

**SB**

**100**

<TARGET><BILL>SB 100</BILL><SUBJECT>SB  
100</SUBJECT><COMM>SFIN27</COMM></TARGET>

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/6/11

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Finance Committee considered SENATE BILL NO. 100

## SB 100-PERS TERMINATION COSTS

"An Act relating to employer contributions to the Public Employees' Retirement System of Alaska; relating to requirements that employers who terminate some or all participation in the Public Employees' Retirement System of Alaska pay termination costs; and making the changes retroactive."

and recommends:

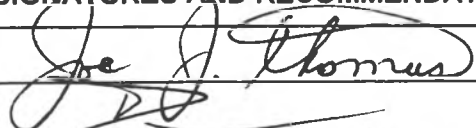
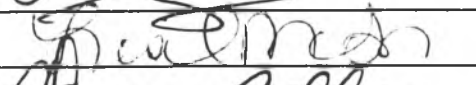
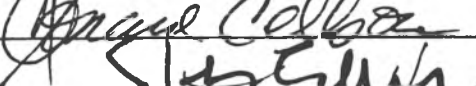
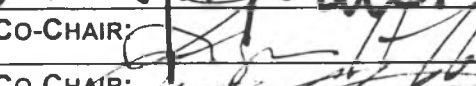



- be replaced with CS SB 100 (FIN)  Same Title  New Title
- adopt previous CS \_\_\_\_\_ (\_\_\_\_\_)  Same Title  New Title
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

Dept Abbr.	
ADM	LEG
CED	LAW
COR	LWF
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
ADM	X			

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Thomas	✓			
	Egan	X			
	McGuire	✓			
	OLSON			✓	
	ELLIS	X			
CO-CHAIR: 	Hoffman	✓			
CO-CHAIR: 	Stedman			✓	

# FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

Bill Version SB100  
Fiscal Note Number \_\_\_\_\_  
( ) Publish Date \_\_\_\_\_

Identifier (file name) SB100-DOA-DRB-3-27-12 Dept. Affected Department of Administration  
Title PERS Termination Costs Appropriation Centralized Administrative Services  
Allocation Division of Retirement and Benefits  
Sponsor Senators Paskvan and Menard  
Requester Senate Finance OMB Component Number 64

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

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>								
Personal Services	86.6			1,143.0	1,180.0	1,221.0	1,266.0	
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>86.6</b>	<b>0.0</b>	<b>0.0</b>	<b>1,143.0</b>	<b>1,180.0</b>	<b>1,221.0</b>	<b>1,266.0</b>	

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF	86.6		1,143.0	1,180.0	1,221.0	1,266.0	
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
<b>TOTAL</b>		<b>86.6</b>	<b>0.0</b>	<b>0.0</b>	<b>1,143.0</b>	<b>1,180.0</b>	<b>1,221.0</b>	<b>1,266.0</b>

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs \_\_\_\_\_ (separate supplemental appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs \_\_\_\_\_ (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Update for committee

Prepared by Jim Puckett, Director  
Division Division of Retirement and Benefits  
Approved by John Cramer, Deputy Commissioner  
Department of Administration

Phone 465-4471  
Date/Time 3/23/12 3:45 PM  
Date 3/23/2012

FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. SB100

**Analysis**

This bill acts to repeal AS 39.35.625 and AS 39.35.958(f) and annuls regulation 2 AAC 35.235 which require employers who eliminate participation in the Public Employee' Retirement System (PERS) for some or all of their employees to pay the costs associated with changes in vesting and retirement behavior due to the termination process (termination costs). Both changes lead to liability for benefits occurring earlier than calculated by the Division Actuary during valuation of the plan. The termination costs represent an unfunded liability to the system.

In addition to termination costs, AS 39.35.625 requires employers to pay continuing contributions towards the unfunded liability at the past service rate established each year times the salaries of the eliminated positions. Contributions are required from the employer until the past service liability is extinguished. The past service rate for FY 12 is 22.48% and for FY 13 is 24.16%.

The termination costs and the ongoing requirement for contributions toward the unfunded liability are in addition to the requirements for employer contributions in AS 39.35.255.

For employers who have terminated all participation with the PERS, this bill would require payment of 22% of the total base salaries of all covered employees as of the fiscal year ending June 30, 2008 until the plan does not have a past service liability, regardless of the actual past service rate calculated by the actuary.

Employers who eliminate participation for some but not all of their employee will pay no termination costs and make no contribution toward the unfunded liability unless their total base salaries fall below the total salaries the employer reported to the PERS as of June 30, 2008. The liability created by the termination will not be paid by the employer who took the action but will be placed upon all the employers in the plan. Since employer contributions are capped at 22% with the State of Alaska General Fund paying the remainder of the contributions due to fully fund the PERS for the year, the costs are ultimately shifted to the State of Alaska.

The estimated costs, in thousands, to the State as determined by the Division actuary, Buck Consultants, are as follows:

PERS DB Plan	FY 15	FY16	FY17	FY18	FY19
Increase in Normal Cost	\$(457.0)	\$(472.0)	\$(488.0)	\$(506.0)	\$(525.0)
Increase in Past Service					
Cost Amortization Payment	\$1,600.0	\$1,652.0	\$1,709.0	\$1,772.0	\$1,839.0
Total Increase in Annual Employer Contribution Amt.	\$1,143.0	\$1,180.0	\$1,221.0	\$1,266.0	\$1,314.0

Results shown above are based on the 2010 actuarial valuation for PERS. Assuming the bill becomes effective July 1, 2012, increase costs will be first reflected in the FY 15 rates. Future terminated employees have been assumed to follow a similar pattern as past terminated employees for which termination costs have been completed. If future experience of terminating groups from PERS increases, the costs shown above will also increase.

Due to the retroactive provisions contains in Sections 9 and 10 of the bill, five PERS employers will be reimbursed for termination costs already paid to the plan. Total cost of reimbursement is \$86,582.00 and will incur in FY 13.

**CS FOR SENATE BILL NO. 100(FIN)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SEVENTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATORS PASKVAN, Menard**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to employer contributions to the Public Employees' Retirement System**  
2 **of Alaska; relating to requirements that employers who terminate some or all**  
3 **participation in the Public Employees' Retirement System of Alaska pay termination**  
4 **costs; and making the changes retroactive."**

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

6 **\* Section 1.** AS 39.35.255 is amended by adding a new subsection to read:

7 (i) After an employer's participation in the plan terminates with regard to some  
8 or all of the employer's employees who are active members of the system, the  
9 employer remains obligated to make contributions under (a) of this section until the  
10 plan does not have a past service liability.

11 **\* Sec. 2.** AS 39.35.625 is repealed and reenacted to read:

12 **Sec. 39.35.625. Termination costs.** An employer that terminates participation  
13 in the plan of more than 20 percent of the employer's paid employees within any one-  
14 year period shall pay for a termination cost study that is directly related to the costs of

1 that termination.

2 \* **Sec. 3.** AS 39.35.958(c) is amended to read:

3 (c) When an employer's participation in the plan terminates [IS  
4 TERMINATED, OR WHEN AN EMPLOYER TERMINATES COVERAGE OF A  
5 DEPARTMENT, GROUP, OR OTHER CLASSIFICATION OF EMPLOYEES  
6 UNDER AS 39.35.957(c)], the administrator shall assess the employer a termination  
7 cost that the administrator determines is actuarially required to fully fund the costs to  
8 the plan for employees whose coverage is terminated, including the cost of providing  
9 the employer's share of retiree health benefits under AS 39.35.880, occupational  
10 disability and occupational death benefits under AS 39.35.890 and 39.35.892, and  
11 pension benefits elected under AS 39.35.890(h)(2).

12 \* **Sec. 4.** AS 39.35.958(e) is amended to read:

13 (e) An employer whose [TERMINATING] participation in the plan  
14 terminates shall pay termination costs determined under (c) of this section [BY THE  
15 ADMINISTRATOR], or enter into a payment plan acceptable to the administrator,  
16 within 60 days after the employer receives notice of its termination costs from the  
17 administrator. Termination costs not paid within the prescribed time limit or in  
18 accordance with the approved payment plan shall be collected by the administrator in  
19 accordance with AS 39.35.610(b). Termination of participation by an employer in the  
20 plan does not bar future participation by the employer if the employer has paid in full  
21 its prior termination costs.

22 \* **Sec. 5.** AS 39.35.958(f) is repealed and reenacted to read:

23 (f) An employer that terminates participation in the plan of more than 20  
24 percent of the employer's paid employees within any one-year period shall pay for a  
25 termination cost study that is directly related to the costs of that termination.

26 \* **Sec. 6.** 2 AAC 35.235 is annulled.

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

29 APPLICABILITY. Notwithstanding sec. 8 of this Act, secs. 3 and 4 of this Act do not  
30 apply to AS 39.35.958, for termination costs paid before the effective date of this Act for  
31 payroll periods or partial payroll periods that occur before the effective date of this Act.

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

3 **RETROACTIVITY.** Sections 1 and 2 of this Act are retroactive to July 1, 2008, secs.  
4 3 - 5 of this Act are retroactive to June 7, 2007, and sec. 6 of this Act is retroactive to  
5 January 13, 2010.

ADOPTED 4/4/12

27-LS0272E  
Wayne  
4/3/12

**CS FOR SENATE BILL NO. 100( )**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATORS PASKVAN, Menard**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to employer contributions to the Public Employees' Retirement System**  
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3             **RETROACTIVITY.** Sections 1 and 2 of this Act are retroactive to July 1, 2008, secs.  
4 3 - 5 of this Act are retroactive to June 7, 2007, and sec. 6 of this Act is retroactive to  
5 January 13, 2010.



# Senator Joe Paskvan

Alaska State Senate • District E • Fairbanks • Ft Wainwright

## Sponsor Statement Senate Bill 100 PERS Termination Costs

Senate Bill 100 addresses the future financial stability of all PERS employers - the State, municipalities, school districts and the University of Alaska - and their ability to efficiently and effectively manage the delivery of programs and services.

Due to a variety of historical circumstances and decisions, the PERS defined benefit system evolved from being fully funded to being underfunded by billions of dollars. A solution embraced by all parties to address the unfunded liability was incorporated into Senate Bill 125 and was passed by the legislature in 2008. SB 125 set into law that the PERS system is a consolidated system and that the combined defined benefit (DB) and defined contribution (DC) salary base would be required to pay down the unfunded obligation, which in turn would provide for sustainable, predictable and affordable employer rates.

Paying off the unfunded obligation is predicated upon a stable, reasonably growing, system-wide salary base. A concern at the time SB 125 was adopted was that employers might en-masse elect to convert PERS salaried positions to contracted positions to reduce or avoid their PERS cost, thus shrinking the PERS salary base needed to pay off the unfunded obligation. To address this concern, it was agreed that employers would pay the *greater of* 22 percent on their combined DB and DC salary base, or, 22 percent on their total payroll for the period ending 6/30/2008. This effectively set the minimum contribution, or floor, that an employer would pay once PERS converted to a consolidated system.

Additional language relating to termination studies was added at the time to prevent employers from intentionally reducing their fair share contribution toward paying off the unfunded obligation. The application of the termination studies law is the cause for concern and the introduction of SB 100.

Current law requires an employer who terminates participation of a department, group, or other classification of employees to pay the following bills:

1. the cost associated with obtaining a termination study from the PERS actuary;
2. the actuarial cost to the employer for future benefits due employees whose coverage is terminated; and
3. the past service cost, annually, on each position terminated until the unfunded obligation is paid off decades from now.

Enforcement of the termination studies law is making it difficult for employers to manage their delivery of services, discriminates against small municipalities even though their impact is immaterial, and is costly and nearly impossible to implement in an equitable manner. These mandated termination studies fail to recognize that we do *not* have a single-agent, multiple employer system in which different employers pay different net rates. SB 125 provided for one integrated system of accounting; the unfunded obligation is to be shared among all employers, with each paying a single, uniform contribution rate of 22 percent.

All agree that the unfunded obligation must be paid off. All agree that the entire PERS salary base - both DB and DC - is needed to pay off the unfunded obligation, and that it must be sustained and have reasonable growth. The fear that employers would act in a manner jeopardizing the payment of the unfunded obligation has not materialized; in fact, the system-wide salary base has grown steadily. The law providing for termination studies is not needed and is repealed through SB 100.

SB 100 maintains the 6/30/2008 floor as the base salary amount upon which PERS payments must be calculated as this is the most efficient, cost effective and equitable method of ensuring the unfunded obligation is paid off.

## BILL ANALYSIS

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**Bill Number: SB 100**

**Version: 27-LS0272\D**

**Sponsor(s): Senator Paskvan**

**Title:** "An Act relating to employer contributions to the Public Employees' Retirement System of Alaska; relating to requirements that employers who terminate some or all participation in the Public Employees' Retirement System of Alaska pay termination costs; and making the changes retroactive."

This legislation is effective July 1, 2008 for Sections 1-3 and 6; June 7, 2007 for Sections 4, 5 and 7; January 13, 2010 for Section 8.

### **Analysis of Repeals**

The bill acts to repeal AS 39.35.625 effective July 1, 2008, AS 39.35.958(f) effective June 7, 2007 and annuls regulation 2 AAC 35.235 as of its adoption date, January 13, 2010.

- Repealing AS 39.35.625 removes the requirement for the employer to pay ongoing contributions toward the past service liability of the PERS; eliminates a termination cost study and the ability to establish a payment plan to pay termination costs. Repealed retroactive to July 1, 2008.

The termination study calculates the unanticipated and unfunded costs resulting from both vesting behavioral changes that occur because of the termination. Employees in the defined benefit plan who are not vested with 5 years of paid up PERS service become vested and eligible for pension, and depending on tier, medical benefits after termination of coverage. This action creates unfunded liability.

Currently, the plan experience demonstrates members who are close to retirement age will work at least two years past normal retirement. This experience is part of the assumptions used to value the plan each year. Termination of coverage changes this behavior resulting in members drawing retirement at the soonest eligible point. This unanticipated change creates unfunded liability.

Employers are required by AS 39.35.625 to continue payment towards the unfunded liability based on the salary of the terminated position(s) multiplied by the past service rate for the system. The past service rate for FY 11 is 18.63%. The rate increases to 22.48% in FY 12. These payments toward the unfunded liability would stop with repeal.

Repeal of AS 39.35.625 results in a cost shift of liability from the employer to the State of Alaska.

- Repeal of AS 39.35.958(f) removes the requirement for the employer to pay for a termination study to determine the costs associated with the termination. Repealed retroactive to June 7, 2007.
- 2 AAC 35.235 is a regulation that clarifies the termination costs as defined in AS 39.35.625 and AS 39.35.625. Repealed as of adoption date of January 13, 2010


Retroactive repeal dates presents administrative problems for the division as payments have been made by employers to Buck Consultants. The division may need an appropriation to refund the costs back to employers depending on a determination of the Dept. of Law regarding the appropriate use of the trust funds for this purpose.

### **Analysis of Sections**

Section 1. Amends AS 39.35.255 which governs contributions required by employers by adding a new subsection (i) stating the employer remains obligated to make contributions of 22% based on the total base salaries of the greater of the active employees in the plan, or the total base salaries of all covered employees as of fiscal year ending June 30, 2008 in the event of a termination. The contribution floor for active employees established in AS 39.35.255(a) will not be triggered until the overall employer salaries fall below the June 30, 2008 thresh hold. As salaries increase in the future, it will become less likely that the removal of single or a moderate number of positions will result in an employer falling beneath the contribution floor.

Section 2. Amends AS 39.35.615(i) to remove the requirement for an employer seeking future coverage of terminated employees to be current in payments for costs resulting from the termination study before coverage is granted. Costs arising from the termination study have been removed with the repeal of AS 39.35.625.

## Memorandum

To: Mike Barnhill, Deputy Commissioner, DOA  
From: Larry Semmens, Soldotna City Manager   
Date: February 11, 2011  
Subject: Termination Study Impacts

You asked that I summarize my concerns regarding termination studies. My concerns are in the areas of equity, materiality, accuracy, and enforcement.

There is a much higher likelihood of the provisions of 39.35.625 applying to a small municipality than a large employer. Adjusting staffing levels for budgetary purposes can easily result in the termination of a group, department or other classification (group) in a small municipality. A large employer could eliminate many positions, thus having a material dollar impact on PERS contributions but not trigger the provisions of either .625 or .255 (2008 floor). Since small municipalities are often challenged fiscally, these provisions make it very difficult to effectively manage staffing levels. Staff costs are usually 75% or more of total budget making staffing the only area to effectively deal with revenue shortfall. Small municipalities are affected materially but the impact on the system is immaterial. Large employers that stay above the 2008 floor can make many position cuts without incurring the cost of either termination studies or past service cost on the salary of a group that has no continuing salary. Thus the termination provisions have minimal impact on the large employers. Shouldn't all employers be treated equally by application of the 2008 salary floor in section .255 rather than subjecting small employers to termination costs in section .625?

Regarding past service liability, when total payroll of an employer is up from 2008, one could argue that the PERS has not been negatively impacted by that employer eliminating a group. However DRB doesn't consider this. If the employers total payroll exceeds the 2008 floor they should be considered to have met the responsibility to pay the past service liability. I think the 2008 floor is the fairest way to deal with past service liability.

If .625 is brought into play there are many variables which have to be given consideration:

1. When a position is eliminated it doesn't always mean the person in the position was terminated from employment, furthermore, they could get a PERS position in the future which would negate the termination cost that was previously assessed. If a group of several employees is involved it would seem that those still employed would be exempt from the termination study and from past service cost payments. I think you refer to this as double counting. It will be very complicated to keep up with.
2. Paying the past service rate on the salary of a terminated group for the next 30 years could easily exceed any possible actual past service liability generated by the group. **If all of the group were Tier IV there would be almost no past service liability generated, but the employer is obligated to pay the**

**past service liability generated, but the employer is obligated to pay the past service rate on the salary of the terminated group until the unfunded liability is paid off.** This is not reasonable. Consider that if the employees affected were short term DB employees the past service liability would also be low. If Buck is calculating normal cost correctly any employee hired since Buck was employed should have little or no past service liability.

3. The methodology of Buck's calculation does not consider all relevant facts. The Ketchikan example is a good one. The subject was Tier I, 59 years old with 34 years in the system. My thought is the person is generating an actuarial surplus since he didn't retire at 30 years of service. Buck doesn't consider this in their calculation. Instead they ignore these facts and calculate the present value of the benefits which will be paid out 'early' based on the assumption that the subject is going to work well beyond age 55. Buck knows that only a fraction will continue to work beyond retirement age, but I don't think they apply any probability factor to their calculation of the termination cost. Instead they simply calculate the present value cost of the person retiring compared to what it would have cost at some point in the future. It would be interesting to query the data to find out how many Tier I's with 34 years keep on working to whatever age Buck assumed this person was going to be if he didn't retire when he did. Consider that every time someone retires at age 55, or at any age younger than Buck's assumed age, there is a hit to the system that Buck apparently has not considered. The conclusion to be drawn is that the total liability they are reporting is grossly understated. They calculated that the system took a hit of \$123,000 when the Ketchikan person retired. This is not reasonable for this set of facts and should be carefully considered in light of the liability estimates they have made.

Another big issue is that DRB believes the State is exempt from compliance with section .625 because the State doesn't have a participation agreement with PERS. This is a thin argument which is clearly not equitable to the other members of the plan. This means that the entity that has over half of the total payroll of the system and therefore over half of the past service liability that drives the past service cost rate, can eliminate departments, groups or other classifications without paying the costs. The impact of this is born by the other members of PERS. The thought that the State's actions only impact the State is not correct. When the State does not properly contribute to PERS according to the same rule every other employer has to follow, the system doesn't get the funds the actuary is anticipating and the result is higher rates for longer periods. All employers are going to participate in rectifying this. Note that the past service rate is going above 22% in FY 2012. I wonder how much of this is caused by the State not contributing according to the actuarial assumptions.

As I mentioned, I think the State is underfunding PERS with contract employees that do not meet the IRS test of independent contractors and by employing retired PERS members in long term temporary positions that would normally be filled with a PERS employee. The State does this because they have to in order to hire competent staff. Why shouldn't municipalities be allowed the same ability to manage?

I continue to argue against requiring a termination study, but if one is required all relevant facts need to be considered. Currently the methodology of the calculation is designed to deliver the highest possible termination cost.

I hope that you and your staff will recognize:

1. that .625 termination studies are making it difficult to manage staffing levels,
2. that application of the requirement discriminates against small municipalities even though their impact is immaterial, and
3. that enforcement is going to be costly and nearly impossible to do equitably.

With two auditors that have apparently only accomplished 12 field audits since 2003, it seems unlikely that the State is properly staffed to deal with the workload that this law imposes. Employers do not understand the requirements, do not consider the requirements or alternatives available to them when dealing with staffing changes, and consequently will often be out of compliance with the law.

In conclusion I reiterate that a simple requirement such as maintaining and enforcing the 2008 floor as the base salary amount on which PERS payments must be calculated will be equitable and easy to administer and enforce. Such a requirement will have minimal impact on the PERS compared to the cost of properly enforcing the current law.

Senator Paskvan's bill accomplishes this so I am in support of the bill.

If you have any questions of me I am available at your convenience.

# **PERS III: The Termination Studies**

**Prepared By:  
Michael E. Lamb, CPA, CGFM  
Chief Financial Officer  
Fairbanks North Star Borough  
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Fairbanks, AK 99707-1267  
(907) 459-1370  
(V6 – 11/12/2010)**

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- **What Is The Issue?**
- **What Employers Are Subject To The Termination Study Regulation?**
- **What Is The Abbreviated History That Led To The Studies?**
- **If That Was The History, Then Why The Termination Studies?**
- **How Did SB 125 Address The Salary Base Shrinkage Concern?**
- **So, The Concern Was A Shrinking Salary Base. Has It Shrunk?**
- **What Are Some Termination Study Fact Pattern Examples?**
  - **City of Ketchikan**
  - **City of Craig**
  - **City of Skagway**
  - **Ketchikan Gateway Borough**
  - **City of Palmer**
  - **City of Cordova**
- **What Are Some Of The Unintended Termination Study Consequences?**
  - 1) **Equitable and consistent application of the State's termination law does not seem to be occurring.**
  - 2) **There is an inescapably inequitable impact to small PERS employers.**
  - 3) **Termination studies negatively impact our decision, and our ability to accept grants because of the potential future liability.**
  - 4) **As administered, there are no offsets taken into account for salary increases in one area, for decreases in other areas.**
  - 5) **Over time, more and more resources will go toward paying down the unfunded obligation than go to the delivery of services.**
  - 6) **An employer will pay more toward the unfunded obligation every pay period on positions that no longer exist than they will for existing paid positions.**
  - 7) **Termination studies nullify the intent of SB 125 that employers pay the exact same rate.**
  - 8) **Will "terminated" salaries pay a higher rate than that set in Statute?**
- **Are There Things That We All Agree On?**
- **Remember: The Termination Language Is Simply Not Needed!**
- **What Should Be Done? What Does AML Support As A Solution?**
- **Appendix: 2 AAC 35.235. Calculation of termination costs (Impacts DB & DC employees, not just DB EE's)**

# PERS Termination Studies

## What Is The Issue?

PERS says: If you reduce your employee count because you made a decision to alter or suspend one of your programs or services, we just might send you three bills\*. It doesn't matter to us (PERS) why the reduction occurred, nor, does it matter that you are a small employer that could end up having to reduce your programs and services because you owe us hundreds of thousands of dollars, to millions of dollars.

One bill we (PERS) will send you will be for the cost of doing a termination study. The second bill will be what the study says you owe the System, due to the employee change(s) you made. The big bill we'll send you, number three, is the one that may require you to pay the past service cost (PSC) on each position we said you needed to opt out of PERS. Just to be clear, you will be required to pay the PSC (currently 18.63%) on the salary(s) we said you needed to opt out until the unfunded obligation goes away, maybe 30 years from now.

The future financial stability of PERS employers, and their ability to efficiently and effectively manage the delivery of their programs and services, is being directly impacted and undermined by how PERS interprets 2 AAC 35.235.

## What Employers Are Subject To The Termination Study Regulation?

All PERS employers: the State, boroughs, cities, school districts, and the university system. There are no statutory exclusions for any PERS employer. We are all -- subject to the negative compounding effect that the 2 AAC 35.235 imposes.

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\* 2 AAC 35.235. Calculation of termination costs: (a) An employer that proposes to terminate coverage of a department, group, or other classification of employees under AS 39.35.615 or 39.35.957, or terminate participation of the employer under AS 39.35.620 or 39.35.958, must have a termination study completed by the plan actuary to determine the actuarial cost to the employer for future benefits due employees whose coverage is terminated.  
(b) In addition to the costs calculated in (a) ... the employer under AS 39.35.620 or 39.35.958, is required to pay to the plan until the past service liability of the plan is extinguished an amount calculated by applying the current past service rate adopted by the board to salaries of the terminated employees as required by AS 39.35.625 (a). This payment shall be made each payroll period or the employer may enter into a payment plan acceptable to the administrator for each fiscal year.

## **What Is The Abbreviated History That Led To The Studies?**

Due to a variety of historical circumstances and decisions, the PERS and TRS defined benefit systems evolved from being fully funded to being in a state of being billions of dollars underfunded.

The main questions became: Whose debt is it, and how will “we” pay the unfunded obligation down? Great consideration and weight were given the concepts of predictable, affordable, and stable rates.

In the end, the resolution embraced by all parties as acceptable (meaning most affected parties were equally unhappy), and generally incorporated into SB 125:

- set in law that the PERS system is a consolidated system,
- set in law that there would be a flat maximum PERS employer combined normal rate and past service cost rate of 22%,
- set in law that the State would pay the difference in the actuarially determined combined rate and the 22%,
- set in law that PERS employers would pay 22% on defined contribution (DC) salaries as well, with the difference between the 22% and specific DC benefits (approximately 10%) would go toward paying down the DB unfunded obligation,
- and set in law that the State would pay all of the past service cost rate for the TRS system.

## **If That Was The History, Then Why The Termination Studies?**

The combined DB and DC salary base will be required to pay down the unfunded obligation, and sustain predictable, affordable, and stable employer rates. This understanding takes into account that over time the defined benefit (DB) salaries would decrease, due to the establishment of the defined contribution (DC) plan, PERS Tier IV.

Paying off the unfunded obligation is predicated upon a stable and a reasonably growing salary base. A concern at the time SB 125 was adopted was that PERS employers might en-masse elect to convert PERS salaried positions to contracted positions to avoid/reduce their PERS cost.

If enough employers made enough wholesale major changes in the way they deliver their programs and services by converting from a salary based labor force to contract based labor force, the salary base to pay off the PERS unfunded obligation would shrink. Shrinking the PERS salary base jeopardizes the ability to pay off the unfunded obligation.

## How Did SB 125 Address The Salary Base Shrinkage Concern?

PERS employers pay 22% on the total of their current combined DB and DC salaries, ***Or, pay the greater of 22% times the payroll period that ended on 6/30/08.*** This basically ***set the minimum contribution*** amount that a PERS employer would pay, once PERS converted to a consolidated system. ***This provision sets a future, per pay period, contribution floor for all PERS employers, and it was, and is, appropriate and fair. This provision deals with an employer's need to modify their programs!***

However, other language was added to deal with employers that might try to purposely reduce their benefit costs, and therefore, reduce their fair share contribution toward paying off the unfunded obligation.

**So. The Concern Was A Shrinking Salary Base. Has It Shrunk?**

**No. In fact, it has grown steadily.** The fear that employers would act in a manner that jeopardized payment of the unfunded obligation has not materialized. The table below clearly shows a strong salary base growth, not a decline.

PERS									Defined Benefit and		
Defined Benefit Salaries Only (in thousands)									Defined Contribution Salaries		
Report Date	6/30/1999	6/30/2000	6/30/2001	6/30/2002	6/30/2003	6/30/2004	6/30/2005	6/30/2006	6/30/2007	6/30/2008	6/30/2009
FY Applies	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Total DB Salaries	1,283,549	1,321,480	1,360,401	1,402,686	1,460,783	1,472,987	1,586,891	1,676,318	1,689,969	1,657,186	1,662,781
Total DC Salaries									115,329	221,931	340,360
Salary Base That Pays Unfunded	1,283,549	1,321,480	1,360,401	1,402,686	1,460,783	1,472,987	1,586,891	1,676,318	1,805,298	1,879,117	2,003,141
Annual Increase over PY		37,931	38,921	42,285	58,097	12,204	113,904	89,427	128,980	73,819	124,024
Annual % Increase over PY		3.0%	2.9%	3.1%	4.1%	0.8%	7.7%	5.6%	7.7%	4.1%	6.6%
% Increase 6/30/06 - 6/30/09											19.5%

6/30/09 Salaries	2,003,141
FY 6/30/06 Salaries	1,676,318
Salary Growth	326,823
Divided By FY 6/30/06 Salaries	1,676,318
Equals % Growth	19.5%

**Take note:** The underlying fear that certain employers would shrink the salary base has simply not happened! *The termination language was a solution to a problem that never materialized, and it's not needed.* But even worse, the negative consequences, *the additional charges and payments that result from what PERS interprets as being required from the termination language, were never contemplated or intended, and they are destructive.*

## What Are Some Termination Study Fact Pattern Examples?

### City of Ketchikan:

**Terminated Position(s):** Eight employees of Gateway Center for Human Services.

**Positions(s) Funding Source:** Grants, patient fees, and sales taxes.

**Reason for Termination(s):** In addition to reduced federal and state grant funding, the City Council determined that it was no longer appropriate for the City of Ketchikan to operate a health care clinic. The mental health and substance abuse treatment services offered by Gateway Center for Human Services were not typical local government services and the City was ill equipped to deliver the services in a cost effective and efficient manner.

### **Termination Cost:**

- 1) \$ 5,000 to Buck for the termination study,
- 2) 10,364 to the State for liability increase to the System
- 3) 2,235,421 = (\$399,968/yr) x (18.63% PSC rate) x (30 years) = estimate  
\$ 2,250,785

### **Observations:**

The City Council was forced to alter its services as a direct result of reductions in critical grant funding, and the questioned appropriateness of the City continuing this program. The loss of grant funding levels has led to a potential \$2.3 million obligation. The City plans to divert resources, approximately \$74,514/year, from its Hospital Sales Tax Fund to make the annual past service cost payments, thus negatively impacting future hospital funding and possibly other paid positions.

What about communities that rely on law enforcement grants, domestic violence grants, fire fighting grants, Homeland Security grants, education grants, etc.? Will entities need to stop accepting critical grants out of fear that the grant will end sometime in the future, and then, they'll have to pay benefits on salaries they no longer get grant funding for?

**City of Craig:**

***Terminated Position(s):*** Five and a half employees were transferred to the City to staff the Craig Clinic, a primary health care clinic (2 DB and 3.5 DC employees).

***Positions(s) Funding Source:*** Fees for services with shortfall covered by general government funds.

***Reason for Termination(s):*** In 2000, the City of Craig assumed operation of a clinic. Two prior operators of the clinic had abruptly halted their operation of the clinic, citing the inability to collect revenues sufficient to cover their operating costs. The City Council directed staff to develop a plan to keep the clinic open.

Financially, the clinic was a mixed bag for the City of Craig. Some years revenues exceeded expenses, in other years expenses exceeded revenues. The trend for the past four years was one of operating losses. The City never wanted to be in the clinic business, and got out of it as soon as it could, while still ensuring that the service would continue to be available locally. In April, 2010, the City of Craig turned over operation of the clinic to a private non-profit corporation. The City is not paying the new clinic operator to run the clinic, nor is the operator paying the City to run the clinic.

***Termination Cost:***

- 1) \$ ? to Buck for the termination studies
- 2) ? to the State for liability increase to the System
- 3) 2,065,694 = (\$396,600/yr) x (18.63% PSC rate) x (30 years) = estimate  
\$2,065,694 plus unknown study and termination liability costs

***Observations:*** This was not a "municipal service" that was "contracted out" to the private sector, nor was this a service the City decided to contract out to avoid PERS costs. It was a medically necessary service that the City provided on a temporary basis between 2000 and 2010. In short, the clinic was an operation not suited for the City. For community based health and safety reasons, the City took over for a temporary period. Staff were not long term PERS participants, but a combination of Tier III and IV members, and therefore, the City could not have built up any huge obligation to the DB system for the two DB employees. But, the City is faced with possibly having to pay into the System over \$2 million for those temporary clinic positions. Where will the funding come from? The PSC rate (18.63%) times 5.5 employees salaries (\$68,756/year) equates to possibly terminating another employee in order to have enough funds to pay the System.

***Other Issues for the City of Craig:***

Not as a consequence of, but, at about the same time that the City stopped operating the Clinic, the City of Craig's EMS Coordinator applied for a transfer from the EMS Department to the Police Department, to work as a dispatcher. The City Administrator is considering refilling the EMS Coordinator position with a part time employee, rather than a full-time employee. He asked PERS staff if this transition, in their view, might also trigger some sort of payment to the PERS system. PERS staff stated that it might, and said they would need to make a determination on the matter.

## City of Skagway:

**Terminated Position(s):** Single position, Fire Chief

**Position(s) Funding Source:** General government funds

**Reason for Termination(s):** Skagway changed its Fire Chief position from paid to volunteer due to budget reasons. The fire department will have a paid administrator position instead. Extract from State e-mail: "As a volunteer, *the position is no longer eligible for PERS. Therefore, you must amend your participation agreement to exclude the Fire Chief.*" "Even if the Fire Chief position is vacant, the termination study must still be done."

### **Termination Cost:**

- 1) \$ 2,500 to Buck for the termination study,
  - 2) 17,470 to the State for liability increase to the System
  - 3)  $416,643 = (\$74,547/\text{yr}) \times (18.63\% \text{ PSC rate}) \times (30 \text{ years}) = \text{estimate}$   
\$436,613
- Observations:** Here was a PERS employee that only worked for Skagway for 4.73 years. Skagway didn't even have this person employed long enough for this employee to become vested if the person had worked as a PERS employee only for Skagway. Yet, Skagway will have to pay huge sums in the future as though they were that person's sole PERS employer, and as if, the entire benefits due that employee were created during their years of service at Skagway; but that's not the case! Skagway's future payments will cover past service costs for other employers, costs that should be paid (under a single-agent, multiple employer system) by the other employer(s), not by Skagway. This was one of the very issues (one employer's decisions financially affecting another employer) that was the basis for going to a consolidated system. Extract from State e-mail: "Benefits due to terminated employees must be funded by the employer..." "In addition to this cost, you will continue to make contributions toward the unfunded liability for this position (Tiers I, II and III) each pay period by the amount determined by applying the past service rate times the salary of the individual you are removing, or the salary of the person that last held the position. The current past service rate is 18.19%. The past service rate changes every fiscal year."

**Ketchikan Gateway Borough:**

***Terminated Position(s):*** Single position, Borough Manager

***Positions(s) Funding Source:*** General government funds

***Reason for Termination(s):*** 34+ year PERS employee that wanted to draw retirement. The Assembly wanted to keep the manager, so it changed the position from employee to contracted.

***Termination Cost:***

- 1) \$ 2,500 to Buck for the termination study,
- 2) 12,392 to the State for liability increase to the System
- 3)  $676,269 = (\$121,000/\text{yr}) \times (18.63\% \text{ PSC rate}) \times (30 \text{ years}) = \text{estimate}$   
\$691,161

***Observations:*** Here was a PERS employee that only worked for the KGB for less than three years of their over 34 years in the System. For a little over 27 years the person was employed by the State. The employee and the employee's employers paid into the System four years beyond when that employee had reached 30 years of employment, able to retire with full benefits. This also means the employee did not draw on the System for over four years that they could have, had they retired at 30 years. And yet, KGB still owed money to the System for this person. KGB didn't even have this person employed long enough to vest, yet, it could possibly have to pay \$700,000 into the System for this employee? It is interesting that although this person and the employers paid into the System for 34 years, KGB might have to pay into the System for another 30 years, and therefore the System will have received just under 65 years of contributions to fund this person's retirement! Something just does not seem right about this!!

**City of Palmer:**

***Terminated Position(s):*** City Manager

***Position(s) Funding Source:*** General Fund

***Reason for Termination(s):*** Change in managers with newly hired manager wishing to retain current retirement status.

***Termination Cost:***

- 1) \$ 2,500 to Buck for the termination study,
- 2) 12,483 to the State for liability increase to the System
- 3) 582,212 =  $(\$104,171/\text{yr}) \times (18.63\% \text{ PSC rate}) \times (30 \text{ years})$  = estimate  
\$ 597,195

***Observations:*** The termination costs are based on the wages of the last individual holding the position being removed from PERS. In the City of Palmer's case, the former manager had approximately 17 years in the PERS system equally distributed between the State of Alaska, Fairbanks North Star Borough and the City of Palmer. The last employer is the entity with the financial burden even though only three years of service were provided to the City.

**City of Cordova:**

***Terminated Position(s):*** Police Chief

***Positions(s) Funding Source:*** General Fund

***Reason for Termination(s):*** Change in Police Chief with new proposed Chief wishing to retain current retirement status. Previous Chief was employed for two years. Proposed new Chief is a retired State Trooper.

***Termination Cost:***

- 1) \$ ?? to Buck for the termination study,
- 2) ?? to the State for liability increase to the System
- 3)  $381,768 = (\$68,307/\text{yr}) \times (18.63\% \text{ PSC rate}) \times (30 \text{ years}) = \text{est.}$   
\$ 381,767 + one-time cost to be determined to PERS

***Observations:*** The termination costs are based on the wages of the last individual holding the position being removed from PERS. In the City of Cordova's case, this individual came from Louisiana, had approximately two years in the PERS system, was not vested, and moved back to Louisiana. The City began a search and determined that the best candidate for the position was a retired State Trooper. The City had no knowledge of the changes in PERS rules and proceeded to ask the State what needed to be done to remove the Chief position from PERS. The City was informed about the changes in the process that includes the termination study and liability payments. The City was unable to fund those amounts, the City is currently operating with an Interim Chief (Temporary employee) while hoping the Legislature will remove the termination study and liability during the 2011 legislative session.

2 AAC 35.235 says that an employer "... ***must have a termination study completed by the plan actuary to determine the actuarial cost to the employer for future benefits due employees whose coverage is terminated.***" In this case, there is absolutely no additional cost to the PERS System as a result of the Louisiana individual's termination, yet the City is being charged anyway.

The result of the new PERS rule is that a highly qualified Alaska State Trooper can go to work in any other state without impact to his/her Alaska retirement, and without impact to his/her non-Alaska employer. However, if the Trooper wants to work in Alaska they must give up their retirement while working in Alaska, or their Alaska employer must pay excessive costs to PERS for a study and liability expense. The consequence of this is that the most qualified employees are being driven out of Alaska if they want to continue to work.

## What Are Some Of The Unintended Termination Study Consequences?

**1) Equitable and consistent application of the State's termination law does not seem to be occurring**, nor likely can it ever occur given the uniqueness of all PERS employers' positions. A law like this that has such a material financial impact on PERS employers should at a minimum be able to be fairly, equitably, and consistently applied to all PERS employers. Looking at which entities have had termination studies done, and what drove those studies to be done, versus studies not done and the reasons behind them not being done, there is a clear and valid question as to is there really any equal treatment under the law?

How is the State complying with these termination laws, how has it applied the termination laws unto itself, as the administrator of the PERS System? You may also wonder: How many termination studies has the State had conducted on itself? When thinking about what the answer should be, keep in mind that the State is the largest PERS employer, with about 50% of the salary base, about \$1 billion per year. Keep in mind that the State opens and closes offices all the time, and contracts out work which it cannot hire salaried staff to do. So again, how many studies? According to the State, none have been done for State positions! ***Further, according to the State, they don't even know how they'd administer the law, these regulations, unto themselves.***

*Does it seem like an equitable and consistent application of the law when the entity that drafted the regulations, and has the largest salary base in the System, doesn't even apply the regulations to itself, and yet, it imposes them on others?*

**2) There is an inescapably inequitable impact to small PERS employers.** This State law, or its application by PERS creates a clear and unconscionable inequitable impact on small PERS employers, versus larger PERS employers. Many smaller communities only have "one" employee for a program or service. If they lose a grant, or simply are faced with budget constraints and they have to cut a person, say a nurse in a school, they'd be required to have a termination study done, then pay all of the related costs because they actually cut a "function or a group." However, applying the law to a larger PERS employer that loses some grant money or is faced with budget constraints does not result in the same impact from the loss of the only nurse. The larger employer has more than one nurse, so they are not required to do a termination study.

So, the small employer gets financially punished with the requirement to opt that position (function/group of one) out of PERS. Then they get hit with all of the related termination costs that the large employer doesn't get. Even though they both paid, say, \$50,000 a year for those nurse employees they had to lay off, one gets a bill for the

salaries they aren't paying, and the other one doesn't get a bill. Both are not paying an equal \$50,000 into the PERS system!

Imagine now that the large employer cut five nurses and therefore, reduced by \$250,000 the salary used to pay down the unfunded obligation. The small employer impacted the System by \$50,000, the large employer by \$250,000. No termination study or past service costs for the large employer, the small employer, they're (excuse the language) screwed. Going back to consequence #1 just made above, does this seem like a fair and equitable application of the law, or the intent of the law? Obviously, no. But worse, there is clearly not a fair and equitable financial impact on these two different employers for taking the exact same action, for the exact same reason, with the exact same impact on the System? The little PERS employer gets financially punished for taking the same action as the larger employer!

**3) Termination studies negatively impact our decision, and our ability to accept grants because of the potential future liability.** Grant funded positions may become subject to the termination studies, once the positions are terminated due to grant funding ending. Employers will find themselves paying the past service cost rate on former grant funded position salaries with other revenues. Essentially, if you accept a grant it is possible, depending upon the circumstances, that once those grant funded positions are ended that you'll need to use other dollars to pay the PSC on those former grant funded salaries that you're no longer paying. This will force diverting dollars from the actual delivery of other necessary services and programs to paying benefits on grant salaries no longer being paid until the unfunded obligation is gone. This result clearly raises the question of whether or not an entity should accept any grants that might have new positions attached to them. Look at the City of Ketchikan set of facts. Shall we talk about public safety grants, shall we talk about Homeland Security grants, shall we talk about Emergency Medical Services grants, shall we talk about air quality grants, shall we talk about, say ARRA grant funded positions at our schools and the university system?

**4) As administered, there are no offsets taken into account for salary increases in one area, for decreases in other areas.** In other words, the ability for entities to adjust their programs and services to meet their constituent's needs is negatively impacted. If an employer needs to cut in Area A, and add in Area B, that employer could find itself paying the PSC rate times the salary(s) it is no longer paying in Area A because it shifted its employees to Area B where there is more need, whether driven by local need or a mandate. An employer could keep/maintain the exact same salary base, but, by

stopping some service completely and simply moving those employees to an existing or a new service, they could get hit with a demand for a termination study as that group is no longer providing that program or service (such as your only EMS Coordinator going to the Police Department). As currently administered, the PERS program only really allows for an upwards spiraling increase in PERS salaries, and those total salary dollars will be subject to either the statutory 22%, or, the PSC rate on opted out salaries.

**5) Over time, more and more resources will go toward paying down the unfunded obligation than go to the delivery of services** such as fire protection, law enforcement, teaching, recreational services, landfill services, library services, flood control services, emergency response services, and the list goes on from here. Once you start shifting employee resources from one area of responsibility to another, you start a negative downward spiraling in your programs and services. If an employer, for example, lost their grant funding for a healthcare program that had 6 staff that averaged \$50,000 per year, they could possibly have to cut another position to cover the termination costs. The math is:  $\$50k \times 6 \text{ employees} \times 18.63\% \text{ PSC rate} = \$57k/\text{year}$  in past service costs on salaries no longer being paid. To get the \$57k an employer could very well need to lay off another employee. Over time, there is a terrible compounding effect and an undermining of an entity's ability to deliver its programs and services.

**6) An employer will pay more toward the unfunded obligation every pay period on positions that no longer exist than they will for existing paid positions.** This is true because the rate set by statute is capped at 22%. The 22% first covers the current normal cost rate then the difference is applied to the unfunded obligation. The current (FY '11) normal cost rate is 9.33%, therefore, an employer pays 11.67% times the working employee's salary toward the unfunded obligation. This same employer is required to pay 18.63% times the salary of an employee they are no longer paying toward the unfunded obligation. That employer is paying almost 7% more for positions that no longer exist because of the unfunded obligation than it pays on salary dollars for existing positions.

**7) Termination studies nullify the intent of SB 125 that employers pay the exact same rate.** ***"INTENT.** It is the intent of this Act to change the public employees' retirement system to a cost-sharing plan and provide for one integrated system of accounting for all employers. Under the integrated system, the public employees' retirement system defined benefit plan's unfunded liability will be shared among all employers. and **each employer will pay a single, uniform contribution rate of 22 percent.** It is clear that one result of these termination studies is*

that different employers will in fact be paying different net rates, and therefore, there will not be a single uniform contribution rate for PERS employers. The adoption of SB 125 was based on the acknowledgement that we do not have a single-agent, multiple employer PERS system, but rather we have had a consolidated un-equitable cost share system. The intent of SB 125 was that all employers would pay the same exact rate. That cannot happen when each employer pays a different termination cost amount, or pays none at all.

**8) Will “terminated” salaries pay a higher rate than that set in Statute? What happens to these “termination” payments when the PSC rate is greater than the 22% employer rate set out in Statute, which is projected to be the case for FY 2012?**

### **Are There Things That We All Agree On?**

Clearly, and absolutely, the answer is yes. We agree on most everything:

- We all agree that we want to see the unfunded obligation paid off.
- We all agree that the entire PERS salary base is needed to pay off the unfunded obligation, and that it must be sustained and have reasonable growth, which it has to the tune of about 19% since the floor was set.
- We all agree after looking at the history that PERS employers have been loyal to the System and have not made material and purposeful changes in the way they deliver their programs and services from employees to contracted persons.
- We all want and need predictable, affordable, and stable PERS rates.
- We all agree, given the PERS history, that PERS is a consolidated system, and we all need to share as fairly as is reasonably possible in paying off the unfunded obligation.
- We all agree that we want to effectively and efficiently as possible deliver our programs and services. But, we all want and need the ability to adjust our programs and services over time as deemed prudent and necessary, without adding the financial penalty that the termination studies thrust upon us.
- We all agree that the fear of a shrinking salary base has not materialized, and thus the termination studies are not needed.
- We all agree that our legislators, in struggling hard to come up with a fair and equitable solution to a problem that most of them didn't create; never envisioned, intended, nor wanted to see any inequitable financial damage nor any inequitable application of the termination studies law.

**Remember: The Termination Language Was A Solution To A Problem That Never Materialized. It's Simply Not Needed!**

PERS Defined Benefit Salaries Only (in thousands)									Defined Benefit and Defined Contribution Salaries		
Report Date	6/30/1999	6/30/2000	6/30/2001	6/30/2002	6/30/2003	6/30/2004	6/30/2005	6/30/2006	6/30/2007	6/30/2008	6/30/2009
FY Applies	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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Annual Increase over PY		37,931	38,921	42,285	58,097	12,204	113,904	89,427	128,980	73,819	124,024
Annual % Increase over PY		3.0%	2.9%	3.1%	4.1%	0.8%	7.7%	5.6%	7.7%	4.1%	6.6%
% Increase 6/30/06 - 6/30/09											19.5%

6/30/09 Salaries	2,003,141
FY 6/30/06 Salaries	1,676,318
Salary Growth	326,823
Divided By FY 6/30/06 Salaries	1,676,318
<b>Equals % Growth</b>	<b>19.5%</b>

**What Should Be Done? What Does AML Support As A Solution?**

- 1) AML supports a sustainable salary base to pay off the PERS unfunded obligations.
- 2) A.S. 39.35.625, that requires termination studies, and any other similar statutes or regulations, should be repealed.
- 3) Amending A.S. 39.35.255(a)(2) (**this is the 6/30/08 salary floor language**) to include inflation adjustment language will provide a more efficient, cost effective, and equitable method of ensuring that the required PERS salary base is maintained.
- 4) Talk with your legislators. They never wanted to harm our communities! Ask them to remove the termination language this legislative session.

## Appendix

### **2 AAC 35.235. Calculation of termination costs (Impacts DB & DC employees, not just DB EE's)**

**(a) An employer that proposes to terminate coverage of a department, group, or other classification of employees** under AS 39.35.615 or 39.35.957, or terminate participation of the employer under AS 39.35.620 or 39.35.958, **must have a termination study completed by the plan actuary** to determine the actuarial cost to the employer for future benefits due employees whose coverage is terminated. **The employer shall pay the termination costs determined by the study** either in a lump sum or under a payment plan acceptable to the administrator. **The employer shall pay the cost of the study.**

**(b) In addition to the costs calculated in (a)** of this section, an employer that proposes to terminate coverage of a department, group, or other classification of employees under AS 39.35.615 or 39.35.957, or termination of participation of **the employer** under AS 39.35.620 or 39.35.958, **is required to pay to the plan until the past service liability of the plan is extinguished an amount calculated by applying the current past service rate adopted by the board to salaries of the terminated employees as required by AS 39.35.625** (a). This payment shall be made each payroll period or the employer may enter into a payment plan acceptable to the administrator for each fiscal year.

(c) Interest as provided under AS 39.35.610 (a) is applied to the termination costs if an employer defaults in the payments under (a) or (b) of this section.

**History: Eff. 1/13/2010, Register 193**

#### **Authority:**

AS 39.35.615 **Effect of termination by amendment of agreement (DB Plan)**

AS 39.35.620 **Termination of participation (DB Plan)**

AS 39.35.625 **Termination costs (DB Plan)**

**(Note Extracted 39.35.625 Language:** Termination costs not paid as prescribed by (a) of this section or in accordance with an approved payment plan may be collected by the administrator in accordance with AS 39.35.610(b).)

**"INTENT.** It is the intent of this Act to change the public employees' retirement system to a cost-sharing plan and provide for one integrated system of accounting for all employers. Under the integrated system, the public employees' retirement system defined benefit plan's unfunded liability will be shared among all employers. and **each employer will pay a single, uniform contribution rate of 22 percent.** ...

AS 39.35.957 **Designation of eligible employees, agreement to contribute, and amendment of participation (DC Plan)**

AS 39.35.958 **Termination of participation in the plan (DC Plan)**

#### **Other Relevant Reference:**

**AS 39.35.610.** Transmittal of contributions to administrator; claims against funds of an employer

**(b) If contributions are not submitted within the prescribed time limit, the amount of contributions and interest due may be claimed by the administrator from any agency of the state or political subdivision that has in its possession funds of the employer or that is authorized to disburse funds to the employer that are not restricted by statute or appropriation to a specific purpose. ...**



*"Village with a Past, City with a Future"*

210 Fidalgo Avenue, Kenai, Alaska 99611-7794  
Telephone: (907) 283-7535 / FAX: (907) 283-3014  
[www.ci.kenai.ak.us](http://www.ci.kenai.ak.us)

April 8, 2011

Senator Joe Paskvan  
State of Alaska  
State Capitol, Room 115  
Juneau, AK 99801-1182

RE: **RESOLUTION NO. 2011-27**  
**City of Kenai**

Dear Senator Paskvan:

At its April 6, 2011 meeting, the Kenai City Council unanimously passed its Resolution No. 2011-27 supporting Senate Bill 100, which if passed, will end requirements for termination studies (in limited circumstances) for PERS employers who terminate some or all participation in the Public Employees' Retirement System of Alaska to pay termination costs as well as continue to pay the past service rate on the salaries of the terminated employees until the unfunded liability of the system is paid off.

A copy of Resolution No. 2011-27 is enclosed for your information and record.

If you have any questions with regard to the action taken by our City Council in supporting Senate Bill 100, please contact our offices.

CITY OF KENAI

Carol L. Freas  
City Clerk

clf

Enclosure

cc: Senator Tom Wagoner  
Representative Mike Chenault  
Representative Kurt Olson



Suggested by: Administration

**CITY OF KENAI**

**RESOLUTION NO. 2011-27**

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA SUPPORTING SENATE BILL 100, WHICH WOULD END REQUIREMENTS FOR TERMINATION STUDIES IN LIMITED CIRCUMSTANCES.

WHEREAS, legislation passed by the State of Alaska in 2008 changed the Public Employee Retirement System (PERS) to a cost-sharing plan and established that municipalities and school districts would pay 22% of eligible payroll to PERS; and,

WHEREAS, after adopting regulations, the State of Alaska recently began enforcing provisions in State statutes which require employers that terminate a department, group or other classification (group) from participation in PERS to pay the costs determined by a termination study completed by the State's actuary as well as continue to pay the past service rate on the salaries of the terminated employees until the unfunded liability of the system is paid off; and,

WHEREAS, these costs can amount to hundreds of thousands of dollars even on a single position; and,

WHEREAS, in small municipalities a group is often made up of a single position, therefore small municipalities are impacted by these regulations far more often than larger municipalities; and,

WHEREAS, small municipalities are finding it difficult to make appropriate staffing decisions due to the substantial cost of termination studies and past service payments on terminated positions; and,

WHEREAS, the State of Alaska Department of Administration, Division of Retirement and Benefits has stated that a vacant position, if it constitutes a group, is the same as a group formally eliminated by amendment of the participation agreement with PERS; and,

WHEREAS, a single vacant position can subject the municipality or school district to large and unknown future liability even though there is no continuing salary for the position; and,

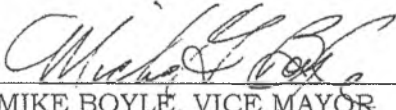
WHEREAS, municipalities are statutorily bound to make PERS contributions on no less than the June 30, 2008 salary base thus protecting other plan members from underpayment of the past service liability; and,

WHEREAS, PERS employers that terminate all participation would still be subject to termination costs and past service liability payments; and,

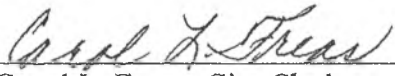
WHEREAS, recent enforcement of the regulations has put municipalities in the untenable position of not being able to properly manage staffing levels, which means not being able to deal with budget shortfalls and because the application of the regulations are so blatantly unfair to small municipalities.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, supports passage of Senate Bill 100 which eliminates termination studies required by AS 39.35.625 and which makes other changes which protect the State of Alaska and other PERS employers from an employer that terminates coverage completely or reduces eligible payroll below the 2008 salary base.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this sixth day of April, 2011.

  
\_\_\_\_\_  
MIKE BOYLE, VICE MAYOR

ATTEST:

  
\_\_\_\_\_  
Carol L. Freas, City Clerk



217 Second Street, Suite 200 • Juneau, Alaska 99801  
Tel (907) 586-1325 • Fax (907) 463-5480 • www.akml.org

**ALASKA MUNICIPAL LEAGUE  
RESOLUTION #2011-03**

**A RESOLUTION SUPPORTING A SUSTAINABLE SALARY BASE TO PAY OFF THE  
PERS UNFUNDED OBLIGATIONS AND REPEALING AS 39.35.625, A STATUTE  
REQUIRING TERMINATION STUDIES**

**WHEREAS**, the Alaska State Legislature has helped Alaska's municipalities tremendously in adopting the 22% rate of salary to help fund the current costs and the unfunded liability of the PERS/TRS system; and

**WHEREAS**, AS 39.35.625 states that:

- (a) Notwithstanding AS 39.35.255, an employer that terminates participation of a department, group, or other classification of employees in the plan, under AS 39.35.615 or that terminates participation in the plan under AS 39.35.620, shall pay to the plan each payroll period until the past service liability of the plan is extinguished, an amount calculated by applying the current past service contribution rate adopted by the board, to the greater of total base salaries paid.....
  - (1) during the payroll period to employees in positions for which coverage has been terminated;
  - (2) at the time of termination to employees in positions for which coverage has been terminated; or
  - (3) during the corresponding payroll period for the fiscal year ending June 30, 2008, to employees in positions for which coverage has been terminated.
- (b) Notwithstanding (a) of this section, the administrator may enter into a payment plan acceptable to the administrator for payment of an employer's liability for termination costs. Termination costs not paid as prescribed by (a) of this section, or in accordance with an approved payment plan, may be collected by the administrator in accordance with AS 39.35.610(b).
- (c) An employer requesting termination of all participation in the plan, termination of participation in the plan of a department, group, or other classification of employees, or a payment plan for payment of termination costs, shall pay the cost associated with obtaining a termination cost study associated with the employer's termination; and

**WHEREAS**, the Alaska Municipal League believes that the above statute should be repealed, as it removes equitable and consistent application of state law; and



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**WHEREAS**, this application also creates an inequitable impact on small PERS employers versus larger PERS employers; and

**WHEREAS**, grant funded positions may become subject to termination studies, thus raising the question as to whether municipalities should accept grants that will entail personnel; and

**WHEREAS**, municipalities, in the future, will find themselves paying more towards the unfunded obligation every pay period for positions that no longer exist, than they will for existing and/or current positions.

**NOW, THEREFORE BE IT RESOLVED** that the Alaska Municipal League, while supporting a sustainable salary base to pay of the PERS unfunded obligation, believe that AS 39.35.625 and any other similar statutes or regulations that require termination studies, should be repealed.

**BE IT FURTHER RESOLVED** that the Alaska Municipal League urges the Legislature to amend AS 39.35.255(a)(2), with inflation adjustment language, to provide a more efficient, cost-effective and equitable method of ensuring that the required PERS salary base is maintained.

**PASSED AND APPROVED** by the Alaska Municipal League on this 19<sup>th</sup> day of November, 2010.

Signed: Hal Smalley  
Hal Smalley, President, Alaska Municipal League

Attest: Kathie Wasserman  
Kathie Wasserman, Executive Director, Alaska Municipal League

**ALASKA GOVERNMENT  
FINANCE OFFICERS ASSOCIATION**

**RESOLUTION NO. 11-01**

**A RESOLUTION OF THE ALASKA GOVERNMENT FINANCE OFFICERS ASSOCIATION  
SUPPORTING SENATE BILL 100 TO END REQUIREMENTS THAT EMPLOYERS WHO TERMINATE  
SOME OR ALL PARTICIPATION IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF  
ALASKA PAY TERMINATION COSTS, AND MAKING THE CHANGES RETROACTIVE**

WHEREAS, the Alaska State Legislature, in SB 125, assisted Alaska's PERS employers tremendously by adopting the flat statutory 22% rate of salary to help fund current costs and the unfunded liability of the PERS system; and

WHEREAS, 2 AAC 35.235, Calculation of termination costs states: (a) An employer that proposes to terminate coverage of a department, group, or other classification of employees under AS 39.35.615 or 39.35.957, or terminate participation of the employer under AS 39.35.620 or 39.35.958, must have a termination study completed by the plan actuary to determine the actuarial cost to the employer for future benefits due employees whose coverage is terminated. And (b): In addition to the costs calculated in (a) ...the employer under AS 39.35.620 or 39.35.958, is required to pay to the plan until the past service liability of the plan is extinguished an amount calculated by applying the current past service rate adopted by the board to salaries of the terminated employees as required by AS 39.35.625 (a). This payment shall be made each payroll period or the employer may enter into a payment plan acceptable to the administrator for each fiscal year; and

WHEREAS, the above could potentially cost a PERS employer a great deal of expense for the reduction of even one employee position; and

WHEREAS, in small municipalities a group is often made up of a single position, therefore small municipalities are impacted by these regulations far more often than larger municipalities; and

WHEREAS, small municipalities are finding it difficult to make appropriate staffing decisions due to the substantial cost of termination studies and past service payments on terminated positions; and

WHEREAS, the future financial stability of PERS employers, and their ability to efficiently and effectively manage the delivery of their programs and services, is being directly and negatively impacted by 2 AAC 35.235; and

NOW, THEREFORE, BE IT RESOLVED, that the Alaska Government Finance Officers Association, while supporting the June 30, 2008 sustainable salary base to pay off the PERS unfunded obligation, supports the adoption and passage of Senate Bill 100.

DATED this 6<sup>th</sup> day of April, 2011



APPROVED:

*[Signature]*  
Elizabeth Hartley, President  
Alaska Government Finance Officers Association

ATTEST:

*[Signature]*  
Walter Sapp, President Elect  
Alaska Government Finance Officers Association

Presented By:  
Mayor  
Action Taken:  
Yes 5 No 0  
Abstain 0

CITY OF NOME, ALASKA

RESOLUTION NO. R-11-03-02

**A RESOLUTION SUPPORTING A BILL TO END REQUIREMENTS THAT EMPLOYERS WHO TERMINATE SOME OR ALL PARTICIPATION IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF ALASKA PAY TERMINATION COSTS, AND MAKING THE CHANGES RETROACTIVE**

**WHEREAS**, the Alaska State Legislature, in SB 125, helped Alaska's PERS employers tremendously by adopting the flat statutory 22% rate of salary to help fund current costs and the unfunded liability of the PERS system, and

**WHEREAS**, our legislators, in crafting SB 125 struggled hard to come up with a fair and equitable solution to a problem that most of them did not create. Further, in crafting SB 125, legislators never envisioned, intended, nor did they want to create any inequitable financial damage to any PERS member employer, nor negatively interfere with the current or future delivery of any member's services or programs because of SB 125, which the termination studies law does do, and

**WHEREAS**, 2 AAC 35.235. Calculation of termination costs states: (a) An employer that proposes to terminate coverage of a department, group, or other classification of employees under AS 39.35.615 or 39.35.957, or terminate participation of the employer under AS 39.35.620 or 39.35.958, **must have a termination study completed by the plan actuary** to determine the actuarial cost to the employer for future benefits due employees whose coverage is terminated. And (b): **In addition** to the costs calculated in (a) ...**the employer** under AS 39.35.620 or 39.35.958, is

required to pay to the plan until the past service liability of the plan is extinguished an amount calculated by applying the current past service rate adopted by the board to salaries of the terminated employees as required by AS 39.35.625 (a). This payment shall be made each payroll period or the employer may enter into a payment plan acceptable to the administrator for each fiscal year, and

**WHEREAS**, if a PERS employer reduces its employee count because it made a decision to alter or suspend one of its programs or services, per 2 AAC 35.235 PERS might send it three bills. The first bill will be for the cost of doing a termination study. The second bill will be what the study says you owe the System, due to the employee change(s) you made. The third bill, the big bill, is the one that will require the employer to pay the past service cost (PSC) on each position's salary PERS said needed to be opted out of PERS. The employer will be required to pay the PSC (currently 18.63%) on the salary(s) of the position(s) PERS said the employer needed to opt out, until the unfunded obligation is paid off, maybe 30 years from now. These three bills cumulatively can run from hundreds of thousands of dollars to several millions of dollars, and

**WHEREAS**, the underlying fear that certain employers would purposely act in a manner that jeopardized payment of the unfunded obligation, and thus shrink the salary base that pays off the unfunded obligations, has simply not happened. The total PERS salary base must be sustained and have reasonable growth, which it has to the tune of about 19% since the 6/30/2008 last pay period floor was set, and

**WHEREAS**, the future financial stability of PERS employers, and their ability to efficiently and effectively manage the delivery of their programs and services, is being directly impacted and undermined by 2 AAC 35.235, and

**WHEREAS**, equitable and consistent application of the State's termination law does not seem to be occurring, nor likely can it ever occur given the uniqueness of all PERS employers' positions. A law like this that has such a material financial impact on PERS employers should at a minimum be able to be fairly, equitably, and consistently applied to all PERS employers, yet the Division of Retirement and Benefits has taken the position that the State, with half of the PERS salary base is exempt from termination studies and their financial impacts, and

**WHEREAS**, there is an inescapably inequitable impact to small PERS employers. This State law, or its application by PERS creates a clear and unconscionable inequitable impact on small PERS employers, versus larger PERS employers. Many smaller communities only have "one" employee for a program or service. If they lose a grant, or simply are faced with budget constraints and they have to cut a person, say a nurse in a school, they'd be required to have a termination study done, then pay all of the related costs because they actually cut a "function or a group," and

**WHEREAS**, termination studies negatively impact our decision, and our ability to accept grants because of the potential future liability. Grant funded positions may become subject to the termination studies, once the positions are terminated due to grant funding ending. Employers will find themselves paying the past service cost rate on former grant funded position salaries with other revenues. Essentially, if an employer accepts a grant it is possible, depending upon the circumstances, that once those grant funded positions are ended that employer will need to use other dollars to pay the PSC on those former grant funded salaries that the employer is no longer paying, and

**WHEREAS**, there are no offsets taken into account for salary increases in one area, for decreases in other areas. In other words, the ability for entities to adjust their programs and services to meet their constituent's needs is negatively impacted. If an employer needs to cut in Area A, and add in Area B, that employer could find itself

paying the PSC rate times the salary(s) it is no longer paying in Area A because it shifted its employees to Area B where there is more need, whether driven by local need or a mandate, and

**WHEREAS**, over time, more and more resources will go toward paying for positions that no longer exist than go to the delivery of services such as fire protection, law enforcement, teaching, recreational services, landfill services, library services, flood control services, emergency response services, and the list goes on from here. Once you start shifting employee resources from one area of responsibility to another, you start a negative downward spiraling in your programs and services, and

**WHEREAS**, an employer will pay more toward the unfunded obligation every pay period on positions that no longer exist than they will for existing paid positions. This is true because the rate set by statute is capped at 22%. The 22% first covers the current normal cost rate then the difference is applied to the unfunded obligation. The current (FY '11) normal cost rate is 9.33%; therefore, an employer pays 11.67% times the working employee's salary toward the unfunded obligation. This same employer is required to pay 18.63% times the salary of an employee they are no longer paying toward the unfunded obligation. That employer is paying almost 7% more for positions that no longer exist because of the unfunded obligation than it pays on salary dollars for existing positions, and

**WHEREAS**, termination studies nullify the intent of SB 125 that employers pay the exact same rate. It is clear that one result of these termination studies is that different employers will in fact be paying different net rates, and therefore, there will not be a single uniform contribution rate for PERS employers. The adoption of SB 125 was based on the acknowledgement that we do not have a single-agent, multiple employer PERS system, but rather we have had a consolidated un-equitable cost share system. The intent of SB 125 was that all employers would pay the same exact rate. That

cannot happen when each employer pays a different termination cost amount, or pays none at all, and

**WHEREAS**, the <sup>City</sup>~~Borough~~ supports a sustainable salary base to pay off the PERS unfunded obligations, and

**WHEREAS**, the termination language in SB 125 was a solution to a problem that never materialized, and it's not needed. The negative consequences, the additional charges and the payments that result from the termination language, were never contemplated or intended by the legislature, and they are destructive, and

**WHEREAS**, A.S. 39.35.625, that requires termination studies, and any other similar statutes or regulations, should be repealed.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Nome while supporting a sustainable salary base to pay off the PERS unfunded obligation, believe that AS 39.35.625 and any other similar statutes or regulations that require termination studies, should be repealed and supports adoption and passage of a bill removing termination study requirements from the law.

**PASSED AND SIGNED THIS 28<sup>TH</sup> DAY OF March, 2011.**

  
\_\_\_\_\_  
**DENISE MICHELS, Mayor**

**ATTEST:**

  
\_\_\_\_\_  
**CAMILLE TEN EYCK, Acting City Clerk**

1 By: Luke Hopkins, Mayor  
2 Introduced: 03/31/11  
3 Adopted: 03/31/11  
4

5 FAIRBANKS NORTH STAR BOROUGH

6  
7 RESOLUTION NO. 2011 - 15  
8

9 A RESOLUTION SUPPORTING A BILL TO END REQUIREMENTS THAT EMPLOYERS  
10 WHO TERMINATE SOME OR ALL PARTICIPATION IN THE PUBLIC EMPLOYEES'  
11 RETIREMENT SYSTEM OF ALASKA PAY TERMINATION COSTS, AND MAKING THE  
12 CHANGES RETROACTIVE  
13

14 WHEREAS, the Alaska State Legislature, in SB 125, helped Alaska's PERS  
15 employers tremendously by adopting the flat statutory 22% rate of salary to help fund  
16 current costs and the unfunded liability of the PERS system, and  
17

18 WHEREAS, our legislators, in crafting SB 125 struggled hard to come up with  
19 a fair and equitable solution to a problem that most of them did not create. Further, in  
20 crafting SB 125, legislators never envisioned, intended, nor did they want to create any  
21 inequitable financial damage to any PERS member employer, nor negatively interfere with  
22 the current or future delivery of any member's services or programs because of SB 125,  
23 which the termination studies law does do, and  
24

25 WHEREAS, 2 AAC 35.235. Calculation of termination costs states: (a) An  
26 employer that proposes to terminate coverage of a department, group, or other classification  
27 of employees under AS 39.35.615 or 39.35.957, or terminate participation of the employer  
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29 **actuary** to determine the actuarial cost to the employer for future benefits due employees  
30 whose coverage is terminated. And (b): **In addition** to the costs calculated in (a) ...**the**  
31 **employer** under AS 39.35.620 or 39.35.958, **is required to pay to the plan until the past**  
32 **service liability of the plan is extinguished an amount calculated by applying the**  
33 **current past service rate adopted by the board to salaries of the terminated**  
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35 period or the employer may enter into a payment plan acceptable to the administrator for  
36 each fiscal year, and  
37

38 WHEREAS, if a PERS employer reduces its employee count because it made a  
39 decision to alter or suspend one of its programs or services, per 2 AAC 35.235 PERS might  
40 send it three bills. The first bill will be for the cost of doing a termination study. The second  
41 bill will be what the study says you owe the System, due to the employee change(s) you  
42 made. The third bill, the big bill, is the one that will require the employer to pay the past  
43 service cost (PSC) on each position's salary PERS said needed to be opted out of PERS.  
44 The employer will be required to pay the PSC (currently 18.63%) on the salary(s) of the  
45 position(s) PERS said the employer needed to opt out, until the unfunded obligation is paid

46 off, maybe 30 years from now. These three bills cumulatively can run from hundreds of  
47 thousands of dollars to several millions of dollars, and

48  
49 WHEREAS, the underlying fear that certain employers would purposely act in a  
50 manner that jeopardized payment of the unfunded obligation, and thus shrink the salary  
51 base that pays off the unfunded obligations, has simply not happened. The total PERS  
52 salary base must be sustained and have reasonable growth, which it has to the tune of  
53 about 19% since the 6/30/2008 last pay period floor was set, and

54  
55 WHEREAS, the future financial stability of PERS employers, and their ability to  
56 efficiently and effectively manage the delivery of their programs and services, is being  
57 directly impacted and undermined by 2 AAC 35.235, and

58  
59 WHEREAS, equitable and consistent application of the State's termination law does  
60 not seem to be occurring, nor likely can it ever occur given the uniqueness of all PERS  
61 employers' positions. A law like this that has such a material financial impact on PERS  
62 employers should at a minimum be able to be fairly, equitably, and consistently applied to all  
63 PERS employers, yet the Division of Retirement and Benefits has taken the position that the  
64 State, with half of the PERS salary base is exempt from termination studies and their  
65 financial impacts, and

66  
67 WHEREAS, there is an inescapably inequitable impact to small PERS employers.  
68 This State law, or its application by PERS creates a clear and unconscionable inequitable  
69 impact on small PERS employers, versus larger PERS employers. Many smaller  
70 communities only have "one" employee for a program or service. If they lose a grant, or  
71 simply are faced with budget constraints and they have to cut a person, say a nurse in a  
72 school, they'd be required to have a termination study done, then pay all of the related costs  
73 because they actually cut a "function or a group," and

74  
75 WHEREAS, termination studies negatively impact our decision, and our ability to  
76 accept grants because of the potential future liability. Grant funded positions may become  
77 subject to the termination studies, once the positions are terminated due to grant funding  
78 ending. Employers will find themselves paying the past service cost rate on former grant  
79 funded position salaries with other revenues. Essentially, if an employer accepts a grant it is  
80 possible, depending upon the circumstances, that once those grant funded positions are  
81 ended that employer will need to use other dollars to pay the PSC on those former grant  
82 funded salaries that the employer is no longer paying, and

83  
84 WHEREAS, there are no offsets taken into account for salary increases in one area,  
85 for decreases in other areas. In other words, the ability for entities to adjust their programs  
86 and services to meet their constituent's needs is negatively impacted. If an employer needs  
87 to cut in Area A, and add in Area B, that employer could find itself paying the PSC rate times  
88 the salary(s) it is no longer paying in Area A because it shifted its employees to Area B  
89 where there is more need, whether driven by local need or a mandate, and

91 WHEREAS, over time, more and more resources will go toward paying for positions  
92 that no longer exist than go to the delivery of services such as fire protection, law  
93 enforcement, teaching, recreational services, landfill services, library services, flood control  
94 services, emergency response services, and the list goes on from here. Once you start  
95 shifting employee resources from one area of responsibility to another, you start a negative  
96 downward spiraling in your programs and services, and  
97

98 WHEREAS, an employer will pay more toward the unfunded obligation every  
99 pay period on positions that no longer exist than they will for existing paid positions. This is  
100 true because the rate set by statute is capped at 22%. The 22% first covers the current  
101 normal cost rate then the difference is applied to the unfunded obligation. The current (FY  
102 '11) normal cost rate is 9.33%; therefore, an employer pays 11.67% times the working  
103 employee's salary toward the unfunded obligation. This same employer is required to pay  
104 18.63% times the salary of an employee they are no longer paying toward the unfunded  
105 obligation. That employer is paying almost 7% more for positions that no longer exist  
106 because of the unfunded obligation than it pays on salary dollars for existing positions, and  
107

108 WHEREAS, termination studies nullify the intent of SB 125 that employers pay  
109 the exact same rate. It is clear that one result of these termination studies is that different  
110 employers will in fact be paying different net rates, and therefore, there will not be a single  
111 uniform contribution rate for PERS employers. The adoption of SB 125 was based on the  
112 acknowledgement that we do not have a single-agent, multiple employer PERS system, but  
113 rather we have had a consolidated un-equitable cost share system. The intent of SB 125  
114 was that all employers would pay the same exact rate. That cannot happen when each  
115 employer pays a different termination cost amount, or pays none at all, and  
116

117 WHEREAS, the Borough supports a sustainable salary base to pay off the  
118 PERS unfunded obligations, and  
119

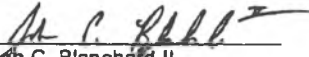
120 WHEREAS, the termination language in SB 125 was a solution to a problem  
121 that never materialized, and it's not needed. The negative consequences, the additional  
122 charges and the payments that result from the termination language, were never  
123 contemplated or intended by the legislature, and they are destructive, and  
124

125 WHEREAS, A.S. 39.35.625, that requires termination studies, and any other  
126 similar statutes or regulations, should be repealed.  
127

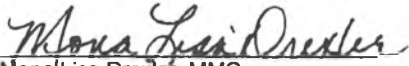
128 NOW, THEREFORE, BE IT RESOLVED that the Assembly of the Fairbanks  
129 North Star Borough while supporting a sustainable salary base to pay off the PERS  
130 unfunded obligation, believe that AS 39.35.625 and any other similar statutes or regulations  
131 that require termination studies, should be repealed and supports adoption and passage of  
132 a bill removing termination study requirements from the law.  
133  
134  
135

136  
137

PASSED AND APPROVED THIS 31 DAY OF March, 2011.

  
\_\_\_\_\_  
Joseph C. Blanchard II  
Presiding Officer

ATTEST:

  
\_\_\_\_\_  
Mona Lisa Drexler, MMC  
Municipal Borough Clerk

138  
139 Ayes: Hutchison, Howard, Dukes, Want, Kassel, Musick, Blanchard II  
140 Noes: None  
141 Excused: Beck, Winters



DeLena Johnson  
Mayor

Phone (907) 745-3271  
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Email [delena@palmer.ak.gov](mailto:delena@palmer.ak.gov)

231 W. Evergreen Ave.  
Palmer, Alaska 99645-6652  
[www.cityofpalmer.org](http://www.cityofpalmer.org)

March 24, 2011

Senator Joe Paskvan  
Alaska State Capitol, Room #115  
Juneau, AK 99801

Dear Senator Paskvan:

As the Mayor of the City of Palmer, please accept the City's support for Senate Bill 100: An Act Relating to Employer Contributions to the Public Employees' Retirement System of Alaska; Relating to Requirements that Employers who Terminate Some or All Participation in the Public Employees' Retirement System of Alaska Pay Termination Costs; and Making the Changes Retroactive.

The City recognizes the work of previous legislators in crafting Senate Bill (SB) 125 and their efforts to find fair and equitable solutions concerning the unfunded PERS mandate and support the adoption of the flat statutory 22% rate of salary to fund current and unfunded costs. *However we do not support the unintended negative consequences of the language which has inflicted financial damage on PERS member employers and interfered with the current and future delivery of services of programs.*

For example, in 2010, the Palmer City Council began the recruitment process for a new city manager. After a lengthy process, the council hired the most qualified candidate, who happened to be a PERS retiree. We contacted the proper authorities and were told that the City must pay for and complete a termination study. We went through the study process and then received a bill for \$2500 for the study and a \$12,000 termination fee. Additionally, we are required to pay 18.63% of the Manager's salary into PERS each pay period for the position for the entire time that the position was opted out of PERS and/or until the unfunded obligation was paid.

Without questioning the costs, we accepted the process and move forward. However, in a blatant attempt to interfere with our delivery of services, now PERS has contacted us regarding long standing contracts with our contracted service providers. PERS maintains that the City is attempting to avoid paying PERS costs through the contracts. We simply are not.

City of Palmer



We understand the underlying concern that some municipalities, in an effort to thwart the system, eliminate PERS positions to avoid paying the related PERS costs, thus reducing the overall salary base. However, this simply has not happened. The PERS salary base has had a 19% growth since June 30, 2008.

The current law assumes government administration always expands. When restructuring a department or cutting personnel budget, our city retains an ongoing PERS liability for each position, even the eliminated positions, for an estimated 30 years.

The language in SB 125 takes away our ability to run our City in a manner in which we see fit. The language limits our ability to adjust our programs and services to meet our resident's needs.

*The City of Palmer encourages your support of SB 100 and requests that the Bill, as written, remain intact because we believe it rectifies the unintended consequences.* Thank you for your assistance in this matter.

Kind regards,

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

DeLena Johnson

**City of Palmer**



## CITY OF FAIRBANKS

Jerry Cleworth, Mayor

800 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701-4615

OFFICE: 907-459-6793

FAX: 907-459-6787

[jcleworth@ci.fairbanks.ak.us](mailto:jcleworth@ci.fairbanks.ak.us)

March 25, 2011

Honorable Interior Delegates of the Alaska State Legislature –

Senator John Coghill

Representative Alan Dick

Representative Eric Feige

Representative David Guttenberg

Representative Scott Kawasaki

Senator Albert Kookesh

Representative Bob Miller

Senator Joe Paskvan

Senator Joe Thomas

Representative Steve Thompson

Representative Tammie Wilson

**Re: Support for Senate Bill 100**

Dear Honorable Legislators:

Over the past decade, the State Legislature and Administration took the initiative to tackle the PERS liability in a variety of ways, including a complete revamping of the system by passage of SB 125 in 2008 and successful litigation against the prior system actuary. Dramatic changes have been made, all with the goal of eventually reducing the PERS future liability.

Senate Bill 100 fine tunes part of the remodeling process. It recognizes that municipalities may need to eliminate particular programs or shift emphasis from one function to another so long as overall PERS payroll does not drop below the June 30, 2008 level. I recognize that there are divergent points of view regarding the PERS structure. Fixing this small issue is prudent and independent of the larger debates.

I am introducing a Resolution in support of SB 100 at the April 11<sup>th</sup> City Council meeting.

Thank you for your work on this and the many other difficult issues facing our state.

Sincerely,

Mayor Jerry Cleworth



CITY OF SAINT PAUL

P. O. BOX 901  
ST. PAUL ISLAND, ALASKA  
99660-0901  
(907) 546-3121 Finance Dept.  
(907) 546-3110 Administration  
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E-Mail: [stpaulak@hotmail.com](mailto:stpaulak@hotmail.com)

March 28, 2011

SENT VIA EMAIL TO: [Sen.Joe.Paskvan@legis.state.ak.us](mailto:Sen.Joe.Paskvan@legis.state.ak.us)

Senator Joe Paskvan  
Alaska State Capitol, Room #115  
Juneau, Alaska 99801

Dear Senator Paskvan:

It is my understanding that Senate Bill No. 100 will come up for discussion tomorrow. I would like to extend the City's of Saint Paul's overwhelming support of this bill as it stands; unchanged and unaltered.

I keep this letter short to avoid any confusion on our position.

Sincerely,

THE CITY OF SAINT PAUL

Linda Snow  
City Manager



March 29, 2011

Honorable Dennis Egan  
State Capitol, Room 510  
Juneau, AK 99811-1182  
Fax: 907-465-2108

Honorable Joe Paskvan  
State Capitol, Room 24  
Juneau, AK 99811-1182  
Fax: 907-465-4714

**RE: Senate Bill 100 – PERS Termination Costs**

Dear Senators Egan and Paskvan:


Please be advised that the City of Ketchikan would like to go on record as being in support of Senate Bill 100.

Since the adoption of Senate Bill 125, the City has been required to undertake two PERS termination studies to address PERS termination costs arising from the spin-off of its mental health and substance abuse clinic and the potential sale of its telecommunications utility. In May 2010, the City transferred the operations of its mental health and substance abuse clinic to another entity better suited to serve the patients of the clinic. The City was required to pay \$5,000 for a termination study, \$10,364 in termination costs at the time of the transfer and \$89,852 in past service costs for the remaining eight months of 2010. Under current statutes, the City will be required to pay approximately \$136,000 annually for the past service cost of the 13 employees who were terminated for the next 25-30 years. The City has identified a buyer for its telecommunications utility but has yet to reach an agreement.

The City believes that the current statutory requirements for the determination and payment of termination and past service costs affects the future financial stability of municipal governments and their ability to efficiently and effectively manage the delivery of their programs and services. It also appears that the statutes are not being applied in an equitable and consistent manner. The City believes that the current law is seriously flawed and that SB 100 is a good faith effort to correct the deficiencies and provide a reasonable basis for addressing the costs associated with the sound management of the municipal labor force.

We thank you for bringing this bill forth for consideration by the Alaska State Legislature and hope that it will receive the support that it deserves.

Sincerely,



Robert E. Newell, Jr., CPA  
Finance Director

Cc: Karl R. Amylon, City Manager



# CITY OF WASILLA

Finance Department  
290 East Herning Avenue  
Wasilla, Alaska 99654-7091  
Phone (907) 373-9080 Fax (907) 373-9085

March 29, 2011

To: The Alaska Legislature  
Senate Labor & Commerce

Re: SB100 - PERS Termination Study

To whom this may concern:

The City of Wasilla is most troubled by the ridiculous unmanageable and most unaffordable onset of the PERS Termination Study has caused.

Limited type funding, such as grants or donations can produce excellent opportunities for municipalities to create jobs and produce additional quality of life service to its local residents and surrounding population. When the funding ceases to exist (at no fault of the municipality), the municipality is FORCED into notifying PERS, which triggers a termination study. This costs between \$12,000 to \$15,000, (which is never budgeted and must come from the municipalities fund balances) just for the study. Then ADD an additional 18.96% (current rate) of the individual's past service cost in perpetuity. This amount can be extremely unbearable by a municipality. Additionally PERS ultimately controls the when, how, and who a municipality can hire or programs a municipality may administer. Municipalities will be forced NOT to accept funds whereby funding may be impaired. This will result in lost jobs and municipalities using current resources to provide better quality of life services to its residents.

What is additionally troublesome to this municipality is when our questions have arisen and contact is made to the R&B office, R&B is unable to answer the questions and we are redirected to the Department of Law for a determination. If the office managing the system can't answer the questions, how are the municipalities suppose to manage its ongoing programs? How is this system going to get the unfunded liability PERS has resolved? It won't! How is this system helping Alaska create jobs and attract new hires to government service? It won't!

The City of Wasilla urges this committee and the entire Alaska Legislature to remove this termination study implication.

Sincerely,

Troy Tankersley  
Director of Finance



217 Second Street, Suite 200 • Juneau, Alaska 99801

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March 14, 2012

Honorable Governor Sean Parnell  
State Capitol Building  
Juneau, Alaska 99801

Dear Governor Parnell,

The Alaska Municipal League has been working with your administration and the Legislature on changes that have affected municipalities through the PERS system. I am writing to you in hopes that you will consider our suggestions which will allow us to retain our ability to manage our municipalities in a more efficient and effective manner.

Back in 2007, SB 125 and SB 141 were written and passed in order to attempt to "stop the bleeding" with regards to the PERS/TRS liability. To simplify, three methods ended up being imposed on municipalities in order to help pay off that liability;

1. PERS municipalities are required to pay 22% of salary which is credited to the present costs and the past service liability.
2. The State recorded all 2008 base salaries, with the provision that any PERS employer who did not meet the 2008 floor would be charged 22% on the shortfall amount between the current base salary and the 2008 floor.
3. When a group or classification is removed from the base salary, that removal would trigger a termination study which would determine the financial impact to the system. This liability would be paid, as well as the past service rate on the salary of the eliminated position, by the employer, until the entire PERS unfunded liability is paid off.

Most municipalities appreciate the fact that their PERS rate is capped at 22%, even though this is a huge cost for them. They also agree that one employer should not be able to "manipulate" the system and avoid paying their fair share of the liability by substantially reducing their payroll through contracting or some other means. Although nobody anticipated the number of employers (51) that would today have salaries that are less than the 2008 floor, that provision is a reasonable part of the deal.

The requirement that greatly concerns us is #3 above, which only happens when an entire group or classification of employees is eliminated. This circumstance rarely occurs in a medium or large municipality. Unfortunately, it happens with some frequency in small municipalities and school districts because of the small staff size. Often, there is a single position that represents a group or classification in a small municipality. Elimination of a receptionist position due to budgetary shortfalls results in the whole termination study requirement, the payment of the resultant liability, and payment of the past service rate on a position which is now eliminated for a period of decades, until the total unfunded liability is paid

off. Elimination of grant funded positions due to termination of the grant results in the same process and even a greater impact since funding for the program came from outside sources, but the payment of these PERS liabilities will come from general fund resources.

I believe this is an unintended consequence of the law. It simply doesn't make sense that a small municipality can be severely impacted by the elimination of a single position, yet a large employer could eliminate many positions with no additional PERS costs, as long as a single member of a group or classification is left. The impact on the PERS would be much greater in this large employer example, yet they are not required to pay for a termination study or pay the past service rate on the eliminated positions unless their total salary fell below the 2008 floor.

For the small municipality, it is conceivable that by eliminating a single position, their total salary would also drop below the 2008 floor. In which case they would have to pay the termination study costs and make contributions based on the 2008 floor rather than the current salary base.

Paying the shortfall from the 2008 floor accomplishes what we think was the intent of SB 125. We don't, however, feel that everyone was aware of the ramifications of also imposing termination studies and applicable charges. With municipalities being charged termination costs and making PERS contributions on eliminated positions for decades in the future, it has taken away the ability of Alaska's municipalities to manage their work force, contain costs, or to make necessary changes to their organizational structure.

Due to the sharp downturn to the U.S. economy, and due to grant funding that has disappeared, most municipalities are faced with cutting either staff or services (or both). It is now possible to cost a municipality more to cut costs through downsizing staff than it is to leave programs they cannot afford, in place. This is a crazy way to manage!

The municipalities of AML are asking that the State of Alaska seriously look at the implications of municipality's responsibility for both the 2008 floor shortfall and termination studies and the costs imposed on local governments. We believe that SB 100, which eliminates the requirement for termination studies, is a reasonable solution and we would be happy to work with anyone from your Administration to help solve this difficult problem.

Sincerely,

Kathie Wasserman  
Executive Director

cc: Mike Barnhill  
Jim Puckett  
Senate Finance  
Sen. Paskvan

**Employers Affected by Salary Floor Bills  
FY2009 - FY2011**

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ALASKA GATEWAY SD  
ALEUTIAN REGION SD  
ALEUTIANS EAST BOROUGH  
ALEUTIANS WEST CRSA  
ANCHORAGE COMMUNITY DEVELOP AUTHORITY  
BARANOF ISLAND HA  
CHATHAM SD  
CITY OF ALLAKAKET  
CITY OF ANDERSON  
CITY OF CRAIG  
CITY OF DILLINGHAM  
CITY OF GALENA  
CITY OF HUSLIA  
CITY OF KALTAG  
CITY OF KOTZEBUE  
CITY OF MEKORYUK  
CITY OF NOORVIK  
CITY OF PELICAN  
CITY OF QUINHAGAK  
CITY OF SAINT GEORGE  
CITY OF SAND POINT  
CITY OF SHAKTOOLIK  
CITY OF TANANA  
CITY OF THORNE BAY  
CITY OF UPPER KALSKAG  
CITY OF WHITTIER  
COPPER RIVER SD  
CORDOVA COMMUNITY MEDICAL CENTER  
DENALI BOROUGH SD  
DILLINGHAM CITY SD  
HYDABURG CITY SD  
IDITAROD AREA SD  
ILISAGVIK COLLEGE  
INTERIOR RHA  
KAKE CITY SD  
LAKE AND PENINSULA BOROUGH  
LAKE AND PENINSULA BOROUGH SD  
NOME CITY SD  
NOME JOINT UTILITY SYSTEM  
NORTH PACIFIC RIM HA  
PELICAN CITY SD  
PRIBILOF SD  
SAXMAN SEAPORT  
SKAGWAY CITY SD  
SOUTHWEST REGION SD  
SPECIAL EDUCATION SERVICE AGENCY  
TAGIUGMIULLU NUNAMIULLU HOUSING AUTHORIT  
TANANA SD  
UNIVERSITY OF ALASKA  
WRANGELL PUBLIC SD  
YUPIIT SD