualify for inclusion in the system. This error was acknowledged by the Division of Retirement and Benefits, the Department of Law, and the NEA in the early 1990's/late 1980's. In discussion with participating NEA management it was decided by the TRS Board that members participating at the time would be grandfathered and inclusion of new members would be discontinued (since then the last member has retired). Inclusion in the new plan resulted from duplication of existing statutes.

Sec. 48 AS 39.35.050(a). Repeals duplicative AS 39.35.050(a) which provides for the Commissioner of Administration to appoint an administrator.

Reason: Technical change. This statute was replaced by AS 39.35.003 in SB 141.

Sec. 49 AS 39.35.375(f). This subsection relates to reinstating service associated with refunded contributions for obtaining a public service benefit.

Reason: With the change to the public service benefit under AS 39.35.375(a) – see Sec. 26 - this subsection will have no applicable meaning beginning July 1, 2010.

Sec. 50 Uncodified law. Establishes an initial contribution rate for TRS employers to fund occupational disability and death benefits during the first fiscal year of the DCR plan (FY 2007).

Reason. The first valuation year in which employees will be enrolled in the DCR plan begins July 1, 2006. The ARMB will consider the contribution rate for this cost during the 2007 valuation, ending date June 30, 2006.

Consequence: If this section, in combination with Sec. 4 of this bill, is not enacted, there will be no funding source from which to pay TRS occupational disability and death benefits. If Sec. 1 is enacted but not this section, implementation of a cost rate for this benefit, and contributions to the plan, may be delayed until the ARMB can request a calculation by the actuary and approve a contribution rate.

Related bill sections: Sec. 4, AS 14.25.350(c).

Sec. 51 Effective date for sections 2 and 25. July 1, 2008.

Sec. 52 Effective date for sections 3, 26, and 27. July 1, 2010.

Sec. 53 Effective date remainder of bill. July 1, 2006.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 475
() Publish Date: _____

Revision Date/Time (Note if correction): 3/7/06 7:56 a.m. Dept. Affected: Administration
Title: An Act relating to public employees' and teachers' retirement defined contribution retirement plans. RDU: Centralized Administrative Services
Component: Retirement and Benefits
Sponsor: Representative Seaton
Requester: House State Affairs Component No.: 64

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 475 is a bill that provides clarifying revisions to SB 141 passed by the 24th Alaska Legislature and enacted as ch. 9, FSSLA 2005. Some of the provisions include the following: identifies a funding source for teachers' disability and death benefits; identifies a funding source for disabled police/fire members who elect a monthly retirement benefit under 39.35.890(h)(2); clarifies periods of disability and death benefits to constitute membership service; clarifies that a member or survivor is not entitled to elect distributions from the member's individual account while receiving disability or death benefits; clarifies provisions for appeals and definitions.

This bill has no fiscal impact on the Division of Retirement and Benefits.

Prepared by: Melanie Millhorn, Director Phone 465-4408
Division: Retirement and Benefits Date/Time 3/7/06 7:56 AM
Approved by: Mike Tibbies, Deputy Commissioner Date 3/7/2006
Agency: Department of Administration

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT AND BENEFITS

FRANK H. MURKOWSKI, GOVERNOR

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March 13, 2006

The Honorable Paul Seaton
Chair, House State Affairs Committee
House of Representatives
State Capitol, Room 421
Juneau, Alaska 99801

Re: Response to Questions from March 7, 2006 Meeting

Dear Representative Seaton:

During the last committee hearing on Tuesday, March 7, 2006, some questions were posed by Representative Gatto regarding survivor benefits for police and firefighters and other benefit questions involving the existing defined benefits retirement system. The questions are numbered and italicized below with responses to follow:

- 1. Define criteria that P/F members must work to receive PERS credit. What happens to on-call members who are paid but do not work a specific schedule?*

AS 39.35.680(29) "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, but does not include a village public safety officer employed by a village public safety officer program established under AS 18.65.670.

2 AAC 35.850 Coverage as a Peace Officer or Fireman (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 highway laws of the state or employing political subdivision. A "fireman" or "fire chief" means only a person who is a regular employee of the state and who is authorized to act under AS 18.70.

On-Call Members of a Police or Fire Agency

On call members are not eligible to participate in the PERS. The following statutes apply:

AS 39.35.680(31) defines a permanent full-time employee as an employee occupying a permanent position that regularly requires working 30 or more hours per week.

AS 39.35.680(32) defines a permanent part-time employee as an employee occupying a permanent position that regularly requires working at least 15 hours but less than 30 hours per week.

AS 39.35.680(22) "member" or "employee" in (C)(iii) specifically excludes casual or emergency workers or nonpermanent employees from participation in the PERS.

3. How about volunteers who may or may not be paid?

Volunteers are not employees of the employer under the statutes since they are casual or emergency workers who are not regularly scheduled to work 15 or more hours per week. They are not covered by PERS.

4. What are the survivor benefit options for P/F members?

The death benefits are dependent on whether the death is from occupational or nonoccupational causes or if death occurs while the member is actively employed or retired.

Active Employees

Occupational Death

Death must be from an injury or illness from occupational causes.

Survivor's Pension. The survivor receives the greater of 50% of the peace officer's or firefighter's gross salary at the time of death or 75% of the normal retirement benefit the member would have earned had he/she survived. (Non peace officer/fire fighter survivors receive 40% of the member's gross salary at the time of death.) If there is no surviving spouse, the pension is paid in equal parts to the eligible dependent children of the member. Children are eligible dependents if they are unmarried under age 19 or under age 23 and enrolled full-time in college or technical institution.

Medical Benefits. Survivors are also entitled to access to the AlaskaCare Retiree Medical plan by paying the premiums necessary for coverage. Survivors pay premiums until they reach eligibility for system paid premiums by tier.

Conversion to Normal Retirement. The survivor's pension is converted to a normal retirement benefit on the date the normal retirement of the member would have occurred if the member had lived. Service accrues from the date of death until the member would have been eligible for retirement either by service or age. The average of the three highest consecutive years salary during the member's working years are used in the calculation of the normal retirement. The survivor receives this benefit for his/her lifetime.

Nonoccupational Death Before Retirement

Lump Sum Option. Non-vested Member Death Benefits: Balance of employee contribution account plus \$1,000 (if a member at least one year) plus \$100 times the years of credited service.

Vested Member Death Benefits: Choice of the lump sum benefit shown for non-vested members or a monthly 50% joint and survivor benefit (spouse only) calculated on the member's average monthly compensation and years of credited service at the time of death.

Medical Benefits. Survivors are also entitled to access to the AlaskaCare Retiree Medical plan by paying the premiums necessary for coverage. Survivors pay premiums until they reach eligibility for system paid premiums by tier. For Tier III, member must have had at least 10 years of service at the time of death for the survivor to receive system paid medical premiums.

Retired Employees

If the member had elected a joint and survivor option at the time of retirement, a continuing monthly pension is paid to the surviving spouse based upon the level of coverage elected by the member.

When a member elects a joint and survivor benefit at retirement, their monthly normal retirement amount is reduced based on the age and estimated lifetime of the surviving spouse. The member receives this reduced benefit until their death and the survivor receives the selected percentage of the member's benefit, either 50%, 75% or 66 2/3% (66 2/3% is not available for tier III PERS members). If the member does not elect a joint and survivor option, the survivor is eligible for the balance of the member's contribution account, if any, at the time of the member's death.

If the survivor is receiving a continuing monthly survivor benefit, he/she receives the medical benefits the retiree was receiving for the remainder of the survivor's life. If the survivor remarries, any new spouse or dependents that were not eligible dependents of the member are not covered by the medical plan.

5. *Does the spouse receive a lesser benefit amount than the member receives when the member dies?*

For a nonoccupational death prior to retirement and a death after retirement, the spouse receives a lesser amount than the member either would have received at normal retirement or was receiving.

For an occupational death, the survivor receives either 40% of the member's salary at the time of death or 75% of the member's retirement benefit calculated as if the member has survived to normal retirement age.

6. *Can you provide projections of what a member would receive in order to determine what survivor benefits options are available?*

Attached.

7. *What happens to survivor when member dies while on occupational disability?*

The survivor receives:

Survivor's Pension. The survivor receives 40% of the member's monthly compensation at the termination of employment because of occupational disability. The survivor benefit is converted to a normal retirement benefit on the date the normal retirement of the member would have occurred if the member had lived. Service accrues from the date of death until the member would have been eligible for retirement either by service or age. The average of the three highest consecutive years salary during the member's working years are used in the calculation.

If there is no surviving spouse, the pension is paid in equal parts to the eligible dependent children of the member. Children are eligible dependents if they are unmarried, under age 19 or under age 23 and enrolled full-time in college or technical institution.

Medical Benefits. Survivors are also entitled to access to the AlaskaCare Retiree Medical plan by paying the premiums necessary for coverage. Survivors pay premiums until they reach eligibility for system paid premiums by tier.

8. *What happens to a member's benefits if they divorce before retirement?*

Retirement benefits are considered marital property and can be attached by a court order called a Qualified Domestic Relations Order (QDRO). A QDRO may assign a portion of the member's retirement benefit to the ex-spouse as well as medical benefit entitlements. The ex-spouse, however, usually must pay

premiums for the health coverage except in instances where the divorce occurs after retirement, the member and the ex-spouse were married at the time of retirement, the member chose a joint and survivor option and the ex-spouse is designated as the surviving spouse for pension and medical benefits.

9. *What happens to a member's benefits if retired and married then divorces?*

If the member elected a joint and survivor option at the time of retirement and subsequently divorces, the ex-spouse is considered the sole surviving spouse in the event of the death of the member. Any spouse married after retirement would have no benefit entitlement.

10. *Describe benefits for a survivor if P/F member, who has only worked a couple of years, dies on the job?*

Death must be from an injury or illness from occupational causes.

Survivor's Pension. The survivor has a choice between 50% of the peace officer's or firefighter's gross salary at the time of death or 75% of the normal retirement benefit the member would have earned had he/she survived.

The survivor benefit is converted to a normal retirement benefit on the date the normal retirement of the member would have occurred if the member had lived. Service accrues from the date of death until the member would have been eligible for retirement either by service or age. The average of the three highest consecutive years salary during the member's working years are used in the calculation.

Medical Benefits. Survivors are also entitled to access to the AlaskaCare Retiree Medical plan by paying the premiums necessary for coverage. Survivors pay premiums until they reach eligibility for system paid premiums by tier.

Please let me know if you have any questions about this correspondence.

Sincerely,



Melanie Millhorn
Director

Enclosure(s)
MM/KSL/ksl

Chair Seaton
House State Affairs Committee
March 8, 2006
Page 6

cc: Members of House State Affairs

Kevin Brooks, Deputy Commissioner
Department of Administration

Michael Tibbles, Deputy Commissioner
Department of Administration

Traci Carpenter, Project Manager
Department of Administration

**SAMPLE BENEFIT CALCULATION
PEACE OFFICER/FIREFIGHTER
PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

DEMOGRAPHIC INFORMATION

Age at retirement: 49 years, 6 mo. Survivor age: 44
 Service at retirement: 20.083 yrs. Average Salary: \$5,375.81

PENSION

Retirement Options Available:

	Retiree	Survivor Receives
Normal Retirement Benefit:	\$2,430.27	\$0
50% Joint and Survivor:	\$2,305.96	\$1,152.98
75% Joint and Survivor:	\$2,248.46	\$1,686.35
66 2/3% Last Survivor*:	\$2,311.38	\$1,540.90

*Under this option, whichever spouse is the survivor receives the reduced benefit.

MEDICAL ELIGIBILITY/PREMIUM PAYMENT

	Eligible	Medical Premium Retiree Paid	Medical Premium System Paid
Tier I	At retirement	N/A	Yes
Tier II*	At age 60	Until age 60	At age 60
Tier III**	At age 60	Until age 60	At age 60

* Tier II and III P/F members are eligible for system paid medical premiums with 25 years of peace officer/fire fighter membership service.

**Tier III must have a minimum of 10 years of credited service to have system paid medical premiums at age 60. Otherwise pays full premium for as long as coverage is desired.

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT AND BENEFITS

FRANK H. MURKOWSKI, GOVERNOR

PO BOX : 10203
JUNEAU, AK 99811-0203
TDD: (907) 465-2805
FAX: (907) 465-3086
PHONE: (907) 465-4480
TOLL-FREE 1-800-821-2251

March 13, 2006

Dear Mr. [REDACTED]

This is a PERS projection of your retirement benefits that you recently requested. I based the calculation on information that is either in the System or provided by you when you asked for the projection.

Normal Retirement Benefit Estimates Effective December 1, 2005

Regular Benefit:	\$4,940	No Survivor Benefits !	
75% Joint Survivor			
Your Benefit:	\$4,530	Survivor's Benefit:	\$3,390
50% Joint Survivor			
Your Benefit:	\$4,660	Survivor's Benefit:	\$2,330
66 2/3% Last Survivor			
Your Benefit:	\$4,750	Last Survivor's Benefit:	\$3,160

Important notice: 66 2/3% Last Survivor benefit option is **different** from both the 75% and the 50% options in that regardless of who dies first, the benefit will be **reduced**. In other words, if your spouse dies before you do, **your benefit will be reduced!** This differs from the 75% and 50% above where if your spouse dies before you, your benefit is not reduced.

Remember, you must select one of the survivor benefits for your spouse to be able to continue medical and other elected insurance benefits after your death. Failure to choose one of the three survivor options means **ALL** benefits, including health insurance, will stop when you die. Your spouse must waive rights to benefits for you to elect a benefit other than one of the survivor options.

Level Income Option			
Benefit before age 65:	\$5,340	Benefit after age 65:	\$4,450

Important notice: Care should be taken when selecting this option. First, **there are no survivor options with an LIO**, and second, while it may seem advantageous to select this option because of the substantially larger benefit amount before age 65 - **remember**, your benefit **may** in some cases **be** substantially reduced when you reach age 65. Your COLA and PRPAs will also be proportionally reduced at that time. **DO NOT** select this option without considering this reduction. **You will not be able to change your mind once your benefits begin!**

The following service, earnings, and indebtedness information was used to calculate the benefit amounts:

Average Earnings					
Amount:	\$6,976 per month	This average is based on years:	2002	2003	2004
			\$81,398.00	\$84,864.00	\$43,006.15

Service Credit

Employer	Occ	Status	Start	Stop	Amount
State Of Alaska	A	FT	10/20/1975	06/30/1986	10.6958
State Of Alaska	A	FT	07/01/1986	06/30/2004	18.0000
Military Service			09/18/1972	10/01/1975	3.0390
Total Service Credit					31.7358

Please review each employment segment listed above for accuracy, and report any discrepancies to your employer.

● **Indebtedness**(the amount you will owe at retirement)

Your Indebtedness is for	Amount	Future Value
Not Applicable	\$0.00	\$0.00
Owed at Retirement		\$0.00


Please remember, this is only an **approximation** based on the information that you provided and what has been reported to the system by your employer. The amounts shown **may be different when you actually retire.**

The benefit estimates above **do not** include the 10% Alaska Cost of Living allowance (COLA). This is an additional amount added to a recipient's benefits if that person chooses to live in Alaska. Please read the enclosed detail sheet for more information concerning this additional benefit.

I have enclosed several informational sheets concerning the benefit options available, medical insurance, Alaska cost of living allowances (COLA), federal taxes, and spousal/dependents' rights to benefits. If you have any questions, or if I may be of other service in the future please let me know.

If you have access to the Internet you may want to look at our web site at :

<http://www.state.ak.us/drb>



The site contains retirement statutes, regulations, and member handbooks. You can also access a benefit estimator that you can use to project your benefits under as many scenarios as you may wish.

Sincerely,

Bernadette Blankenship
Retirement Representative

enclosures:

5 informational sheets

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT AND BENEFITS

FRANK H. MURKOWSKI, GOVERNOR

PO BOX 110203
JUNEAU, AK 99811-0203
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PHONE: (907) 465-4460
TOLL-FREE 1-800 821-2251

March 7, 2006

The Honorable Paul Seaton, Chair
House State Affairs Committee
State Capitol, Room 106
Juneau, AK 99811

Dear Representative Seaton:

During the last committee hearing on Thursday, March 2, some questions were asked by Representative Gatto regarding provisions contained in HB 475. The questions are numbered and italicized below with responses to follow:

- 1. Is there a clearer definition of "peace officer" or "fire fighter" and why are village public safety officers (VPSOs) excluded from the Public Employees' Retirement System? (Sec. 45)*

The definition of "peace officer" or "fire fighter" offered in HB 475 is identical to the definition contained in the current DB plan statutes [AS 39.35.680(29)]. The reason for the clarification is that the current definition under the DCR statute [AS 39.35.990(20)] refers back to AS 39.35.680. Due to the many references to "plan" and "member" and "employee" the reference becomes confusing.

In 2003, the IRS issued a private letter ruling (PLR) that found the inclusion of VPSOs in the PERS is not allowable and would adversely impact the plan. The reason is that VPSOs are not considered employees of the State or a political subdivision but rather recognized employees of a corporation formed under the Alaska Native Claims Settlement Action of 1971 which are not an instrumentalities of the State of Alaska. A copy of the PLR is enclosed.

- 2. Will the benefit of a surviving spouse be less than that of the member had the member survived?*

In the context of the survivor benefits being discussed under HB 475, a survivor's pension is 40% of the gross monthly salary of the member at the time of occupational death. This is identical to the current DB plan benefits.

The Honorable Paul Seaton
March 7, 2006
Page Two

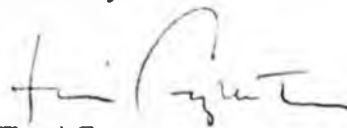
In the context of a normal retirement benefit, meaning the member was receiving a monthly retirement benefit and subsequently dies, the surviving spouse's benefit is based on the election of a joint/survivor option made by the member. The options include: 50%, 75%, or 66 2/3 percent of the member's normal retirement benefit. If a joint/survivor benefit is elected, the member's normal retirement benefit is reduced by an amount actuarially determined to pay for the survivor benefit.

3. *Are we changing the definition of which employees need a teacher certificate under Sec. 44?*

No. This section is clarifying the definition of "member" or "employee" under PERS, and emphasizes that an instructor employed by the Departments of Labor or Education in a position that requires a teacher certificate is excluded from the PERS because, by the definition of "teacher" under TRS, they would be members of the TRS.

Please let us know if we can be of further assistance to you and the Committee members.

Sincerely,



Traci Carpenter
Project Manager

Cc: House State Affairs Committee Members
Melanie Milhorn, Director, R&B
Kevin Brooks, Deputy Commissioner, DOA

Enclosure



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

AUG 13 2003

RECEIVED

AUG 19 2003

Div. of Ret. & Benefits

State of Alaska
PO Box 110203
Juneau, AK 99811-0203

Attn: Melanie A. Millhorn, Director
Public Employees' Retirement System of Alaska

Legend:

State	= State of Alaska
Department B	= Alaska Department of Public Safety
Plan X	= Public Employees' Retirement System of Alaska
Group C Employees	= Employees of the State of Alaska and its political subdivisions, public corporations and public organizations, and employees of other employers whose participation in the Public Employees' Retirement System of Alaska is authorized by Statute D
Statute D	= Alaska Statutes Title 39. Chapter 35. Sections 39.35.010 et seq.
Act E	= The Alaskan Native Claims Settlement Act of 1971, 43 U.S.C. Sections 1601 et seq.
Code F	= Alaska Administrative Code
Manual G	= Village Public Safety Officer Field Manual
Program H	= Village Public Safety Officer Program
Community Officers	= Village Public Safety Officers
Number J	= Eighty-five

K Corporations

= Aleutian Pribilof Islands Association,
 Association of Village Council Presidents,
 Bristol Bay Native Association,
 Chugachmiut,
 Kodiak Area Native Association,
 Kawerak,
 Tanana Chiefs Conference,
 Maniilaq Manpower,
 Central Council Tlingit Haida Indian Tribes of
 Alaska

Dear Ms. Millhorn:

This is in response to correspondence dated October 16, 2001, as supplemented by additional correspondence dated February 1, 2002, March 15, 2002, May 16, 2002, November 1, 2002, November 15, 2002, November 27, 2002, December 6, 2002, March 31, 2003 and May 6, 2003, from your authorized representative, in which you request a ruling on whether the status of Plan X as a governmental plan under §414(d) of the Internal Revenue Code ("the Code") will be adversely affected by the inclusion of Community Officers.

The following facts and representations have been submitted:

Pursuant to Statute D, the State created Plan X (also referred to herein as "the System") in 1961 as a defined benefit pension and retirement system to provide retirement and other benefits for Group C Employees. Plan X is intended to meet the qualification requirements of Code §401(a) to the extent that section applies to a governmental plan within the meaning of §414(d) of the Code.

Effective January 1, 1987, all participating employees are required to contribute a percentage of their compensation to Plan X. No option to receive this amount in cash has ever been permitted. Statute D also allows the State to pick up and pay the mandatory contributions to Plan X pursuant to §414(h) of the Code. As of January 1, 1987, the State has treated the employee contributions in a manner consistent with §414(h)(2).

In 1985, the State established Program H within Department B pursuant to State Statute. Program H was established to assist local governments and villages in protecting life and property in rural areas of the State and to provide probation and parole supervision services. Program H, however, was not designed to be a village or community police force. Under Program H the role of a Community

Officer is more than just law enforcement, and the vast majority of requests for the services of a Community Officer are for non-criminal matters. The Community Officer provides (1) support in the rendering of emergency medical services, (2) search and rescue support, (3) fire safety and prevention support, (4) water and boating safety, and (5) minor law enforcement service to a community, primarily the handling of misdemeanor infractions of the State's criminal code. Community Officers are not obligated to respond to or participate in any type of armed conflict. In accordance with Code F, Community Officers are prohibited under the state funding grants from carrying firearms in the regular course of their duties, except in an emergency.

Community Officers are employed by certain K Corporations established pursuant to Act E. All K Corporations (which may be nonprofit or for profit) employing Community Officers intended to be covered by this ruling are organized under state law as nonprofit corporations and have been in existence prior to the establishment of Program H. Under Act E, Native Indians of the State own the stock in the K Corporations. The State, including Department B, does not participate in the selection of the board of directors for the K Corporations. The involvement of K Corporations in Program H is separable from the other activities and functions of the K Corporations.

Program H is funded through grants issued by Department B. Department B and the K Corporations enter into a written grant agreement detailing the Program responsibilities and duties. Program H sets forth detailed policies and procedures that must be followed in order for a grant to be approved and maintained. In addition, several key personnel positions are required by the Program H enabling legislation to ensure that Program H operates as intended and in accordance with State Statutes. The written agreement between Department B and a K Corporation must also name the K Corporation as the employer, for all purposes, of a Community Officer.

State Troopers are Department B employees. A State Trooper is responsible for making periodic visits to a village or community in which a Community Officer has been assigned, acting as a mentor and as a liaison between the Department and the community or Community Officer, providing on-the-job training to the Community Officer, reviewing the Community Officer's log book, monitoring the Community Officer for compliance with applicable rules and providing the K Corporation with an evaluation of the Community Officer's performance. State Troopers, however, do not supervise the daily activities of Community Officers. The State Trooper is responsible for providing state law enforcement services to a village or community to which a Community Officer is assigned. The

Community Officer is not a police officer, and ultimate responsibility for criminal law enforcement lies with the State Trooper, particularly in regard to crimes more serious in nature than mere misdemeanor violations.

State Trooper superiors participate in the review of certain Program H documentation required to be provided by the K Corporation to Department B. The Program H Coordinator is a Department B position that has responsibility for overseeing the overall operation of the Program. The K Corporation Coordinator is an employee of the K Corporation who has responsibility for evaluating the performance of Community Officers, as well as allocating and distributing the funds supplied by a grant.

The K Corporation may not use grant money to employ a Community Officer for a particular village unless the village, through its governing body, enters into a written agreement with the K Corporation. According to relevant provisions of Code F, the village or community, in its agreement with the K Corporation, sets out the job description for the Community Officer, specifying duties that the community expects the officer to perform. The community also names a local supervisor to assume the daily control of the Community Officer's work and to act as a liaison between the Community Officer and the community. The party responsible for supervision of the daily activities of a Community Officer is identified in Code F as the "governing body" of the village or community. The "governing body" means the elected city council, traditional council, or elders council that the State recognizes as having governmental functions and that the K Corporation accepts as appropriate to supervise the daily activities of a Community Officer. All non-criminal activity (the majority of the work) conducted by the Community Officer is at the direction and priority of the village councils. Currently there are approximately the Number J of villages or communities to which a Community Officer has been assigned.

The written agreement between the K Corporation and the village or community recognizes that the Community Officer is an employee of the K Corporation. In the resolution of any dispute arising under the agreement, including the removal of a Community Officer from the position and the position from the village or community, the President of the K Corporation, or his or her designee, has final and conclusive authority to resolve the dispute.

The State represents that Department B has control over Program H by virtue of the fact the K Corporations and the Community Officers are subject to regulations, policies and procedures that are found in the Program H authorizing legislation, the grant agreement, Code F and Manual G. The State maintains that these rules, policies and procedures that the K Corporations and Community Officers must adhere to are enforceable by Department B by (1) controlling the

grant of authority and funding, (2) monitoring of Community Officers by the State Trooper, and (3) the requirement by authorizing legislation of a State Trooper, K Corporation Coordinator, and a Program H Coordinator to ensure that the program operates as intended.

The State proposes to permit the K Corporations to adopt the System as the retirement benefit plan for persons employed as Community Officers. Based on the foregoing facts and representations, you requested the following rulings:

1. That the adoption of the System by certain K Corporations with respect to Community Officer employees only, will not adversely affect the System's status as a governmental plan within the meaning of Code §414(d).
2. That the mandatory employee contributions paid to the System by the State on behalf of the Community Officer employees, will qualify as "picked-up" contributions within the meaning of §414(h)(2) of the Code.

Section 414(h)(2) of the Code provides that, in the case of any plan established by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing, where the contributions of employing units are designated as employee contributions but where any employing unit picks up the contributions, the contributions so picked up will be treated as employer contributions.

Section 414(d) of the Code provides that a governmental plan means a plan established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.

Revenue Ruling 89-49, 1989-1 C.B. 117, provides that a plan will not be considered a governmental plan merely because the sponsoring organization has a relationship with a governmental unit or some quasi-governmental power. It holds that one of the most important factors to be considered in determining whether an organization is an agency or instrumentality of the United States or any state or political subdivision thereof is the degree of control that the federal or state government has over the organization's everyday operations. Other factors listed in Revenue Ruling 89-49 include: (1) whether there is specific legislation creating the organization; (2) the source of funds for the organization; (3) the manner in which the organization's trustees or operating board are selected; and (4) whether the applicable governmental unit considers the

employees of the organization to be employees of the applicable governmental unit. Although all of the above factors are considered in determining whether an organization is an agency of a government, the mere satisfaction of one or all of the factors is not necessarily determinative.

In the instant case, applying the principles set forth in Revenue Ruling 89-49, we find the degree of control exercised by the State over the daily operations of the Community Officers to be minimal, with control in the hands of the K Corporation and the village or community to which a Community Officer is assigned.

As represented, a Community Officer is subject to monitoring by a State Trooper, an employee of Department B. The State Trooper's superior participates in the review of certain Program H documentation that must be provided by the K Corporation to Department B. The Program H Coordinator is a Department B position that has responsibility for overseeing the overall operation of the Program.

The State has not demonstrated that the aforementioned Departmental positions control or supervise the daily activities of Community Officers. The monitoring provided by the State Trooper consists of periodic visits with Community Officers, mentoring and other administrative duties. There has been no representation that the Program H Coordinator is involved with the daily activities of a Community Officer. In addition, Manual G, a Department B field manual for Community Officers, states that the K Corporation Coordinator, an employee of the K Corporation, is responsible for evaluating the performance of Community Officers. The Manual further provides that in completing the evaluation, the "community representative" responsible for the Community Officer's supervision, the individual Community Officer and the assigned State Trooper are contacted for comment.

Further, the K Corporation may not employ a Community Officer for a particular village unless the village, through its governing body, enters into a written agreement with the K Corporation setting forth the duties that the village or community expects the Community Officer to perform. In Code F, the term "village" is defined to mean a community with a population of less than 1,000 individuals. The community representative responsible for supervision of the daily activities of a Community Officer is identified in Code F as the "governing body" of the village or community. The "governing body" means the elected city council, traditional council, or elders council that the State recognizes as having governmental functions and that the K Corporation accepts as appropriate to supervise the daily activities of a Community Officer.

Considering the other factors set forth in Rev. Rul. 89-49, the enabling legislation for Program H did not establish the K Corporations or specify that the K Corporations would be the vehicle or medium to implement Program H. The K Corporations were already in place throughout the State when Program H was established.

Funding for Program H is provided entirely by Department B through grants to the K Corporations. The State maintains that it controls the K Corporations due to the fact that Department B, in its discretion, may terminate a grant if the K Corporation or a participating village or community is not complying with all the Program policies and procedures. However, the State's argument that it controls the K Corporations and the Program, through funding, is diminished by the fact that the K Corporation Coordinator, a K Corporation employee, has responsibility for the allocation and distribution of funds supplied by the state grant. The K Corporations formally employ the Community Officers, enter into contracts specifying the terms of Program H and pay officers' salaries with the funds granted by the State. Although Program H is supported by State funds, we do not find this factor to be determinative of agency or instrumentality status in this case because the K Corporations possess the authority to allocate the funds. No funded Community Officer position can be assigned to a requesting village or community unless the K Corporation, not the State, enters into a written agreement with the village or community.

The State, including Department B, does not participate in the selection of the board of directors for the K Corporations. Pursuant to Act E, the management of the K Corporation is vested in a board of directors, all of whom shall be stockholders over the age of eighteen (the stockholders of the K Corporations are Native Indians of the State). Due to the fact that the State does not participate in the selection process, the board of directors is not controlled by the State. Thus, the State does not possess the requisite degree of control over the K Corporation decision-making process in the day to day implementation of Program H (i.e., through lack of control over key personnel such as the K Corporation Coordinator).

Finally, Community Officers are not employees of the State or a political subdivision thereof. State Statute requires that Department B and the K Corporation enter into an agreement in which, among other requirements, there must be a provision that names the K Corporation as the employer, for all purposes, of a Community Officer. The K Corporation may not use grant money to employ a Community Officer to serve in a particular village or community unless the village or community, through its governing body, enters into a written agreement with the K Corporation. The written agreement between the K

Corporation and the village or community recognizes that the Community Officer is an employee of the K Corporation, and that in the resolution of any dispute arising under the agreement, including the removal of a Community Officer from the position, the President of the K Corporation, or his or her designee, has final and conclusive authority to resolve the dispute.

The State has represented that the villages or communities to which a Community Officer has been assigned, as incorporated municipalities or unincorporated villages, are political subdivisions of the State. Although we find that the village or community may exert a significant degree of supervision over the daily activities of a Community Officer, we must conclude that the Community Officer is an employee of the K Corporation and that the K Corporation exerts the ultimate degree of control over a Community Officer's employment.

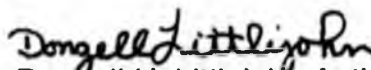
Thus, we conclude that the K Corporation(s) is not an agency or instrumentality of the State or a political subdivision thereof. Accordingly, as for the first ruling requested, we find that the inclusion in Plan X of Community Officers, who are employees of a K Corporation which does not qualify as an agency or instrumentality of the State or a political subdivision of the State, will adversely affect the status of Plan X as a governmental plan under §414(d) of the Code.

Similarly, because we have determined in accordance with Revenue Ruling 89-49, that a K Corporation does not qualify as an agency or instrumentality of the State or a political subdivision thereof, it is concluded with respect to ruling request two that the applicability of the provisions of §414(h)(2) of the Code to Plan X will be adversely affected by including as members therein the Community Officer employees of the K Corporations, and that the mandatory contributions of such employees to Plan X which may be assumed and paid by the State will not qualify as "picked-up" contributions within the meaning of §414(h)(2) of the Code.

This ruling is directed only to the taxpayer that requested it. Section 6110(k) of the Code provides that it may not be used or cited by others as precedent.

A copy of this ruling is being sent to your authorized representative pursuant to a power of attorney on file in this office. Should you have any questions pertaining to this ruling, you may contact Denise Y. Bowen (ID # 50-21343) of this office at (202) 283-9580.

Sincerely yours,



Donzell H. Littlejohn Acting Manager,
Employee Plans Technical Group 1

Enclosures:

Deleted Copy of the Ruling
Notice of Intention to Disclose, Notice 437

cc: Thomas M. Mayer
400 One Financial Plaza
Minneapolis, MN 55402

EP Area Manager Pacific Coast Area, STOP 7000
Internal Revenue Service
300 N. Los Angeles Street
Los Angeles, CA 90012-3335



NEA-ALASKA

Affiliated with the National Education Association

TESTIMONY ON HB 475 BILL BJORK, PRESIDENT NEA-ALASKA

Bill Bjork

Chairman Rep. Seaton and members of the House State Affairs Committee, my name is Bill Bjork and I serve as the President of NEA-Alaska. NEA-Alaska represents over 11,400 active public school employees and over 1,300 retired public school teachers. I appreciate the opportunity to testify on HB 475.

I cannot avoid the temptation to say, "I told you so." Last year I urged this committee to take its time to examine the retirement issues as it considered HB 238 as it was drafted last year and SB 141. In fact NEA-Alaska specifically encouraged the committee to use the interim to study all the issues and work with the employee organizations to fashion a good solution to the retirement liability dilemma. Today we are here looking at HB 475 which "is a clean up bill to" SB 141. Again, NEA-Alaska urges you to **set aside HB 475 and in its place introduce a companion bill to SB 293, which would delay the implementation of SB 141 until July 1, 2008.**

According to the Sponsor Statement, "a handful of errors and oversights were made that need to be changed for a smooth transition." My hand could hold four or five items, but not thirteen (13) bulleted items that actually make over twenty (20) amendments to the law. If this is the number of changes proffered now, what might be the number discovered with further study. In fact no one is sure that the present plan, even with the changes "required prior to July 1, 2006", will meet the compliance regulations of federal law. In fact several folks, who understand federal ERISA regulations and Internal Revenue Code, believe the basis of the Health Reserve Account contribution must be changed "to the average compensation for all plan participants." Thus, I repeat NEA-Alaska's request that you **set aside HB 475 and in its place introduce a companion bill to SB 293, which would delay the implementation of SB 141 until July 1, 2008.**

Last session, NEA-Alaska urged you to consider the impact on the present retirement plans if the plans are closed and, thus, the payroll based contributions are reduced. You assured us there was no impact. Today we know better. We know "employer rates for past service costs will continue to rise as amortized liability is applied to a shrinking payroll paid to members of the defined benefit plans." Thus, not only did SB 141 not address the liability of the retirement plans, it increased the liability for employers. Are you sure that the proposed change will not lead to greater problems? Do you have the actuarial data to make this determination? NEA-Alaska believes the answer is no to both questions. Thus, I repeat NEA-Alaska's request that you **set aside HB 475 and in its place introduce a companion bill to SB 293, which would delay the implementation of SB 141 until July 1, 2008.**

NEA-Alaska believes that the \$5.7 billion liability of the present plans is not growing as fast as it was projected to grow last session. One reason is the larger than expected investment return. We are also waiting for the actuarial reports to the ARM board to determine whether or not Mercer's assumptions were appropriate given the Alaska experience. It seems inappropriate to act until we hear from the folks SB 141 authorized to make recommendations.

As the committee knows from NEA-Alaska's testimony last year, we believe a defined benefits plan is far superior to a defined contributions plan for retirement purposes for public employees. We understand the concerns of the entire legislature that predictability of costs and limitation of liability must be primary components of any new plan. NEA-Alaska believes a defined benefits plan can be fashioned based on a set contribution from the employer and the employee and the legislature should have the opportunity to choose between SB 141 and such a plan. Last year's forced choice was not good public policy. Thus, I repeat NEA-Alaska's request that you set aside HB 475 and in its place introduce a companion bill to SB 293, which would delay the implementation of SB 141 until July 1, 2008.

Thank you for your time.

Rep. Paul Seaton

From: Gerry Guay [gcgjguay@gci.net]
Sent: Monday, March 06, 2006 11:53 PM
To: Rep. Paul Seaton; Representative_Carl_Gatto%
Representative_Max_Gruenberg@legis.state.ak.us; Rep. Bob Lynn; Rep. Jim
Elkins; Rep. Jay Ramras; Rep. Berta Gardner
Subject: HB 475

I stayed and worked long hour for less than adequate pay, trained my industry counterparts on how the job really was to be done, served the public, and performed my assigned tasks professionally. Now an ever looming plague hangs over the s tate worker, one which changed the retirement system from a career path to no incentive to stay in government service. For those that have dedicated a significant part of their working career to state service, the threat of reduced benifits and poor medical is becoming a greater reality. SB 141 may have survived the last minute flurry of legislative folly last May, but the laugh and history will be on those who voted it in when state government sees a mass exodus of skilled employees during impending retirements and hiring of gas pipeline workers. We are already seeing a huge difference in skill level between those we are hiring and those who are leaving. Newer, younger, environmental staff are not staying, but instead leaving for higher paying jobs which required the 1-2 year's of experience they just got from us. While funding state government in the future is a concern, have trained, qualified professional workers to operate state government must take high priority al so. [...]

Content analysis details: (1.10 points, 5 required)

VERY_SUSP_RECIPS (1.1 points) Very similar addresses in recipient list

Honored Representatives, I am taking the time to ask you to consider dropping benefits 475 and supporting Senator Elton's SB293 which would allow you more time to consider the ramifications of tinkering with a fix for PERS and TERS pensions. I understand you attention has been focused on the oil and gas initiatives and the provision of HB475 have not been finalized for your or public review. This does not lead to good decision making and definetly does not allow for a government of the people. As a 20 year plus employee of the state I am concerned where the promised retirement system is heading. As an engineer who could have made much better money outside of state government, I believe I entered into a binding contract with the state. I stayed and worked long hour for less than adequate pay, trained my industry counterparts on how the job really was to be done, served the public, and performed my assigned tasks professionally. Now an ever looming plague hangs over the s tate worker, one which changed the retirement system from a career path to no incentive to stay in government service. For those that have dedicated a significant part of their working career to state service, the threat of reduced benifits and poor medical is becoming a greater reality. SB 141 may have survived the last minute flurry of legislative folly last May, but the laugh and history will be on those who voted it in when state government sees a mass exodus of skilled employees during impending retirements and hiring of gas pipeline workers. We are already seeing a huge difference in skill level between those we are hiring and those who are leaving. Newer, younger, environmental staff are not staying, but instead leaving for higher paying jobs which required the 1-2 year's of experience they just got from us. While funding state government in the future is a concern, have trained, qualified professional workers to operate state government must take high priority al so.

So yours is not an easy task. The national health care crisis is killing out retirement medical but shooting the retirees is not the answer. In planning for your retirement you, like I put money aside for the future, yet many are considering not putting some of the oil dollar windfall into the retirement system. It's that type thinking in the past that has gotten us to where we are today. We have a system which lets small retirement programs qualify under PERS even when they do not p y their share and this becomes an emergency for the retiree how? I agree the system has flaws that need to be fixed and starting with more competent state leadership is the first place I'd look. not with the worker who worked to keep his or her head barely above water

for 25 years. Reward them for their good work, not highlight why government service is the last place to work.

Louie Flora

From: POMS@legis.state.ak.us
Sent: Monday, March 06, 2006 10:03 PM
To: Louie Flora
Subject: New Pom:HB 475 Pub Employeæ & Teacher Retirement & Sbs

Darwin Walter Jr
2330 Scarborough Dr

Anchorage 99504-3352,

Please do not pass HB 475. The implementation of SB 141 needs to be delayed (2 yrs. re: SB 293) until it is appropriately re-drafted to respnd to new information and more thoughtful consideration of its long term consequences.

Louie Flora

From: POMS@legis.state.ak.us
Sent: Monday, March 06, 2006 8:21 PM
To: Louie Flora
Subject: New Pom:Retirement

David Conway
9056 Nirnis Dr

Juneau 99801-8770, David F. Conway
dave.conway@uas.alaska.edu
907-465-6496
907-789-9737

Please drop HB 475 PERS/TERS Fix Bill, and move SB 293 Delaying implementation of SB 141 for two more years.

To the Senate ...please schedule SB 293.

More thought is needed on SB 141 and shouldn't be rushed.

HB 475 full content isn't available yet...no time to digest.

1.

Post Retirement Pension Adjustment

The Issue-

The SB141 Problem has led to many new members. All want to know if their pensions will be inflation proofed after they are 60 or retired 5 years. The confusion is with the language in an amendment which precluded the administrator from acting upon inflation proofing if the retirement funds were not at 105% funding. The second confusion was the misinformation regarding whether this applied to current plan members.

This is a record of the dialogue from and as a result of our meeting with Senator Wilken on Feb. 22, 2006, his response, and our follow up fact finding with Retirement and Benefits. We respectively thank Senator Wilken in assisting us. Representative Guttenberg and Representative Holm were also visited.

Sen. Seekins could not see us despite the fact we had an appointment. Rep. Ramras was in Oil and Gas business, and Representative Kelly said he was unavailable.

The Law-

Sec. 18. AS 14.25.143(a), as that subsection read following amendment by sec. 3, ch. 146, SLA 1980, until amended by sec. 12, ch. 106, SLA 1988, is amended to read

(a) When the administrator determines that the cost of living has increased and that the financial condition of the retirement fund permits, the administrator shall increase benefit payments to persons receiving benefits under this plan. **For purposes of this subsection, the financial condition of the fund would only permit an increase in benefits when the ratio of total fund assets to the accrued liability meets or exceeds 105 percent.** In this subsection, "accrued liability" means the present value of all member benefits accrued by member service in this plan [SYSTEM].

Fact Finding-

1. Information supplied to our RPEA member by R+B on 1-4-06:

To R+B: Thank you very much for your speedy reply. I'm familiar with the site you suggested; my interest is in how PRPA and other retirement benefits will be affected when SB141 goes into effect on July 1 of this year. Thanks again, our RPEA member-

R+B Reply: SB 141 will not affect you at all. This bill affects only newly hired members joining the system after July 1, 2006.

2. Our Visit to Senator Wilken at 1PM, 2-22-06. Doris Robbins, Judith Strohmaier, and myself-

To Sen. Wilken: "you said at our 12-17 AARP-Teacher's meeting that our retiree benefits were not changing, but then you informed us the fund had to be 105% funded to be inflation proofed that was why so many people were upset about the situation."

Senator Wilken replied: "This is not true. Your benefits are inflation proof". He was told this at the Finance Committee table that "retiree benefits were inflation proofed." We explained the confusion about the 105% amendment. He would look into it with Senator Stedman and Retirement and Benefits.

So this is the answer- from Sen. Wilken according to Sen. Stedman.

Senator Wilken's reply by E-Mail on 2-24-06—

Hello Mr. Gallagher and Mrs. Robbins:

I checked with Senator Stedman. Your pension payments under Tier 1, 2, and 3, are adjusted (after age 59 or 5 (PERS) / 8 (TRS) years of retirement) for inflation through either an "ad hoc" (Tier 1 only) or an "automatic" method of adjustment.

The method is a function of the funding level, but one way or the other, the protection exists.

For clarification or verification, please call Dept. of Retirement Benefits, Ms. Kathy Lea (465-3226).

Hope this helps a bit. Thanks for spending your time with me.

Keep an eye on the ARM Board.

Gary Wilken

Phone Call to Ms. Kathy Lea at Retirement and Benefits on 3-1-06—

This is a copy of the E-mail I sent to Doris Robbins

Doris: re Sen. Wilken I called Kathy Lea at R+ B. 465 3226. I asked her for clarification:

1. Automatic inflation proofing still continues as before at 50% of the Anchorage cpi for all three tiers until 65 and 75% after 65.
2. There is an Ad Hoc provision for tier 1 to get 100% of the Anchorage cpi, if the Commissioner requests it. However SB141 now defines that the fund must be 105% in order for the Commissioner to even consider the 100% "Ad Hoc" inflation proofing.

Unless the funds are at 105% of funding there is no way under current circumstances for tier 1 to get 100% inflation proofing. Legislature refusal to fund the alleged shortfall precludes any opportunity for 100% inflation proofing.

The Handbook— Every Tier One retiree was promised their retirement would be inflation proofed. It was set in law. Other pensions such as Social Security are fully inflation proofed. These former employees are subject to substantially reduced Social Security. There is a reliance on Government to keep its promises.

Discussion of the Consequences—

Diminishment- Sen. Gary Wilken's statement that there was no "change" is his belief. It is quite apparent from his strong statements to us at the Noel Wien library in December and in person on February 22nd he was **told** there was no diminishment. His E-mail re-defines his assumption to now include "while this is a function of the funding level" points out an epiphany of understatement.

There is a strong presumption that Sen. Wilken and many others did not understand the effect of the 105% amendment buried in this bill. After all he had to go back to Stedman for interpretation. For Tier 1 clearly there is a diminishment. While it depended upon the request of a Commissioner, after SB 141 is in effect the Commissioner cannot even elect the Ad hoc PRPA unless the fund is determined to be 105% funded.

Example- If one is receiving a \$20000.00/ year PERS or TRS retirement, one will at least get inflation proofing at 50% at 60 and 75% at 65. Without the Ad hoc 100% and assuming one is 60, at a 3.5%* inflation rate over 30 years your \$20000.00 will be worth about 65% or \$13,000.00/ year in current buying power. With the Ad Hoc it could be worth \$20000.00 as long as a Commissioner chose to exercise the PRPA provision consistently. SB141 passage definitely diminishes Tier 1.

Ms. Lea stated this is something she explains frequently to retirees.

* This is assumed slightly high, but pragmatic given the current U.S. debt structure due to war and the current application of Keynesian economic tax structure.

Flaw in reasoning- The 105% requirement places the burden upon the most senior retirees. Society does not expect persons in their high seventies and eighties to return to work to replace what they were promised and lost. The law informed them they were to be inflation proofed.

The insertion of 105% is most cynical in its very nature. By the nature of the 105% amendment it places the burden of the current under fund of the PERS/TRS Trust upon innocent and vulnerable people because of the years for it to take effect.

The law makers who are responsible will not be forgotten; however it is quite apparent that many did not know the full effect of the 105% amendment upon senior retirees.

Between 1997 and by 2002 my limited records indicate the ad hoc provision protected retired state employees from the erosion of a total about 15% of their annual pension income. A retiring employee at age 60 can expect to lose 30% of their pension by the time they are 80.

I strongly suggest you amend this assault upon them through this insidious but very real diminishment.

Request and Resolution— Please restore the former status of AS 14.25.143 (a) in HB 475.

Charles H Gallagher

P.O. Box 42

ESTER ALASKA 99725

cgallagher@Alaska.net

(907) 479 2664

Doris Robbins
3763 Mitchell Avenue #B
Fairbanks AK 99709-4636

(907) 374-0597
drobbins@gci.net

March 6, 2005

RE: HB 475 and Related Issues

Representative Seaton and House State Affairs Members,

I am greatly concerned at the need for such legislation as HB 475. Except for the foresight of some concerned legislators who voted to delay implementation near the end of session last year, we would now be trying to run state government according to SB 141. Why was due care not taken before passing SB 141? Was there no analysis done of this legislation before it passed? Did anyone do any research into why some states that had switched to the Defined Contribution system decide to go back to a Defined Benefit system? I have read some statements that Defined Contribution systems cost so much to run that there were no savings by changing from the Defined Benefit system.

If SB 141 were now in force our whole mechanism for operating state government would be in trouble. Since it does not meet IRS regulations, would it also have jeopardized federal funding which is so important to Alaska as well?

Legislators have insisted that pre SB 141 retirees would stand to lose none of their retirement benefits, stating that retirees were "bulletproof." That was the terminology used. When asked to confirm the meaning of the phrase in SB 141 which states that "the financial condition of the fund would only permit an increase in benefits when the ratio of total fund assets to the accrued liability meets or exceeds 105 percent," it was learned that those in the old system are indeed affected. This makes it seem clear that retirees will no longer have any inflation proofing and the retirement benefits of PERS/TRS retirees would steadily lose value over the years.

For the above reasons, I ask that you take more time to work on problems and pass

legislation such as Senator Kim Elton's SB 293. This would postpone implementation until July 1, 2008, and allow time to work carefully and be certain that SB 141 meets all regulations and does not affect previous constitutionally guaranteed benefits or cause federal legal problems.

What I am observing is that the whole legislature is focused on oil and tax legislation, with good reason. We sure don't want mistakes with oil and gas legislation as it would be even more difficult to make corrections when dealing with corporate giants.

I fear that HB 475 will only compound present problems. Changes by HB 475 must be assured not to conflict in some unknown manner, creating even more problems with SB 141. In addition, it seems foolish to rush to pass more legislation affecting the retirement system until the new actuarial reports are in and have been analyzed to confirm the real status of the current system. How can you know contribution rates are accurate?

Please consider your actions and do not compound the current errors in SB 141 with new, unanalyzed changes which are made in haste without the benefit of the full data from the new actuarial report which only becomes available after session end.

Sincerely,



Doris Robbins

PERS/TRS Retiree
Retired Public Employees of Alaska
Legislative Committee Chair

cc: Representative Gatto
Representative Elkins
Representative Lynn
Representative Ramras
Representative Gardner
Representative Gruenberg

Louie Flora

From: POMS@legis.state.ak.us
Sent: Tuesday, March 07, 2006 7:21 PM
To: Louie Flora
Subject: New Pom:HB 475 Pub Employee & Teacher Retirement & Sbs

Joseph Hodgson
Po Box 211035

Auke Bay 99821-1035,scotty
scotty57@gci.net

586-1830

This is a bad patch on a bad bill. A more considered approach to the retirement question is necessary. I urge you to support SB293. It gives more time to consider all facets of a complex issue.

Respectfully,
J. Scott Hodgson

FAX TRANSMITTAL

DEPARTMENT OF ADMINISTRATION

Office of Administrative Hearings

P.O. Box 110231

Juneau AK 99811-0231

Date: Mar. 20, 2006

TO: Kathy in Rep. Seaton	FROM: Terry Thurbon
FAX: 465-3472	FAX: (907)465-2280
Pages, including cover sheet 3	PHONE: (907)465-1886

RE:

Per your request, here is a copy of the letter.

The information contained in this communication is intended only for the use of the addressee and may be confidential. Unauthorized use, disclosure or copying is strictly prohibited, and may be unlawful. If you have received this communication in error or you have not received all pages, please call the sender.

STATE OF ALASKA

**FRANK H. MURKOWSKI,
GOVERNOR**

DEPARTMENT OF ADMINISTRATION
OFFICE OF ADMINISTRATIVE HEARINGS

P.O. BOX 110231
JUNEAU, ALASKA 99811-0231
PHONE: (907) 465-1888
FAX: (907) 465-2200

March 17, 2006

The Honorable Paul Seaton
Alaska State Representative
Chair, House State Affairs
Alaska State Legislature
State Capitol, Room 102
Juneau, Alaska 99801-1182

Re: House State Affairs Committee Meeting on HB 475

Dear Representative Seaton:

During the March 14, 2006 House State Affairs Committee meeting discussion of HB 475, a member asked a question that went unanswered. The question was prompted by the sectional analysis for the Committee Substitute for House Bill 475 (Work Draft \Y). The question indicated that committee members may have assumed that the Office of Administrative Hearings (OAH) requested the proposed expansion of the PERS/TRS hearing process to 180 days in sections 1 and 24 of the committee substitute. OAH did not request that change.

Though OAH was not the proponent of the change, I would like to offer a few observations to help the committee understand how that change would fit with current OAH procedures.

The sectional analysis suggests that one purpose of sections 1 and 24 is to change the statutory deadline for OAH decisions from 120 to 180 days in PERS/TRS cases. Under AS 44.64.060, however, the PERS/TRS cases (like most other OAH cases) are on a statutory decision track of 165 days, not 120 days. The 120-day deadline to which the sectional analysis presumably refers is an interim deadline for issuance of a proposed (not final) decision. The proposed 180-day deadline would be a final decision deadline and should be compared to the current 165-day period, not the 120-day period.

When the legislature passed the law creating OAH to conduct hearings for many state agencies, it provided OAH with tools to adapt the hearing process to work efficiently for different types of cases. If an individual case or a category of cases genuinely needs to be on a slower track (or can be effectively heard on a faster one), OAH can adjust deadlines.

FILE COPY

Representative Paul Scator

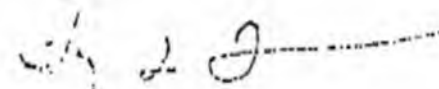
-2-

March 17, 2006

AS 44.64.060(d) specifically allows for the 120-day deadline for the proposed decision to change by agreement of the parties, with the consent of the chief administrative law judge. In addition, it allows for the possibility that another deadline for issuance of the proposed decision will be provided by law. If necessary, OAH can provide by regulation for a different deadline if a category of cases needs more time to get to the proposed decision step. From OAH's perspective, the tools the legislature has provided give the necessary flexibility to hear complex PERS/IRS (or other complex) cases on a slower track while still keeping the less complex cases on the quicker track.

I am copying this letter to Representatives Chenault and Meyer because I understand that the committee substitute passed out of your committee and that House Finance is the committee of next referral for HB 475. If members of your committee or of the House Finance Committee would like additional information about OAH procedures in PERS/IRS cases or other contexts, please do not hesitate to have someone contact me.

Sincerely,



Terry L. Thurbon
Chief Administrative Law Judge

cc: Representative Chenault, Co-Chair
Representative Meyer, Co-Chair
House Finance Committee

Scott Nordstrand, Commissioner
Department of Administration

Michael Tibbles, Deputy Commissioner
Department of Administration

Melanie Millhorn, Director
Division of Retirement & Benefits



Alaska Retirement Management Board

P.O. Box 110405
 Juneau, Alaska 999811-0405
 (907) 465-3749

January 27, 2006

The Honorable Kim Elton
 Alaska State Senate
 Alaska State Capitol
 Juneau, Alaska 99801-1182

Dear Senator Elton:

The Alaska Retirement Management Board (ARMB) received your January 9, 2006 letter at its meeting in Juneau January 12th and 13th. Your interest in addressing the unfunded liabilities of the retirement systems is appreciated by the board as we begin our work on this issue.

You requested comparative data of the cost to PERS and TRS employees of retirement benefits for the new Defined Contribution Plan (referenced as Tier IV in your letter) created by SB141 with costs for Tier III members. The tables below provide an analysis of the FY 2006 normal cost, expressed as a percentage of payroll, required to fund the pension, health and other benefits for Tier III employees and Tier IV employees:

Defined Benefit Plans	Employer Normal Cost		Employee Normal Cost		Total Normal Cost	
	PERS Tier III	TRS Tier II	PERS Tier III	TRS Tier II	PERS Tier III	TRS Tier II
Retirement Benefits	3.51	3.78	6.81	8.65	10.32	12.43
Medical Benefits	7.23	7.93	0.00	0.00	7.23	7.93
Total	10.74	11.71	6.81	8.65	17.56	20.36

The Honorable Kim Elton
 January 27, 2008
 Page Two

Defined Contribution Plans	Employer Normal Cost		Employee Normal Cost		Total Normal Cost	
	PERS Tier IV	TRS Tier III	PERS Tier IV	TRS Tier III	PERS Tier IV	TRS Tier III
Individual Account	5.00	7.00	8.00	8.00	13.00	15.00
Medical Benefits	4.75	4.75	0.00	0.00	4.75	4.75
Other	0.31	0.22*	0.00	0.00	0.31	0.22*
Total	10.06	11.97	8.00	8.00	18.06	19.97

Handwritten notes:
 *Disability and death benefits cost estimate
 *Disability and death benefits cost estimate

*Disability and death benefits cost estimate; however, these were not included in the employer contribution statutes for the new TRS DCR plan.

Because the Legislature is seeking to address the unfunded liability of the Public Employees' and Teachers' Retirement Systems, it is important to understand the cost to employers of that liability. To that end, additional comparison information is enclosed for the retirement systems that includes all costs for all tiers.

If there is any additional information we can provide, please don't hesitate to contact the trustees either directly or through our staff.

Sincerely,

Handwritten signature: Gary M. Bader for

Gail R. Schubert, Chair

Enclosure

**COMPARISON OF COSTS FY 2007
DEFINED BENEFIT PLANS and DEFINED CONTRIBUTION PLANS**

Public Employees' Retirement System					
Tier II Defined Benefit Plan					
Benefit	Normal Cost	Past Service Cost	Total Cost	Employee Contribution	Employer Contribution
Pension	9.59	8.38	17.71	6.87	10.90
Health	8.63	6.14	18.07	0	18.07
Other	1.65	0.57	2.22	0	2.22
Total	28.19	14.87	38.08	6.87	28.19
Tier IV Defined Contribution Retirement Plan					
Benefit	Normal Cost	Past Service Cost	Total Cost	Employee Contribution	Employer Contribution
Pension	15.00	0.00	15.00	2.00	6.00
Health	4.78	0.00	4.78	0.00	4.78
Other	0.31	0.00	0.31	0.00	0.31
Total	18.09	0.00	18.09	6.00	10.09
Difference	-2.07	-14.87	-16.94	1.181	-18.13

Teachers' Retirement System					
Tier I-II Defined Benefit Plan					
Benefit	Normal Cost	Past Service Cost	Total Cost	Employee Contribution	Employer Contribution
Pension	12.03	18.67	31.08	8.68	22.37
Health	8.63	8.71	17.54	0	17.54
Other	1.83	0.34	1.87	0	1.87
Total	22.49	28.62	50.48	8.68	(41.78) not included
Tier III Defined Contribution Retirement Plan					
Benefit	Normal Cost	Past Service Cost	Total Cost	Employee Contribution	Employer Contribution
Pension	15.00	0.00	15.00	6.00	7.00
Health	4.78	0.00	4.78	0.00	4.78
Other*	0.22	0.00	0.22	0.00	0.22
Total	19.97	0.00	19.97	6.00	11.97
* Disability and death benefits cost estimate; however, these were not included in the employer contribution estimate for the new TRS DCR plan.					
Difference	-2.47	-28.62	-30.49	-0.68	-33.51

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 1, 2006

SUBJECT: Constitutional issues raised by proposal to terminate right of employees to buy back prior service (CSHB 475(), Work Order No. 24-LS1685\Y)

TO: Representative Paul Seaton
Attn: Katie Shows

FROM: Dan Wayne
Legislative Counsel

Enclosed is the draft you requested today. Whenever possible in the future please make us aware in advance if a request is a "rush" so that we may complete the work requested more quickly.

You should be aware of an issue raised by your request today for changes to the CS for HB 475. Four of the proposed changes affect teachers or public employees who have been or will be refunded retirement contributions made to PERS and TRS before their final retirement from teaching or public employment in Alaska. At issue is whether a person's statutory right to "buy back" time in state service so it can be credited to the years of service needed to become vested or retire under tiers 1, 2, or 3 is protected by Alaska's constitution.

The amendments to AS 14.25.125(c) AS 39.35.375(a), and AS 39.35.385(c), and the repeal of AS 39.35.375(f), all effective July 1, 2010, as proposed, would do away with a currently enjoyed right of teachers and public employees who elect to "cash out" their PERS or TRS contributions to pay back the money in order to have the related years of prior service re-credited to their accrued total years of service for retirement purposes.

Article XII, sec. 7 of the state constitution declares that membership in a state or political subdivision retirement system constitutes a contractual relationship and that accrued retirement benefits may not be diminished or impaired.

A right to benefits under a state retirement system vests immediately upon the employee's enrollment in the system.¹ While the retirement system may be changed to permit the pension system to make adjustments, the modifications must be reasonable and any

¹ Hammond v Hoffbeck, 627 P.2d 1052 (Alaska 1981).

Representative Paul Seaton

March 1, 2006

Page 2

change that results in a disadvantage to employees must be offset by comparable new advantages.² Rights that are protected by the constitution include not only the amount of benefits, but also the requirements for eligibility.³ By implication, the right to receive credit for years of service upon repayment to the system of contributions previously refunded to the employee is also protected by the constitution.

Please let me know if you have additional questions on this matter or if you would like additional work done on this draft.

DCW:med

06-184.med

Enclosure

² Hoffbeck at 1057.

³ Hoffbeck at 1058.

service credit; amendments to former law governing award of "ad hoc" PRPAs; changes in retiree medical coverage affecting spouses and certain dependents of people receiving survivor benefits; and amendments to the board structure for governance of the systems.

★ [We have found no case law that specifically addresses application to former members of changes in public retirement system statutes that provide for reinstatement of service credit. However, it is arguable that a former member who cashed out the TRS or PERS contribution account after severing the employment relationship that gave rise to rights under the retirement system has no remaining rights that could be impaired by any subsequent change to the retirement system statutes. Furthermore, the reinstatement statutes do not explicitly provide that reinstatement of cashed-out service credit upon reemployment also reinstates a former member to the former member's original "tier" status.²³ While a definitive answer to this issue will only be provided by the Alaska Supreme Court, we believe the amendments are defensible.

We addressed the issue of changes to the former law regarding award of ad hoc PRPAs in the memorandum of advice dated April 20, 2005, advising that legislation that limits the administrator's discretion to award an ad hoc PRPA might be subject to challenge.²⁴ However, in enacting the 105 percent standard, the legislature had evidence that ad hoc PRPAs previously granted by the administrator exercising unlimited discretion had contributed substantially to the unfunded liabilities of the TRS and PERS funds. If the legislation establishing a standard for the administrator's exercise of discretion is challenged, this evidence may support the standard.

Regarding amendments to retiree medical coverage provisions made by sec. 22 to AS 14.25.168(a) and sec. 116 to AS 39.35.535(a), although we have found no case law directly on point, we note that a person who becomes the spouse or a dependent of a retiree's survivor after the retiree's death has no connection with the employment relationship between the retiree and the retiree's TRS or PERS employer that gives rise to any vested right under art. XII, sec. 7, of the Alaska Constitution.²⁵ Therefore, we believe that application of these statutory changes to spouses and dependents of current survivors of deceased members and to new spouses and dependents of eventual survivors

²³ A member's tier status in the current TRS and PERS defined benefit plans determines the age of retirement eligibility and level of medical benefits available upon retirement, based on the law in effect when the member became a member of the pertinent system. TRS currently has two recognized tiers, and PERS has three.

²⁴ 2005 Inf. Op. Att'y Gen.; 663-05-0192 (Apr. 20).

²⁵ New spouses and dependents of survivors who were not dependents of the deceased retiree do not meet the definition of "dependent" of the retiree set out in 26 U.S.C. 152, as required by 26 U.S.C. 401(h). These amendments are made in order for the state's retirement plans to comply with federal plan qualification requirements, and for payment of medical expenses out of the state's trust funds to comply with federal requirements for qualified trusts.