

**ALASKA LEGISLATURE**

**2014**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 1999 - 2000**

1 contributions made to the judicial retirement system or to the former elected  
2 public officers retirement system and repayment of refunded contributions in  
3 those systems; relating to self-insurance and excess loss insurance for persons  
4 receiving benefits from a state retirement system; relating to participation of  
5 elected officials in the public employees' retirement system; relating to the level  
6 income option benefit under the public employees' retirement system; relating  
7 to participation of employees of political subdivisions and public organizations  
8 in the public employees' retirement system; relating to crimes for defrauding a  
9 state retirement system; relating to the definition of 'pension fund' in the public  
10 employees' retirement system; relating to calculation of years of service and of  
11 benefits under the public employees' retirement system for noncertificated  
12 employees of certain educational employers; and relating to individual accounts  
13 maintained for members of the former elected public officers retirement system."

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

15 \* Section 1. AS 09.25 is amended by adding a new section to read:

16 Sec. 09.25.151. Confidentiality of retirement records. (a) Except as  
17 provided in (b) - (d) of this section, public records, including electronic services and  
18 products involving public records, containing information about a person and  
19 maintained under AS 14.25, AS 22.25, AS 26.05.222 - 26.05.229, AS 39.35, or former  
20 AS 39.37 shall be kept confidential and are not subject to inspection or copying under  
21 AS 09.25.110 - 09.25.120.

22 (b) Records described in (a) of this section concerning a person who is a  
23 member or former member of a state retirement system who is still living may only  
24 be released to

25 (1) the person or the person's guardian;

26 (2) the person's employer or former employer;

- 1 (3) a state agency authorized to obtain confidential information;
- 2 (4) another person if the person has
- 3 (A) written authorization for release from the affected member
- 4 or former member or the member's or former member's guardian; or
- 5 (B) a court order or subpoena to obtain the information.
- 6 (c) Records described in (a) of this section concerning a member or former
- 7 member of a state retirement system who is deceased or a deceased member's named
- 8 beneficiary may only be released to
- 9 (1) the member's named beneficiary or the beneficiary's guardian;
- 10 (2) the member's or former member's former employer;
- 11 (3) a state agency authorized to obtain confidential information;
- 12 (4) the personal representative of the member's or former member's
- 13 estate;
- 14 (5) another person if the person has
- 15 (A) written authorization for release from the member or former
- 16 member, the member's named beneficiary, or the personal representative of the
- 17 member's or former member's estate; or
- 18 (B) a court order or subpoena to secure the information.
- 19 (d) The name and address of a living person who is a member or former
- 20 member of a state retirement system may be released to a retirement organization
- 21 representing persons receiving benefits under a state retirement system if the retirement
- 22 organization is affiliated with an organization representing employees of the employer
- 23 under AS 23.40.070 - 23.40.260 (Public Employment Relations Act).
- 24 (e) In this section, "state retirement system" means the teachers' retirement
- 25 system under AS 14.25, the judicial retirement system under AS 22.25, the retirement
- 26 system for members of the national guard under AS 26.05.222 - 26.05.229, the public
- 27 employees' retirement system under AS 39.35, or the elected public officers retirement
- 28 system under former AS 39.37.
- 29 \* Sec. 2. AS 14.25.035(a) is amended to read:
- 30 (a) There is established the Alaska Teachers' Retirement Board as follows:
- 31 (1) the governor shall appoint five members for overlapping three-year

1 terms; one member must be a resident who is receiving retirement benefits under this  
2 chapter; statewide teacher organizations may submit to the governor a list of  
3 recommended nominees to serve on the board;

4 (2) the governor shall appoint two physicians authorized to practice  
5 medicine in the state to serve as members of the board and two physicians  
6 authorized to practice medicine in the state to serve as alternate members to the  
7 physician members of the board; the physicians are members of the board only  
8 for the purpose of hearing appeals to determine medical eligibility for disability  
9 benefits under AS 14.25.130; [THE GOVERNOR SHALL APPOINT TWO  
10 PHYSICIANS EACH FROM AT LEAST TWO OF THE STATE'S FOUR JUDICIAL  
11 DISTRICTS;] the Public Employees' Retirement Board and the Teachers' Retirement  
12 Board may submit to the governor a list of recommended physicians to serve on the  
13 board; if the administrator, after making a reasonable effort to secure the  
14 participation of two physicians to serve on a disability appeal, is unable to do so,  
15 the board may hear the appeal with the participation of only one physician or  
16 alternate, in which case, for purposes of a quorum, the board shall be considered  
17 to have only one physician as a member; [THE TWO PHYSICIAN MEMBERS  
18 FROM THE JUDICIAL DISTRICT IN WHICH A DISABILITY APPEAL HEARING  
19 IS CONDUCTED SHALL SERVE ON THE BOARD DURING THE HEARING; IF  
20 ONE OR MORE OF THE PHYSICIANS IN THE JUDICIAL DISTRICT IN WHICH  
21 A DISABILITY HEARING IS CONDUCTED IS UNABLE TO SERVE AT THE  
22 HEARING, OR IF THERE IS NO PHYSICIAN MEMBER FROM THAT JUDICIAL  
23 DISTRICT, OTHER PHYSICIAN MEMBERS SHALL SERVE AT THE HEARING,  
24 SELECTED FOR SUCH HEARINGS ON A ROTATING BASIS, IN ACCORDANCE  
25 WITH REGULATIONS ADOPTED BY THE BOARD;] physician members and  
26 alternates serve at the pleasure of the governor.

27 \* Sec. 3. AS 14.25.035(b) is amended to read:

28 (b) Members of the board appointed under (a)(1) of this section are entitled  
29 to receive [DO NOT RECEIVE COMPENSATION] for their services on the  
30 retirement board an honorarium equal to the honorarium provided to trustees of  
31 the Alaska State Pension Investment Board under AS 37.10.250. Physician

1 members of the board are entitled to hourly compensation for their services at a rate  
2 to be determined by the commissioner of administration. The rate of compensation  
3 shall be consistent with the physicians' normal hourly earnings. All members of the  
4 board are entitled to travel expenses and per diem authorized for boards and  
5 commissions under AS 39.20.180 [WHEN IT IS NECESSARY TO TRAVEL].

6 \* Sec. 4. AS 14.25 is amended by adding a new section to read:

7 **Sec. 14.25.037. Hearings.** (a) The board shall adopt regulations establishing  
8 procedures for the conduct of hearings and appeals under this chapter.

9 (b) In the conduct of a hearing under this chapter, the board may issue  
10 subpoenas, administer oaths, compel the attendance and testimony of witnesses, compel  
11 the taking of depositions and the submission of affidavits, and compel the production  
12 of documents and records. The board's powers under this subsection do not extend  
13 to prehearing discovery. However, upon good cause shown, the board may permit the  
14 preservation of witness testimony if the board cannot successfully compel the witness  
15 to attend a hearing. The board may authorize hearing officers to conduct hearings  
16 under this chapter and issue decisions; the decision of a hearing officer may be  
17 appealed to the board. The board shall adopt procedures for appeals from a hearing  
18 officer's decision.

19 (c) A majority of a quorum of the board may issue a ruling or modification  
20 of a ruling. If the board's vote on an appeal under this chapter is a tie vote of those  
21 members present and voting, the decision being appealed is affirmed. The board, by  
22 regulation, shall establish procedures for the reconsideration of a ruling issued under  
23 this chapter. A request for reconsideration is timely if it is received within 30 days  
24 after the initial ruling was issued.

25 (d) An aggrieved party may appeal a final decision to the superior court.

26 \* Sec. 5. AS 14.25.043 is amended to read:

27 **Sec. 14.25.043. Reemployment of retired members.** If a retired member  
28 again becomes an active member, benefit payments may not be made during the period  
29 of reemployment. The retirement benefit must be suspended for the entire school year  
30 if the teacher is reemployed as an active teacher for a period equivalent to a year of  
31 service. During the period of reemployment, deductions from the member's salary will

1 be made in accordance with AS 14.25.050. Upon subsequent retirement, the retired  
2 member is entitled to receive an additional benefit based on the credited service and  
3 the average base salary during the period of reemployment in accordance with  
4 AS 14.25.110. If the initial benefit payments to which the retired member is  
5 eligible have been actuarially reduced because the member retired early under  
6 AS 14.25.110(b), the member shall also receive an incremental benefit based on  
7 the amount of the actuarial reduction imposed by AS 14.25.110(j) on the first  
8 benefit and the length of time that the employee was reemployed and not  
9 receiving retirement benefits. The amount of the incremental benefit is equal to  
10 the difference between the normal retirement benefit to which the member would  
11 have been entitled had the member taken a normal retirement and the early  
12 retirement benefit that the member has been receiving based on the member's  
13 initial period of employment multiplied by the total number of months that the  
14 member did not receive retirement benefits because of reemployment and that  
15 amount actuarially adjusted to be paid over the expected lifetime of the member.

16 \* Sec. 6. AS 14.25.110(a) is amended to read:

17 (a) Subject to AS 14.25.167, a member is eligible for a normal retirement  
18 benefit if the member

19 (1) was first hired before July 1, 1975, has attained the age of 55 years,  
20 and has at least 15 years of credited service, the last five of which have been  
21 membership service or is otherwise vested in the system;

22 (2) has attained the age of 60 years and has at least eight years of  
23 membership service;

24 (3) has attained the age of 60 years, has at least five years of  
25 membership service, and has [AT LEAST THREE YEARS OF] Alaska BIA service  
26 which, when added to the membership service, will equal at least eight years;

27 (4) has at least 25 years of credited service, the last five of which have  
28 been membership service;

29 (5) has at least 20 years of membership service;

30 (6) has at least 20 years of combined membership service and Alaska  
31 BIA service, the last five of which have been membership service; or

1 (7) has, for each of 20 school years,

2 (A) at least one-half year of membership service as a part-time  
3 teacher;

4 (B) one full year of membership service as a full-time teacher;

5 or

6 (C) any combination of service qualified under this paragraph.

7 \* Sec. 7. AS 14.25.130(d) is amended to read:

8 (d) The amount of the disability benefit is equal to 50 percent of the member's  
9 base salary immediately before becoming disabled. The disability benefit is increased  
10 by 10 percent of the member's base salary immediately before becoming disabled  
11 for each dependent child, up to a maximum of four dependent children.

12 \* Sec. 8. AS 14.25.130 is amended by adding a new subsection to read:

13 (f) A member is not entitled to a disability benefit under this section unless  
14 the member files a timely application for the benefit with the administrator. The  
15 application is timely if it is filed by the later of six months after the date that the  
16 member's disability began or 90 days after the termination of the member's  
17 employment. The board may waive a filing deadline under this subsection if there are  
18 extraordinary circumstances that resulted in the inability to meet the filing deadline.  
19 The board may delegate the authority to waive a filing deadline under this subsection  
20 to the administrator.

21 \* Sec. 9. AS 14.25.168(b) is amended to read:

22 (b) After an election of coverage under this section, major medical insurance  
23 coverage takes effect on the same date as retirement benefits begin and stops when the  
24 member or survivor is no longer eligible to receive a monthly benefit. The coverage  
25 for persons age 65 or older is the same as that available for persons under age 65.  
26 The benefits payable to those persons age 65 or older supplement any benefits  
27 provided under the federal old age, survivors and disability insurance program. The  
28 medical premium and optional insurance premiums owed by a member or  
29 survivor shall be deducted from the benefit owed to the member or survivor  
30 before payment of the benefit.

31 \* Sec. 10. AS 14.25.175(b) is amended to read:

1 (b) In order to obtain consideration of a waiver under this section, the affected  
2 member or beneficiary must appeal to the board in writing within 30 days after receipt  
3 of notice that the records have been adjusted. [THE BOARD SHALL RULE ON AN  
4 APPEAL WITHIN 120 DAYS AFTER ITS RECEIPT.] The ruling of the board shall  
5 be in writing.

6 \* Sec. 11. AS 14.25.175(c) is amended to read:

7 (c) The board may [, AT ITS DISCRETION,] conduct a hearing on an appeal  
8 under this section. [IN REACHING A DECISION ON AN APPEAL, THE BOARD  
9 MAY ISSUE SUBPOENAS, ADMINISTER OATHS, AND COMPEL THE  
10 ATTENDANCE AND TESTIMONY OF WITNESSES, THE TAKING OF  
11 DEPOSITIONS, THE SUBMISSION OF AFFIDAVITS, AND THE PRODUCTION  
12 OF DOCUMENTS AND RECORDS.]

13 \* Sec. 12. AS 14.25.200(a) is amended to read:

14 (a) Except as provided in AS 29.45.030(a)(1) or in (c) of this section, member  
15 contributions and other amounts held in the system on behalf of a member or other  
16 person who is or may become eligible for benefits under the system are exempt from  
17 Alaska state and municipal taxes and are not subject to anticipation, alienation, sale,  
18 transfer, assignment, pledge, encumbrance, or charge of any kind, either voluntary or  
19 involuntary, before they are received by the person entitled to the amount under the  
20 terms of the system. Any [, AND ANY] attempt to anticipate, alienate, sell, transfer,  
21 assign, pledge, encumber, charge, or otherwise dispose of any right to amounts accrued  
22 in the system is void. However, a member's right to receive benefits or the member  
23 contribution account may be assigned

24 (1) under a qualified domestic relations order; [OR]

25 (2) to a trust or similar legal device that meets the requirements for a  
26 Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4); or

27 (3) as provided in (c) of this section.

28 \* Sec. 13. AS 14.25.200 is amended by adding a new subsection to read:

29 (c) An inactive member may elect to have the taxable portion of the member  
30 contribution account transferred directly to another plan or an individual retirement  
31 arrangement that is qualified under the federal Internal Revenue Code and that accepts

1 the transfer.

2 \* Sec. 14. AS 14.25.210 is amended to read:

3 **Sec. 14.25.210. Penalty for false statements.** A person who [WILFULLY  
4 OR] knowingly makes a false statement, or falsifies or permits to be falsified any  
5 record of this [THE RETIREMENT] system, in an attempt to defraud this system,  
6 is guilty of a class A misdemeanor and [, UPON CONVICTION, IS PUNISHABLE  
7 BY A FINE OF NOT MORE THAN \$500 OR BY IMPRISONMENT FOR NOT  
8 MORE THAN SIX MONTHS, OR BY BOTH, AND] forfeits all rights under this  
9 chapter.

10 \* Sec. 15. AS 14.25.210 is amended by adding a new subsection to read:

11 (b) In this section, "knowingly" has the meaning given in AS 11.81.900(a).

12 \* Sec. 16. AS 14.25.220(6) is amended to read:

13 (6) "base salary"

14 (A) means the total remuneration payable under contract for a  
15 full year of membership service, including addenda to the contract but, for a  
16 member first hired on or after July 1, 1996, does not include remuneration  
17 in excess of the limitations set out in 26 U.S.C. 401(a)(17);

18 (B) has the same meaning as "compensation" under  
19 AS 39.35.680(8) when applied to a state legislator who elects membership  
20 under AS 14.25.040(b);

21 \* Sec. 17. AS 14.25.220(31) is amended to read:

22 (31) "qualified domestic relations order" means a divorce or dissolution  
23 judgment under AS 25.24, including an order approving a property settlement, that

24 (A) creates or recognizes the existence of an alternate payee's  
25 right to, or assigns to an alternate payee the right to, receive all or a portion of  
26 the member contribution account or benefits payable with respect to a  
27 member;

28 (B) sets out the name and last known mailing address, if any,  
29 of the member and of each alternate payee covered by the order;

30 (C) sets out the amount or percentage of the member's benefit,  
31 or of any survivor's benefit, to be paid to the alternate payee, or sets out the

1 manner in which that amount or percentage is to be determined;

2 (D) sets out the number of payments or period to which the  
3 order applies;

4 (E) does not require any type or form of benefit or any option  
5 not otherwise provided by this chapter;

6 (F) does not require an increase of benefits in excess of the  
7 amount provided by this chapter, determined on the basis of actuarial value;  
8 and

9 (G) does not require the payment, to an alternate payee, of  
10 benefits that are required to be paid to another alternate payee under another  
11 order previously determined to be a qualified domestic relations order;

12 \* Sec. 18. AS 14.25.220(35) is amended to read:

13 (35) "retirement fund" or "fund" means the fund in which the assets of  
14 the system, including income and interest derived from the investment of money,  
15 are deposited and held;

16 \* Sec. 19. AS 14.25.220(40) is amended to read:

17 (40) "teacher" or "member" means a person eligible to participate in  
18 the system and who is covered by the system, limited to

19 (A) a certificated full-time or part-time elementary or secondary  
20 teacher, a certificated school nurse, or a certificated person in a position  
21 requiring a teaching certificate as a condition of employment in a public school  
22 of the state or in the Department of Education and Early Development;

23 (B) [THE COMMISSIONER OF EDUCATION AND EARLY  
24 DEVELOPMENT AND ALL SUPERVISORY POSITIONS IN THE  
25 DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT;

26 (C)] a full-time or part-time teacher of the University of Alaska  
27 or a person occupying a full-time administrative position at the University of  
28 Alaska that requires academic standing; the approval of the administrator must  
29 be obtained before an administrative position qualifies for membership in the  
30 system; however, a teacher or administrative person at the university who is  
31 participating in the optional university retirement program under AS 14.40.661

1 - 14.40.799 is not a member under this system;

2 (C) [(D)] a state legislator who elects membership under  
3 AS 14.25.040(b);

4 \* Sec. 20. AS 22.25.020 is amended to read:

5 Sec. 22.25.020. **Retirement pay.** A retired justice or judge eligible for  
6 retirement pay shall receive from the date of eligibility until death monthly  
7 compensation equal to five percent per year of service, to a maximum of 75 percent,  
8 of the monthly salary authorized for justices and judges, respectively, at the time each  
9 retirement payment is made. For a justice or judge who was first employed in this  
10 retirement system on or after July 1, 1996, base annual salary does not include  
11 remuneration in excess of the limitations set out in 26 U.S.C. 401(a)(17) (Internal  
12 Revenue Code).

13 \* Sec. 21. AS 22.25.041 is amended to read:

14 Sec. 22.25.041. **Refund of contributions.** (a) Except as provided in (c) of  
15 this section, a [A] justice or judge who vacates office for any reason and who has not  
16 then accrued five years of creditable service under this chapter is entitled to receive  
17 a refund of the total amount of contributions, including principal and interest  
18 payments on indebtedness, together with interest credited on the amount. To receive  
19 credit for an earlier period of service under AS 22.25.010(f), [IF] a justice or judge  
20 who has received a refund of contributions and who returns to active service [, THE  
21 JUSTICE OR JUDGE] shall repay in full, before appointment to retirement,  
22 [WITHIN ONE YEAR] the refunded contributions with interest at the prevailing rate  
23 [TO RECEIVE CREDIT FOR THE EARLIER PERIOD OF SERVICE UNDER  
24 AS 22.25.010(f)].

25 (b) A justice or judge whose contributions have been involuntarily refunded  
26 because of a levy under AS 09.38.065 or because of a federal tax levy may repay  
27 the amount levied together with accrued interest whether or not the justice or judge is  
28 on active service. Repayments shall be made under (a) of this section.

29 \* Sec. 22. AS 22.25.041 is amended by adding new subsections to read:

30 (c) A justice or judge whose rights to a refund are subject to a qualified  
31 domestic relations order is entitled to receive a refund of the total amount of

1 contributions, together with interest credited on the amount, only if the present spouse  
2 of the justice or judge, if any, and each person entitled under the order consent to the  
3 refund in writing on a form provided by the administrator. The administrator may  
4 waive written consent from the person entitled to benefits under the order if the  
5 administrator determines that the person cannot be located or for other reasons  
6 established by regulation. The administrator may waive written consent from the  
7 spouse if the administrator determines that

8 (1) the justice or judge was not married to the spouse during any period  
9 of the justice's or judge's employment under this chapter;

10 (2) the spouse has no right to benefits under this chapter because of the  
11 terms of a qualified domestic relations order;

12 (3) the spouse cannot be located;

13 (4) the justice or judge and spouse have been married for less than two  
14 years and the justice or judge establishes that they are not cohabiting; or

15 (5) another reason established by regulation exists.

16 (d) Except as provided in this subsection and in AS 29.45.030(a)(1), amounts  
17 held in the system on behalf of a justice or judge or other person who is or may  
18 become eligible for benefits under the system are exempt from Alaska state and  
19 municipal taxes and are not subject to anticipation, alienation, sale, transfer,  
20 assignment, pledge, encumbrance, or charge of any kind, either voluntary or  
21 involuntary, before they are received by the person entitled to the amount under the  
22 terms of the system, and any attempt to anticipate, alienate, sell, transfer, assign,  
23 pledge, encumber, charge, or otherwise dispose of any right to amounts accrued in the  
24 system is void. However,

25 (1) the right of a justice or judge to receive benefits or the contributions  
26 and interest may be assigned

27 (A) under a qualified domestic relations order; or

28 (B) to a trust or similar legal device that meets the requirements  
29 for a Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4);

30 (2) a justice or judge may elect to have the taxable portion of the  
31 qualifying distributions transferred directly to another qualified plan or an individual

1 retirement account that accepts the transfer.

2 \* Sec. 23. AS 22.25.090(b) is amended to read:

3 (b) Except as provided in (d) of this section, major medical insurance coverage  
4 takes effect on the same date as retirement benefits begin [,] and stops when the retired  
5 person or survivor is no longer eligible to receive a monthly benefit. The coverage for  
6 persons age 65 or older is the same as that available for persons under 65 years of  
7 age. The benefits payable to those persons age 65 or older supplement any benefits  
8 provided under the federal old age, survivors, and disability insurance program. The  
9 medical premium and optional insurance premiums owed by a retired person or  
10 survivor shall be deducted from the benefit payable to the retired person or  
11 survivor before payment of the benefit.

12 \* Sec. 24. AS 22.25.900 is amended to read:

13 Sec. 22.25.900. **Definition.** In this chapter, "qualified domestic relations  
14 order" means a divorce or dissolution judgment under AS 25.24, including an order  
15 approving a property settlement, that

16 (1) creates or recognizes the existence of an alternate payee's right to,  
17 or assigns to an alternate payee the right to, receive all or a portion of the member  
18 contributions and interest or benefits payable with respect to a justice or judge;

19 (2) sets out the name and last known mailing address, if any, of the  
20 justice or judge and of each alternate payee covered by the order;

21 (3) sets out the amount or percentage of the justice's or judge's benefit,  
22 or of any survivor's benefit, to be paid to the alternate payee, or sets out the manner  
23 in which that amount or percentage is to be determined;

24 (4) sets out the number of payments or period to which the order  
25 applies;

26 (5) does not require any type or form of benefit or any option not  
27 otherwise provided by this chapter;

28 (6) does not require an increase of benefits in excess of the amount  
29 provided by this chapter, determined on the basis of actuarial value;

30 (7) does not require the payment, to an alternate payee, of benefits that  
31 are required to be paid to another alternate payee under another order previously

1 determined to be a qualified domestic relations order.

2 \* Sec. 25. AS 26.05.224 is amended by adding new subsections to read:

3 (g) Except as provided in this subsection or AS 29.45.030(a)(1), amounts held  
4 in the system on behalf of a member or other person who is or may become eligible  
5 for benefits under the system are exempt from Alaska state and municipal taxes and  
6 are not subject to anticipation, alienation, sale, transfer, assignment, pledge,  
7 encumbrance, or charge of any kind, either voluntary or involuntary, before they are  
8 received by the person entitled to the amount under the terms of the system, and any  
9 attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or  
10 otherwise dispose of any right to amounts accrued in the system is void. However,

11 (1) a member's right to receive benefits or the member contribution  
12 account may be assigned

13 (A) under a qualified domestic relations order; or

14 (B) to a trust or similar legal device that meets the requirements  
15 for a Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C.  
16 1396p(d)(4);

17 (2) a member may elect to have the taxable portion of the qualifying  
18 distributions transferred directly to another plan or individual retirement arrangement  
19 qualified under the federal Internal Revenue Code.

20 (h) Amounts held in the system and benefits payable under this section are  
21 exempt from garnishment, execution, or levy as provided in AS 09.38 (Alaska  
22 Exemptions Act).

23 \* Sec. 26. AS 39.30.091 is amended to read:

24 **Sec. 39.30.091. Authorization for self-insurance and excess loss insurance.**

25 Notwithstanding AS 21.86.310 or AS 39.30.090, the Department of Administration  
26 may provide, by means of self-insurance, one or more of the benefits listed in  
27 AS 39.30.090(a)(1) for state employees eligible for the benefits by law or under a  
28 collective bargaining agreement and for persons receiving benefits under AS 14.25,  
29 AS 22.25, AS 39.35, or former AS 39.37, and their dependents. The department  
30 shall procure any necessary excess loss insurance under AS 39.30.090.

31 \* Sec. 27. AS 39.35.030(b) is repealed and reenacted to read:

1 (b) Three public members are appointed by the governor to serve at the  
2 pleasure of the governor for six-year staggered terms. One of the public members  
3 must be or have been employed by an employer other than the State of Alaska. The  
4 governor shall fill a vacancy in an unexpired appointive term by appointment for the  
5 remainder of the term.

6 \* Sec. 28. AS 39.35.030(c) is amended to read:

7 (c) Two members of the board must be members of the system elected by [A  
8 MAJORITY OF THE VOTES CAST BY] members of the system. Elections shall be  
9 conducted by the board. The candidate who receives the most votes cast in the  
10 election is elected to the seat. If two seats are to be filled at the election, the  
11 candidate who receives the most votes cast and the candidate who receives the  
12 next most votes cast are elected to the seats. The term of office of an elected  
13 member is six years. A vacancy in an unexpired elective term shall be filled by  
14 election for a new six-year term.

15 \* Sec. 29. AS 39.35.030(d) is amended to read:

16 (d) The governor shall appoint two physicians authorized to practice medicine  
17 in the state to serve as members of the board and two physicians authorized to  
18 practice medicine in the state to serve as alternate members to the physician  
19 members of the board. The physicians are members of the board only for the  
20 purpose of hearing appeals to determine medical eligibility for disability benefits under  
21 AS 39.35.400 and 39.35.410. If the administrator, after making a reasonable effort  
22 to secure the participation of two physician members or alternates to serve on a  
23 disability appeal, is unable to do so, the board may hear the appeal with the  
24 participation of only one physician member or alternate, in which case, for  
25 purposes of a quorum, the board shall be considered to have only one physician  
26 as a member [THE GOVERNOR SHALL APPOINT TWO PHYSICIANS EACH  
27 FROM AT LEAST TWO OF THE STATE'S FOUR JUDICIAL DISTRICTS]. The  
28 Public Employees' Retirement Board and the Teachers' Retirement Board may submit  
29 to the governor a list of recommended physicians to serve on the board. [THE TWO  
30 PHYSICIAN MEMBERS FROM THE JUDICIAL DISTRICT IN WHICH A  
31 DISABILITY APPEAL HEARING IS CONDUCTED SHALL SERVE ON THE

1 BOARD DURING THE HEARING. IF ONE OR MORE OF THE PHYSICIANS IN  
2 THE JUDICIAL DISTRICT IN WHICH A DISABILITY HEARING IS  
3 CONDUCTED IS UNABLE TO SERVE AT THE HEARING, OR IF THERE IS NO  
4 PHYSICIAN MEMBER FROM THAT JUDICIAL DISTRICT, OTHER PHYSICIAN  
5 MEMBERS SHALL SERVE AT THE HEARING, SELECTED FOR SUCH  
6 HEARINGS ON A ROTATING BASIS, IN ACCORDANCE WITH REGULATIONS  
7 ADOPTED BY THE BOARD.] Physician members serve at the pleasure of the  
8 governor.

9 \* Sec. 30. AS 39.35.030(e) is amended to read:

10 (e) Members of the board appointed under [IDENTIFIED IN] (b) of this  
11 section or elected under (c) of this section are entitled to [DO NOT] receive  
12 [COMPENSATION] for their services on the retirement board an honorarium equal  
13 to the honorarium provided to trustees of the Alaska State Pension Investment  
14 Board under AS 37.10.250. Physician members of the board are entitled to hourly  
15 compensation for their services at a rate to be determined by the commissioner of  
16 administration. The rate of compensation shall be consistent with the physicians'  
17 normal hourly earnings. All members of the board are entitled to travel expenses and  
18 per diem when it is necessary to travel.

19 \* Sec. 31. AS 39.35.040 is amended to read:

20 **Sec. 39.35.040. Powers and duties of board.** The Public Employees  
21 Retirement Board has the following powers and duties:

22 (1) to hold regular meetings and special meetings considered necessary;  
23 all meetings are open to the public, and the board keeps a full record of all its  
24 proceedings;

25 (2) to adopt, with modifications it considers proper, regulations  
26 recommended by the administrator for carrying out this chapter;

27 (3) to consider and adopt resolutions on matters referred to it by the  
28 administrator in connection with changes in policy and revisions of this chapter;

29 (4) to act as an appeals board, hold hearings at the request of an  
30 employer, employee, surviving spouse, or a beneficiary on decisions made by the  
31 administrator, and submit its findings to the administrator;

1 (5) to have prepared, at least biennially, an actuarial valuation of the  
2 total obligations under the system of each employer and, on the basis of the valuation  
3 and in time for incorporation of the results in the state budget, to certify to the  
4 appropriate budgetary authorities of each employer:

5 (A) an appropriate contribution rate for all employers; and

6 (B) an amount appropriate for each employer to liquidate the  
7 employee's past service liability; the board shall have an actuarial and financial  
8 experience analysis of the system conducted at appropriate intervals, but no less  
9 frequently than once every six years; the actuarial valuations and the actuarial  
10 and financial experience analysis shall be prepared and certified by a member  
11 of the American Academy of Actuaries;

12 (6) to prescribe the policies for the proper operation of the system and  
13 carry on other activities that are considered necessary to carry out the intent and  
14 purpose of the system in accordance with this chapter;

15 (7) to prescribe the rate of interest that shall be credited to the  
16 employee accounts each year;

17 (8) to waive the requirements of AS 39.35.520 in accordance with  
18 AS 39.35.522;

19 (9) to exercise the duties set out in AS 39.30.155 with respect to the  
20 supplemental employee benefit program under AS 39.30.150 - 39.30.180;

21 (10) to exercise the duties set out in AS 39.45.025 with respect to the  
22 deferred compensation program for state employees;

23 (11) to adopt regulations for the election of trustees to the Alaska State  
24 Pension Investment Board and for removal from the investment board of trustees  
25 elected from the system;

26 (12) to adopt a contribution surcharge under AS 39.35.160(c).

27 \* Sec. 32. AS 39.35 is amended by adding a new section to read:

28 **Sec. 39.35.077. Hearings.** (a) The board shall adopt regulations establishing  
29 procedures for the conduct of hearings and appeals under this chapter.

30 (b) In the conduct of a hearing under this chapter, the board may issue  
31 subpoenas, administer oaths, compel the attendance and testimony of witnesses, compel

1 the taking of depositions and the submission of affidavits, and compel the production  
2 of documents and records. The board's powers under this subsection do not extend  
3 to prehearing discovery. However, upon good cause shown, the board may permit the  
4 preservation of witness testimony if the board cannot successfully compel the witness  
5 to attend a hearing. The board may authorize hearing officers to conduct hearings  
6 under this chapter and issue decisions; the decision of a hearing officer may be  
7 appealed to the board. The board shall adopt procedures for appeals from a hearing  
8 officer's decision.

9 (c) A majority of a quorum of the board may issue a ruling or modification  
10 of a ruling. If the board's vote on an appeal under this chapter is a tie vote of those  
11 members present and voting, the decision being appealed is affirmed. The board, by  
12 regulation, shall establish procedures for the reconsideration of a ruling issued under  
13 this chapter. A request for reconsideration is timely if it is received within 30 days  
14 after the initial ruling was issued.

15 (d) An aggrieved party may appeal a final decision to the superior court.

16 \* Sec. 33. AS 39.35.125(a) is amended to read:

17 (a) An elected official of the state or of a political subdivision of the state  
18 if the political subdivision has elected under AS 39.35.550 - 39.35.650 to designate  
19 elected officials in the classifications of employees entitled to participate in the  
20 system is included in the system unless the official files a written waiver of coverage  
21 with the administrator. A waiver under this subsection waives coverage of future  
22 employment as an elected official, regardless of any change of employer. An elected  
23 official may file a waiver under this subsection at any time after election to office,  
24 including the period before taking the oath of office. An elected official may revoke  
25 a waiver under this subsection by filing a written revocation with the administrator.  
26 A revocation under this subsection operates prospectively only, and the elected official  
27 may not receive credited service for service as an elected official while the waiver was  
28 in effect. There is no limit on the number of times an elected official may file a  
29 waiver or revocation under this subsection.

30 \* Sec. 34. AS 39.35.150 is amended to read:

31 **Sec. 39.35.150. Re-employment of retired employees.** If a retired employee

1 subsequently becomes an active member, benefit payments may not be made during  
2 the period of re-employment. During the period of re-employment, deductions from  
3 the employee's salary shall be made in accordance with AS 39.35.160. Upon  
4 subsequent retirement, the retired employee is entitled to receive an additional pension  
5 based on the credited service and the average monthly compensation earned during the  
6 period of re-employment in accordance with AS 39.35.370. If the initial benefit  
7 payments to which the retired member is eligible have been reduced because the  
8 member retired early under AS 39.35.370(b) or increased because the member  
9 elected to receive a level income option benefit under former AS 39.35.460, the  
10 member shall also receive an incremental benefit based on the amount of the  
11 reduction imposed by AS 39.35.370(b) or the increase under former AS 39.35.460  
12 on the first benefit and the length of time that the employee was reemployed and  
13 not receiving retirement benefits. The amount of the incremental benefit is equal  
14 to the difference between the normal retirement benefit to which the member  
15 would have been entitled had the member taken a normal retirement and the  
16 early retirement benefit or benefit under the level income option that the member  
17 has been receiving based on the member's initial period of employment multiplied  
18 by the total number of months that the member did not receive retirement  
19 benefits because of reemployment and that amount actuarially adjusted to be paid  
20 over the expected lifetime of the member. In the case of a member who selected  
21 benefits under the level income option, the total number of months may not  
22 include any month in which the member was 65 years of age or older.

23 \* Sec. 35. AS 39.35.160(c) is amended to read:

24 (c) An employee who has made an [IRREVOCABLE] election under  
25 AS 39.35.300(c) or 39.35.310(c) to have the employee's years of service as a  
26 noncertificated employee of a state boarding school, of a school district or regional  
27 educational attendance area, of the special education service agency, or of the Alaska  
28 Vocational Technical Center determined by reference to AS 14.25.220 shall pay a  
29 contribution surcharge for that service. The amount of the surcharge is the difference  
30 between the amount the employer would have had to contribute under AS 39.35.250 -  
31 39.35.290 for the employee when treating the employee's credited service as service

1 earned under AS 39.35.300(c) or 39.35.310(c) less the amount the employer would  
2 have had to contribute under AS 39.35.250 - 39.35.290 without treating the employee's  
3 credited service as service earned under AS 39.35.300(c) or 39.35.310(c).

4 \* Sec. 36. AS 39.35.300(c) is amended to read:

5 (c) A noncertificated employee of the Alaska Vocational Technical Center or  
6 a state boarding school who first becomes a member of the system on or after July 1,  
7 1999, may, within 90 days after the employee first joins the system, make an  
8 [IRREVOCABLE] election under this subsection to have the years of service that the  
9 employee earns as a noncertificated employee determined using the table for service  
10 on or after July 1, 1969, that is set out in the definition of "year of service" in  
11 AS 14.25.220. A noncertificated employee of the Alaska Vocational Technical Center  
12 or a state boarding school who is an active member of the system on July 1, 1999,  
13 may, within 180 days after July 1, 1999, make the [IRREVOCABLE] election. A  
14 member of the system who is an inactive member on July 1, 1999, and who is later  
15 employed as a noncertificated employee of the Alaska Vocational Technical Center or  
16 a state boarding school may, within 90 days after beginning the subsequent  
17 employment, make the [IRREVOCABLE] election. An election under this subsection  
18 is irrevocable except as provided in (d) of this section and shall be made in writing  
19 on a form provided by the administrator. The election applies to the employee's  
20 service earned for the school year in which the election is accepted by the  
21 administrator and applies to all subsequent employment as a noncertificated employee  
22 of a state boarding school, a school district or regional educational attendance area, the  
23 special education service agency, or the Alaska Vocational Technical Center. An  
24 employee who makes an election under this subsection shall pay the contribution  
25 surcharge as set out in AS 39.35.160(c).

26 \* Sec. 37. AS 39.35.300 is amended by adding new subsections to read:

27 (d) A noncertificated employee who has made an election under (c) of this  
28 section and who thereafter changes employment status from working for less than a  
29 full year, whether part-time or full time, to working for a full year, whether part-time  
30 or full-time, may, between July 1 and September 30, revoke the election and cease  
31 payment of the contribution surcharge. A revocation under this subsection is

1 retroactive to July 1 of the school year, as defined in AS 14.25.220, in which the  
2 revocation is made.

3 (e) A noncertificated employee who has not made an election under (c) of this  
4 section who changes employment status from working for a full year, whether part-  
5 time or full-time, to working for less than a full year, whether part-time or full-time,  
6 may, between July 1 and September 30, make the election and begin paying the  
7 contribution surcharge. The election is retroactive to July 1 of the school year, as  
8 defined in AS 14.25.220, in which the election is made.

9 \* Sec. 38. AS 39.35.310(c) is amended to read:

10 (c) A noncertificated employee of a school district, a regional educational  
11 attendance area, or the special education service agency who first becomes a member  
12 of the system on or after July 1, 1999, may, within 90 days after the employee first  
13 joins the system, make an [IRREVOCABLE] election under this subsection to have  
14 the years of service that the employee earns as a noncertificated employee determined  
15 using the table for service on or after July 1, 1969, that is set out in the definition of  
16 "year of service" in AS 14.25.220. A noncertificated employee of a school district, a  
17 regional educational attendance area, or the special education service agency who is  
18 an active member of the system on July 1, 1999, may, within 180 days after July 1,  
19 1999, make the [IRREVOCABLE] election. A member of the system who is an  
20 inactive member on July 1, 1999, and who later is employed as a noncertificated  
21 employee of a school district, a regional educational attendance area, or the special  
22 education service agency may, within 90 days after beginning the subsequent  
23 employment, make the [IRREVOCABLE] election. An election under this subsection  
24 is irrevocable except as provided in (d) of this section and shall be made in writing  
25 on a form provided by the administrator. The election applies to the employee's  
26 service earned for the school year in which the election is accepted by the  
27 administrator and applies to all subsequent employment as a noncertificated employee  
28 of a state boarding school, a school district or regional educational attendance area, the  
29 special education service agency, or the Alaska Vocational Technical Center. An  
30 employee who makes an election under this subsection shall pay the contribution  
31 surcharge as set out in AS 39.35.160(c).

1 \* Sec. 39. AS 39.35.310 is amended by adding new subsections to read:

2 (d) A noncertificated employee who has made an election under (c) of this  
3 section and who thereafter changes employment status from working for less than a  
4 full year, whether part-time or full-time, to working for a full year, whether part-time  
5 or full-time, may, between July 1 and September 30, revoke the election and cease  
6 payment of the contribution surcharge. A revocation under this subsection is  
7 retroactive to the beginning of the school year, as defined in AS 14.25.220, in which  
8 the revocation was made.

9 (e) A noncertificated employee who has not made an election under (c) of this  
10 section who changes employment status from working for a full year, whether part-  
11 time or full-time, to working for less than a full year may, between July 1 and  
12 September 30, make the election and begin paying the contribution surcharge. The  
13 election is retroactive to July 1 of the school year, as defined in AS 14.25.220, in  
14 which the election was made.

15 \* Sec. 40. AS 39.35.400(a) is amended to read:

16 (a) An employee is eligible for a nonoccupational disability benefit if the  
17 employee's employment is terminated because of a total and apparently permanent  
18 nonoccupational disability, as defined in AS 39.35.680, before the employee's normal  
19 retirement date and after five or more years of credited service. A member is not  
20 entitled to a nonoccupational disability benefit under this section unless the  
21 member files an application for the benefit with the administrator within 90 days  
22 after the member terminated employment. The board may waive a filing deadline  
23 if there are extraordinary circumstances that resulted in the inability to meet the  
24 deadline. The board may delegate the authority to waive a filing deadline under  
25 this subsection to the administrator.

26 \* Sec. 41. AS 39.35.410(f) is amended to read:

27 (f) An employee is not entitled to an occupational disability benefit unless the  
28 employee files an application for it with the administrator [WITHIN SIX MONTHS  
29 AFTER THE DATE OF THE ACCIDENT, IF DISABILITY IS ATTRIBUTABLE TO  
30 AN ACCIDENT, WITHIN SIX MONTHS AFTER THE DATE THE DISABILITY  
31 BEGINS IF THE DISABILITY IS CAUSED BY AN OCCUPATIONAL DISEASE,

1 OR] within 90 [30] days of the date of terminating employment [, WHICHEVER IS  
2 LATER. IF THE DISABILITY IS ATTRIBUTABLE TO AN ACCIDENT, THE  
3 EMPLOYEE SHALL FILE A NOTICE OF THE ACCIDENT WITH THE  
4 ADMINISTRATOR WITHIN 30 DAYS FOLLOWING THE DATE IT OCCURRED.  
5 THIS 30-DAY FILING PERIOD IS SUSPENDED FOR THE TIME THE  
6 EMPLOYEE'S CONDITION PREVENTS FILING]. If the employee is unable to meet  
7 a filing requirement of this subsection, it may be waived by the Public Employees'  
8 Retirement Board if there are extraordinary circumstances that resulted in the  
9 employee's inability to meet the filing requirement. The board may delegate the  
10 authority to waive a filing deadline under this subsection to the administrator  
11 [FOR CAUSE].

12 \* Sec. 42. AS 39.35.450(a) is amended to read:

13 (a) Benefits payable under this section are in place of benefits payable under  
14 AS 39.35.370, 39.35.385, and former AS 39.35.460. Upon filing an application with  
15 the administrator or when a disabled employee first attains eligibility for normal  
16 retirement under AS 39.35.400(f) or 39.35.410(h), the employee shall designate the  
17 person who is the employee's spouse at the time of appointment to retirement as the  
18 contingent beneficiary. However, if the designation of the spouse is revoked under (c)  
19 of this section, the employee may designate a dependent approved by the administrator  
20 as the contingent beneficiary or may take normal or early retirement under  
21 AS 39.35.370 or 39.35.385 or, if the employee was first hired before July 1, 1996,  
22 benefit payments under the level income option under former AS 39.35.460. The  
23 administrator shall pay benefits under the option elected by the employee. The  
24 employee may elect an option that provides that [(1)] the employee is entitled to  
25 receive a reduced benefit payable for life, and, after the employee's death, the  
26 contingent beneficiary is entitled to payments in the amount of

27 (1) 75 percent of the reduced benefit payable for life; or

28 (2) [THE EMPLOYEE IS ENTITLED TO RECEIVE A REDUCED  
29 BENEFIT PAYABLE FOR LIFE, AND, AFTER THE EMPLOYEE'S DEATH, THE  
30 CONTINGENT BENEFICIARY IS ENTITLED TO RECEIVE PAYMENTS IN THE  
31 AMOUNT OF] 50 percent of the reduced benefit payable for life.

1 \* **Sec. 43.** AS 39.35.500 is amended to read:

2           **Sec. 39.35.500. Safeguard of employee funds held by the system.** Except  
3 as provided in AS 29.45.030(a)(1) or in (b) of this section, employee contributions  
4 and other amounts held in the system are exempt from Alaska state and local taxes.  
5 Except as provided in this subsection and in (b) of this section, amounts  
6 [AMOUNTS] held on behalf of, or payable to, any employee or other person who is  
7 or may become eligible for benefits under the system are not subject to anticipation,  
8 alienation, sale, transfer, assignment, pledge, encumbrance, or charge of any kind,  
9 either voluntary or involuntary, before being received by the person entitled to the  
10 amount under the terms of the system. An attempt to anticipate, alienate, sell, transfer,  
11 assign, pledge, encumber, charge, or otherwise dispose of a right to amounts held  
12 under the system is void. However, an employee's right to receive benefits or the  
13 member's employee contribution account may be assigned

14                           (1) under a qualified domestic relations order; or

15                           (2) to a trust or similar legal device that meets the requirements for a  
16 Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4).

17 \* **Sec. 44.** AS 39.35.500 is amended by adding a new subsection to read:

18           (b) An inactive member may elect to have the taxable portion of an inactive  
19 employee contribution account transferred directly to another plan or an individual  
20 retirement arrangement qualified under the federal Internal Revenue Code that accepts  
21 the transfer.

22 \* **Sec. 45.** AS 39.35.522(b) is amended to read:

23           (b) In order to obtain consideration of a waiver under this section, the affected  
24 member or beneficiary must appeal to the board in writing within 30 days after receipt  
25 of notice that the records have been adjusted. [THE BOARD SHALL RULE ON THE  
26 APPEAL IN WRITING WITHIN 120 DAYS AFTER ITS RECEIPT.]

27 \* **Sec. 46.** AS 39.35.522(c) is amended to read:

28           (c) The board may [, AT ITS DISCRETION,] conduct a hearing on an appeal  
29 under this section. [IN REACHING A DECISION ON AN APPEAL, THE BOARD  
30 MAY ISSUE SUBPOENAS, ADMINISTER OATHS, COMPEL THE ATTENDANCE  
31 AND TESTIMONY OF WITNESSES, COMPEL THE TAKING OF DEPOSITIONS

1 AND THE SUBMISSION OF AFFIDAVITS, AND COMPEL THE PRODUCTION  
2 OF DOCUMENTS AND RECORDS.]

3 \* Sec. 47. AS 39.35.522(e) is amended to read:

4 (e) The board may reconsider a ruling under this section under  
5 AS 39.35.077(c) [UPON REQUEST OF THE MEMBER OR BENEFICIARY OR THE  
6 ADMINISTRATOR IF THE REQUEST IS RECEIVED WITHIN 30 DAYS AFTER  
7 THE INITIAL RULING.] Any modification of the initial ruling must be made within  
8 30 days after receipt of a request for reconsideration.

9 \* Sec. 48. AS 39.35.535(b) is amended to read:

10 (b) Except as provided in (d) of this section, after an election of coverage  
11 under this section, major medical insurance coverage takes effect on the same date that  
12 benefits begin, and stops when the member or survivor is no longer eligible to receive  
13 a monthly benefit. The coverage for persons age 65 or older is the same coverage  
14 available for a person under 65 years of age. The benefits payable to persons age 65  
15 or older supplement any benefits provided under the federal old age, survivors and  
16 disability insurance program. The medical premium and optional insurance  
17 premiums owed by a member or survivor shall be deducted from the benefit owed  
18 to the member or survivor before payment of the benefit.

19 \* Sec. 49. AS 39.35.615(a) is amended to read:

20 (a) A political subdivision or public organization may request that its  
21 participation agreement be amended. The request may be made only after adoption  
22 of a resolution by the legislative body of the political subdivision and approval of the  
23 resolution by the person required by law to approve the resolution, or, in the case of  
24 a public organization, after adoption of a resolution by the governing body of that  
25 public organization. A certified copy of the resolution shall be filed with the  
26 administrator. If a political subdivision or public organization amends its participation  
27 agreement so as to terminate coverage of a department, group, or other classification  
28 of employees, each employee whose coverage is so terminated, regardless of the  
29 employee's employment status at the date of termination, shall be considered fully  
30 vested in actuarially adjusted accrued retirement benefits as of the date of termination,  
31 unless

- 1                   (1) the employee's contributions have been refunded; or  
2                   (2) the political subdivision or public organization amended its  
3                   participation agreement to exclude coverage for the affected department, group,  
4                   or other classification of employees at the written request of a majority of the  
5                   employees employed in that department, group, or other classification at the time  
6                   the request was made.

7 \* Sec. 50. AS 39.35.670 is amended to read:

8                   Sec. 39.35.670. **Fraud.** A person who knowingly makes a false statement, or  
9                   falsifies or permits to be falsified a record of this system, in an attempt to defraud the  
10                   system [,] is guilty of a class A misdemeanor [, AND UPON CONVICTION IS  
11                   PUNISHABLE BY A FINE OF NOT MORE THAN \$500, OR BY IMPRISONMENT  
12                   FOR NOT MORE THAN TWELVE MONTHS, OR BY BOTH].

13 \* Sec. 51. AS 39.35.680(4) is amended to read:

14                   (4) "average monthly compensation" means the result obtained by  
15                   dividing the compensation earned by an employee during a considered period by the  
16                   number of months, including fractional months, for which compensation was earned;  
17                   an employee must have at least 115 days of credited service in the last payroll  
18                   year in order for that year to be used as part of the consecutive payroll years; the  
19                   considered period consists of

20                   (A) for employees first hired before July 1, 1996, the three  
21                   consecutive payroll years during the period of credited service that yield  
22                   [YIELDS] the highest average; [,] and

23                   (B) for employees first hired on or after July 1, 1996, the five  
24                   consecutive payroll years during the period of credited service that yield the  
25                   highest average;

26                   (C) [, OR] if the employee does not have the [REQUIRED]  
27                   number of consecutive payroll years required by (A) or (B) of this  
28                   paragraph, the actual number of months, including fractional months, that  
29                   the employee worked [EMPLOYEE'S PERIOD OF CREDITED SERVICE];

30                   (D) for an employee who has made an election under  
31                   AS 39.35.300(c) or 39.35.310(c), the actual number of months, including

1           fractional months, that the employee worked [AN EMPLOYEE MUST  
2           HAVE AT LEAST 115 DAYS OF CREDITED SERVICE IN THE LAST  
3           PAYROLL YEAR IN ORDER FOR THAT YEAR TO BE USED AS PART  
4           OF THE CONSECUTIVE PAYROLL YEARS];

5       \* Sec. 52. AS 39.35.680(8) is amended to read:

6                       (8) "compensation" means the [TOTAL] remuneration earned by an  
7           employee for personal services rendered to an employer, including employee  
8           contributions under AS 39.35.160, cost-of-living differentials only as provided in  
9           AS 39.35.675, payments for leave that is actually used by the employee, the amount  
10          by which the employee's wages are reduced under AS 39.30.150(c), and any amount  
11          deferred under an employer-sponsored deferred compensation plan, but does not  
12          include retirement benefits, severance pay or other separation bonuses, welfare  
13          benefits, per diem, expense allowances, workers' compensation payments, or payments  
14          for leave not used by the employee whether those leave payments are scheduled  
15          payments, lump-sum payments, donations, or cash-ins; for a member first hired on  
16          or after July 1, 1996, compensation does not include remuneration in excess of the  
17          limitations set out in 26 U.S.C. 401(a)(17) (Internal Revenue Code);

18       \* Sec. 53. AS 39.35.680(29) is amended to read:

19                      (29) "pension fund" or "fund" means the fund in which the assets of  
20          the system, including income and interest derived from the investment of money,  
21          are deposited and held;

22       \* Sec. 54. AS 39.35.680(34) is amended to read:

23                      (34) "qualified domestic relations order" means a divorce or dissolution  
24          judgment under AS 25.24, including an order approving a property settlement, that

25                      (A) creates or recognizes the existence of an alternate payee's  
26          right to, or assigns to an alternate payee the right to, receive all or a portion of  
27          employee contribution account or the benefits payable with respect to an  
28          employee;

29                      (B) sets out the name and last known mailing address, if any,  
30          of the employee and of each alternate payee covered by the order;

31                      (C) sets out the amount or percentage of the employee's benefit,

1 or of any survivor's benefit, to be paid to the alternate payee, or sets out the  
2 manner in which that amount or percentage is to be determined;

3 (D) sets out the number of payments or period to which the  
4 order applies;

5 (E) does not require any type or form of benefit or any option  
6 not otherwise provided by this chapter;

7 (F) does not require an increase of benefits in excess of the  
8 amount provided by this chapter, determined on the basis of actuarial value;  
9 and

10 (G) does not require the payment to an alternate payee of  
11 benefits that are required to be paid to another alternate payee under another  
12 order previously determined to be a qualified domestic relations order; [.]

13 \* Sec. 55. AS 39.50.200(a)(8) is amended to read:

14 (8) "public official" means

15 (A) a judicial officer;

16 (B) the governor or the lieutenant governor;

17 (C) a person hired or appointed in a department in the executive  
18 branch as

19 (i) the head or deputy head of the department;

20 (ii) the director or deputy director of a division;

21 (iii) a special assistant to the head of the department;

22 (iv) a person serving as the legislative liaison for the

23 department;

24 (D) an assistant to the governor or the lieutenant governor;

25 (E) the chair or a member of a state commission or board other  
26 than physician members or alternates of the Alaska Teachers' Retirement  
27 Board appointed under AS 14.25.035(a)(2) or of the Public Employees'  
28 Retirement Board appointed under AS 39.35.030(d);

29 (F) state investment officers and the state comptroller in the  
30 Department of Revenue;

31 (G) the executive director of the Alaska Tourism Marketing

1 Council;

2 (H) the chief procurement officer appointed under  
3 AS 36.30.010;

4 (I) the executive director of the Alaska Human Resource  
5 Investment Council; and

6 (J) each appointed or elected municipal officer;

7 \* Sec. 56. AS 14.25.175(f), 14.25.175(g); AS 39.35.522(f), and 39.35.522(g) are repealed.

8 \* Sec. 57. The uncodified law of the State of Alaska is amended by adding a new section  
9 to read:

10 ELECTED PUBLIC OFFICERS RETIREMENT SYSTEM PROVISIONS. (a) The  
11 individual account maintained for an elected public officer under former AS 39.37.120(b) shall  
12 include principal and interest payments on a member's indebtedness credited as of the date  
13 of payment.

14 (b) Notwithstanding former AS 39.37.140, an elected public officer who was a  
15 member of the elected public officers retirement system under former AS 39.37, who has  
16 withdrawn the balance of the officer's individual account, who returns to service as the  
17 governor, lieutenant governor, or as a member of the legislature, and who repays the refunded  
18 contributions and interest in full before appointment to retirement may reinstate membership  
19 in former AS 39.37 and, if otherwise eligible, be appointed to retirement under the provisions  
20 of that former chapter.

21 \* Sec. 58. The uncodified law of the State of Alaska is amended by adding a new section  
22 to read:

23 ELECTED PUBLIC OFFICERS RETIREMENT SYSTEM QUALIFIED DOMESTIC  
24 RELATIONS ORDER PROVISIONS. (a) Notwithstanding former AS 39.37.060, a former  
25 spouse who was married for at least one year to an elected public officer who is a member  
26 of the retirement system under former AS 39.37 shall be treated as a spouse or surviving  
27 spouse to the extent required by a qualified domestic relations order. Rights under the order  
28 do not take effect until the order is filed with the administrator.

29 (b) Notwithstanding former AS 39.37.130, an elected public officer who is a member  
30 of the retirement system under former AS 39.37 and whose rights to a refund are subject to  
31 a qualified domestic relations order is entitled to receive a refund of the total amount of

1 contributions together with interest credited on the amount only if the elected public officer's  
2 present spouse, if any, and each person entitled under the order consent to the refund in  
3 writing on a form provided by the administrator. The administrator may waive written  
4 consent from the person entitled to benefits under the order if the administrator determines that  
5 the person cannot be located or for other reasons established by regulation. The administrator  
6 may waive written consent from the spouse if the administrator determines that

7 (1) the elected public officer was not married to the spouse during any period  
8 of the public officer's membership in the system;

9 (2) the spouse has no right to benefits under former AS 39.37 because of the  
10 terms of a qualified domestic relations order;

11 (3) the spouse cannot be located;

12 (4) the elected public officer and spouse have been married for less than two  
13 years and the elected public officer establishes that they are not cohabiting; or

14 (5) another reason established by regulation exists.

15 (c) Except as provided in this subsection, amounts held in the retirement system under  
16 former AS 39.37 on behalf of an elected public officer or other person who is or may become  
17 eligible for benefits under the system are exempt from Alaska state and municipal taxes and  
18 are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or  
19 charge of any kind, either voluntary or involuntary, before they are received by the person  
20 entitled to the amount under the terms of the system, and any attempt to anticipate, alienate,  
21 sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any right to amounts  
22 accrued in the system is void. Amounts held in the system and benefits payable under former  
23 AS 39.37 are exempt from garnishment, execution, or levy as provided in AS 09.38 (Alaska  
24 Exemptions Act). However,

25 (1) the right of an elected public officer who is a member of the retirement  
26 system under former AS 39.37 to receive benefits or the contributions and interest may be  
27 assigned

28 (A) under a qualified domestic relations order; or

29 (B) to a trust or similar legal device that meets the requirements for a  
30 Medicaid-qualifying trust under AS 47.07.020(f) and 42 U.S.C. 1396p(d)(4) (Title  
31 XIX, Social Security Act);

1                   (2) an elected public officer who is a member of the retirement system under  
2 former AS 39.37 may elect to have the taxable portion of the qualifying distributions  
3 transferred directly to another qualified plan or an individual retirement account that accepts  
4 the transfer.

5                   (d) Notwithstanding former AS 39.37.145, receipt under a qualified domestic relations  
6 order of a monthly benefit under former AS 39.37 (elected public officer retirement system)  
7 does not entitle a person or the person's spouse or child to insurance coverage. However, an  
8 elected public officer's former spouse who receives a monthly benefit from the former elected  
9 public officer retirement system under a qualified domestic relations order is entitled to  
10 receive major medical insurance coverage if the former spouse

11                   (1) elects the coverage within 60 days after the first monthly benefit paid under  
12 the order is mailed first class or otherwise delivered; and

13                   (2) pays the premium established by the administrator for the coverage.

14                   (e) In this section, "qualified domestic relations order" has the same meaning given  
15 in AS 39.35.680.

16                   \* Sec. 59. The uncoded law of the State of Alaska is amended by adding a new section  
17 to read:

18                   INITIAL APPOINTMENT OF PUBLIC MEMBERS OF THE PUBLIC EMPLOYEES'  
19 RETIREMENT BOARD. Notwithstanding AS 39.35.030(b), as repealed and reenacted by  
20 sec. 27 of this Act, persons serving on the Public Employees' Retirement Board under  
21 AS 39.35.030(b) on the day before the effective date of this Act shall continue to serve on the  
22 board until the expiration of their current terms on the board. When a vacancy on the board  
23 occurs, it shall be filled as provided in AS 39.35.030(b), as repealed and reenacted by sec. 27  
24 of this Act.

adopted n/o

AMENDMENT /

OFFERED IN THE HOUSE

BY REPRESENTATIVE THERRIAULT

TO: CSHB 335(FIN), Draft Version "K"

1 Page 5, following line 5:

2 Insert a new bill section to read:

3 **"\* Sec. 4. AS 14.25.035(f) is amended to read:**

4 (f) The board shall meet at the call of the chair [CHAIRMAN], any three  
5 members, or at the request of the commissioner of administration. The board may  
6 adont regulations defining a quorum for the conduct of its business, including  
7 appeals and disability appeals."

8 Renumber the following bill sections accordingly.

9 Page 16, line 24, following " ,":

10 Insert "the board mav, by regulation, define a quorum for the conduct of its  
11 business, including appeals and disability appeals;"

12 Page 31, line 20:

13 Delete "sec. 27"

14 Insert "sec. 28"

15 Page 31, line 23:

16 Delete "sec. 27"

17 Insert "sec. 28"



# Alaska State Legislature

Representative Bill Hudson

State Capitol  
Juneau, Alaska  
99801-1182  
Phone: (907) 465-3744  
Fax: (907) 465-2273

Committees:  
Chair  
Fisheries  
Utilities Restructuring  
Member  
Transportation  
State Affairs

## SPONSOR STATEMENT

### HB 335, Retirement and Benefits Clean-up Legislation

HB 335 has been introduced at the request of the Division of Retirement and Benefits, and is essentially a cleanup bill. According to the department, there are federal laws, court settlements and other technical issues that need to be addressed in an updated state law. Also addressed in this legislation are some efficiency measures requested by the various retirement boards. There has not been a cleanup bill in many years and many of the issues addressed in HB 335 are longstanding ones.

This legislation is aimed at addressing issues involving clarification of current practices and law, compliance with federal laws, compliance with various settlements, and board efficiencies. We have made every effort to stay away from policy changes and just address the cleanup issues.

There is nothing in this legislation that enhances or diminishes any retirement benefit for active employees or retirees in any public retirement system, and no section in this bill will increase the employers costs.

Thank you for your consideration.

**PUBLIC EMPLOYEES' RETIREMENT BOARD**

c/o DIVISION OF RETIREMENT AND BENEFITS  
P O BOX 110203  
JUNEAU, ALASKA 99811-0203

**PAT WELLINGTON, Chair**  
Anchorage  
**PETER HALLGREN, Vice Chair**  
Delta Junction  
**CHARLIE PARR**  
Fairbanks  
**CHARLES BORG**  
Anchorage

FEB 21 2000

February 14, 2000

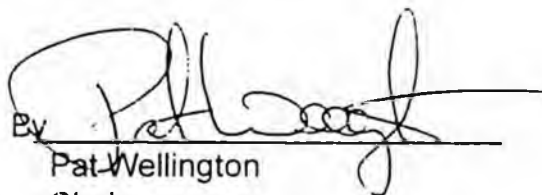
Representative Bill Hudson  
Alaska State Legislature  
State Capitol, Room 108  
Juneau, Alaska 99801-1182

RE: Support for HB 335 (PERB/TRB Legislation)

Dear Representative Hudson:

The Public Employees' Retirement Board appreciates your introduction of HB 335, a bill designed to provide needed amendments to the Public Employees' Retirement System (as well as other retirement system) statutes. The Board supports your efforts and will contact other representatives and senators as the bill makes its way through the legislative process. We look forward to your continued support, and the Board appreciates your efforts.

PUBLIC EMPLOYEES'  
RETIREMENT BOARD

By   
Pat Wellington  
Chair

cc: Guy Bell, Director  
Division of Retirement and Benefits

February 28, 2000

CS HOUSE BILL NO. 335 (SA)

SECTIONAL ANALYSIS

BY REPRESENTATIVE HUDSON

**"An Act relating to..."**

\* **Section 1.** This section exempts member records, including retiree records, under the Public Records Act, thereby making member name, address, and other information confidential. The Division of Retirement and Benefits' regulations 02 AAC 35.860 and 02 AAC 36.820 making member records confidential was struck down by the Alaska Superior Court (on the grounds that we needed a specific exemption under the Public Records Act). This change would, once again, protect member records. In addition, this section limits release of member records only under specific, authorized circumstances.

*Reason: Necessary due to Court action.*

\* **Section 2.** Two physicians sit on the TRS and PERS boards when medical disability appeals are heard. The current statute requires the Governor to appoint two physicians from each of the four judicial districts in the state. The statute goes on to require that the physicians residing in the locality of the appeal hearing are first to be called to serve. Practically speaking, the Governor has had a very difficult time recruiting physician board members. This change would simplify the appointment process by requiring the Governor to appoint two physicians and two alternate physicians to serve on the TRS Board. This amendment also provides that when two physicians are not available, one physician may satisfy the quorum rules for a medical disability case. There is difficulty in appointing physician members and scheduling meetings to mesh with the schedules of those who have been appointed. Efficiencies and cost savings would follow if but one physician member would satisfy the statute, provided there is a need. The PERS parallel is section 31.

Subsection (c) adds that if the board's vote on an appeal under this section is a tie vote, the administrator's decision is affirmed; the board, by regulation, shall provide for a method for it to reconsider a decision it has reached. This codifies the current practice of the board.

Subsection (d) allows an aggrieved person to appeal a final administrative decision of the TRS board to the superior court. This provision restates rights that exist as a matter of case law, and also amplifies that a "final" decision by the board is a precondition to further appeal. The PERS parallel is section 34.

*Reason: Board recommendation for efficiency and to reduce costs associated with appeals. This provision tracks a sensible provision now applicable only to waivers of adjustment. It clarifies what has been practice and policy.*

\* **Section 6.** This section eliminates an inequity in current law. Under the current law, a TRS member who retires early (not under the RIP) and returns to work receives a penalty for their early retirement. On returning to work, the member's early retirement benefit stops. When the member subsequently retires, their early retirement benefit resumes and they receive a second benefit based on their reemployment service. There is no adjustment for the early retirement benefits foregone. This section will authorize the division to make an actuarial adjustment to make the member whole. It is anticipated that this section will have no financial impact to the TRS fund. The PERS parallel is section 36.

*Reason: Member request to address inequity.*

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

February 28, 2000

CS HOUSE BILL NO. 335 (SA)

SECTIONAL ANALYSIS

BY REPRESENTATIVE HUDSON

**“An Act relating to...”**

\* **Section 1.** This section exempts member records, including retiree records, under the Public Records Act, thereby making member name, address, and other information confidential. The Division of Retirement and Benefits' regulations 02 AAC 35.860 and 02 AAC 36.820 making member records confidential was struck down by the Alaska Superior Court (on the grounds that we needed a specific exemption under the Public Records Act). This change would, once again, protect member records. In addition, this section limits release of member records only under specific, authorized circumstances.

*Reason: Necessary due to Court action.*

\* **Section 2.** Two physicians sit on the TRS and PERS boards when medical disability appeals are heard. The current statute requires the Governor to appoint two physicians from each of the four judicial districts in the state. The statute goes on to require that the physicians residing in the locality of the appeal hearing are first to be called to serve. Practically speaking, the Governor has had a very difficult time recruiting physician board members. This change would simplify the appointment process by requiring the Governor to appoint two physicians and two alternate physicians to serve on the TRS Board. This amendment also provides that when two physicians are not available, one physician may satisfy the quorum rules for a medical disability case. There is difficulty in appointing physician members and scheduling meetings to mesh with the schedules of those who have been appointed. Efficiencies and cost savings would follow if but one physician member would satisfy the statute, provided there is a need. The PERS parallel is section 31.

*Reason: Board recommendation for efficiency.*

\* **Section 3.** This amendment would provide for an honorarium payment to TRS Board members consistent with that paid to members of the Alaska State Pension Investment Board (currently \$150/day) recognizing the significant workload and responsibility entrusted to board members. This provision requires no general fund money. It is financed by the TRS fund. The PERS parallel is section 32.

*Reason: Board request.*

\* **Section 4.** This allows the TRS board to adopt regulations defining a quorum for the conduct of its business. The PERS parallel is section 33.

*Reason: Board efficiency.*

\* **Section 5.** The first part of this section clarifies that the TRS board has the authority to adopt regulations for the conduct of hearings. The second part addresses an inconsistency in statute relating to the issuance of subpoenas, administration of oaths, depositions and affidavits. The board already has similar authority to that addressed in this subsection, but curiously only for hearings concerning waivers of adjustments under AS 14.25.175. This new subsection extends that authority to all board hearings. However, the scope of the authority is limited to the hearing proceedings themselves, and by its terms does not extend to prehearing discovery. The goal is to ensure that appropriate evidence may be presented at a hearing without complicating proceedings by broadening the scope to prehearing discovery. In addition, the board would be allowed to appoint hearing officers to hear and decide appeals. This provision would allow (but not necessarily require) the board to appoint hearing officers for these situations. By regulation, the Board could identify the types of appeals it might hear itself and set qualifications for hearing officers. Appellants would always have the option to appeal to the Board, even if a hearing officer has considered their cases.

Subsection (c) adds that if the board's vote on an appeal under this section is a tie vote, the administrator's decision is affirmed; the board, by regulation, shall provide for a method for it to reconsider a decision it has reached. This codifies the current practice of the board.

Subsection (d) allows an aggrieved person to appeal a final administrative decision of the TRS board to the superior court. This provision restates rights that exist as a matter of case law, and also amplifies that a "final" decision by the board is a precondition to further appeal. The PERS parallel is section 34.

*Reason: Board recommendation for efficiency and to reduce costs associated with appeals. This provision tracks a sensible provision now applicable only to waivers of adjustment. It clarifies what has been practice and policy.*

\* **Section 6.** This section eliminates an inequity in current law. Under the current law, a TRS member who retires early (not under the RIP) and returns to work receives a penalty for their early retirement. On returning to work, the member's early retirement benefit stops. When the member subsequently retires, their early retirement benefit resumes and they receive a second benefit based on their reemployment service. There is no adjustment for the early retirement benefits foregone. This section will authorize the division to make an actuarial adjustment to make the member whole. It is anticipated that this section will have no financial impact to the TRS fund. The PERS parallel is section 36.

*Reason: Member request to address inequity.*

\* **Section 7.** This section is amended based on the long-standing policy that the eight year vesting requirement in TRS must be met with at least five years of membership service with the balance made up of Alaska BIA service. The current statute requires a person to have at least three years of BIA service for that service to apply to vesting.

*Reason: Clarifies existing practice.*

\* **Section 8.** The TRS statute allows a disabilitant to receive an additional 10 percent for each dependent child. It does not clearly state 10 percent of what. This section clarifies the division's long-standing interpretation that the dependent child benefit is 10 percent of the member's base salary immediately before becoming disabled.

*Reason: Clarifies existing practice*

\* **Section 9.** This adds a section to the TRS statute requiring, unless there are extraordinary circumstances, a member to file a disability application within six months of the date the member's disability began or 90 days after the member terminated employment (whichever is later). The change will make the PERS and TRS filing requirements the same. The PERS parallels are sections 42 and 43.

*Reason: Creates consistency between PERS and TRS systems.*

\* **Section 10.** This provision would specifically recognize the role of the TRS board in advising on ad hoc post retirement pension adjustments. The PERS parallel is section 45.

*Reason: Board request and expression of current practice.*

\* **Section 11.** This section adds language authorizing the division's long-standing practice of deducting retiree insurance premiums (medical, dental, vision, audio, and long-term care) from retirement checks. The JRS parallel is Section 25 and the PERS parallel is Section 51

*Reason: Not addressed in current statute.*

\* **Section 12.** Removes requirement that the TRS board must rule on a waiver of adjustment appeal within 120 days of its receipt. The purpose is to have a consistent process for all appeals. PERS parallel is Section 48.

*Reason: Board request to increase flexibility to appellants and the TRS.*

\* **Section 13.** This repeals language no longer needed with the additions to AS 14.25.037 in Section 5. Makes the hearing process consistent for all types of hearing. PERS parallel is Section 49.

*Reason: The purpose is to have a consistent process for all appeals.*

\* **Section 14.** Amends language to clarify that an alternate payee has a right to the contribution account of a member, not just any benefit payment. This will add significant convenience and protection to members and alternate payees. The parallels are sections 24 and 26 (JRS), 46 and 57 (PERS).

*Reason: Efficiency and member request.*

\* **Section 15.** Adds language that allows the retirement system to pay a lump sum distribution directly to another plan or to an Individual Retirement Account - IRA. Without this, TRS must pay the contribution account balance to the former member, who must then write a check to the IRA custodian. The parallels are sections 21 and 27 (JRS), 47 (PERS) and 61 (EPORS).

This section also allows a retired member to request a deduction from their benefit check to pay membership dues for a nonprofit retirement organization whose membership is limited to members and beneficiaries of a state retirement system. The parallels are sections 25 (JRS) and 51 (PERS).

*Reason: Efficiency and member request.*

\* **Section 16 and 17.** This section updates TRS statutes relating to fraud, making such actions class A misdemeanors. PERS parallel is Section 53.

*Reason: Clarification of the law.*

\* **Section 18.** Adds language that sets an upper compensation limit for pension plan purposes for all members first hired on or after July 1, 1996. For this purpose, pension plan employee contributions cannot exceed the limits set out in federal regulations. All members hired after that date must follow the limitations set by Section 401(a)(17) of the IRS code (initially set at \$150,000). This section is necessary for the system to comply with federal law. The parallels are sections 22 (JRS) and 55 (PERS).

*Reason: Required to comply with federal law.*

\* **Section 19.** Companion to Section 14. Amends the TRS Qualified Domestic Relations Order (QDRO) definition to clarify that a former spouse has a right to the contribution account of a member. Current language limits the former spouse to the benefits payable. The parallels are sections 23 and 24 (JRS), 57 and 61 (PERS).

*Reason: Efficiency and member request.*

\* **Section 20.** Clarifies that the income and interest earned by the TRS fund belong to the fund. Codifies the practice in place since TRS was established in the 1950s and the trust requirements of the retirement fund. The PERS parallel is section 56.

*Reason: Codifies practice.*

\* **Section 21.** The current definition of teacher in TRS is very broad in that it includes the "commissioner of education and all supervisory employees in the Department of Education." This section changes the definition to make any Department of Education member subject to the same definition as all other members; namely, certification and being in a position requiring a teaching or administrator's certificate as a condition of employment.

*Reason: Codifies practice.*

\* **Section 22.** Adds language that defines a compensation limit for pension plan purposes for all Judicial Retirement System (JRS) members first hired on or after July

1, 1996. For this purpose, pension plan employee contributions cannot exceed the limits set out in federal regulations. All justices and judges hired after that date must follow the limitations set by Section 401(a)(17) of the IRS code (initially set at \$150,000). The parallels are sections 18 (TRS) and 55 (PERS).

*Reason: Required to comply with federal law*

\* **Section 23.** Adds language to allow judges to receive a refund of any principle and interest paid on prior indebtedness. Removes the one-year limitation to repay any prior refunds and allows the judge to make any repayments up to the time of retirement. The parallel is section 60 (EPORS).

*Reason: Consistency with PERS and TRS.*

\* **Section 24.** Adds language paralleling that in the other retirement systems defining the rights of justices and judges to a refund when a qualified domestic relations order (QDRO) has been filed. Adds language that protects JRS benefits from any voluntary or involuntary garnishment or assignment, with the exception of a Qualified Domestic Relations Order (QDRO) or a Medicaid trust. It also allows the retirement system to make payments to Individual Retirement Accounts. Federal law now requires that the retirement system make direct distributions to the former spouse and to other qualified plans. This change will bring the JRS into compliance with federal law. The parallels are sections 14 (TRS), 47 (PERS) and 61 (EPORS).

This section also allows a retired member to request a deduction from their benefit check to pay membership dues for a nonprofit retirement organization whose membership is limited to members and beneficiaries of a state retirement system. The parallels are sections 15 (TRS) and 47 (PERS).

*Reason: Consistency with PERS and TRS.*

\* **Section 25.** This section adds language authorizing the division's long-standing practice of deducting retiree insurance premiums (medical, dental, vision, audio, and

long-term care) from JRS retirement checks. The parallels are sections 11 (TRS) and 51 (PERS).

*Reason: Codifies existing practice.*

\* **Section 26.** Amends JRS language to clarify that a former spouse under a Qualified Domestic Relations Order (QDRO) has the right to the contribution and interest account of a justice or judge. Current language limits the former spouse to the benefits payable. The parallels are sections 14 and 19 (TRS), 46 and 57 (PERS).

*Reason: Consistency with PERS and TRS.*

\* **Section 27.** Adds language paralleling that in the other retirement systems defining the rights of National Guard Naval Militia Retirement System (NGNMRS) members to a refund when a Qualified Domestic Relations Order (QDRO) has been filed. Adds language that protects NGNMRS benefits from any voluntary or involuntary garnishment or assignment, with the exception of a (QDRO) or a Medicaid trust. It also allows the retirement system to make payments to Individual Retirement Accounts. Federal law now requires that the retirement system make direct distributions to a former spouse and to other qualified plans. This change will bring the NGNMRS into compliance with federal law. The EPORS parallel is section 61.

*Reason: Consistency with PERS and TRS.*

\* **Section 28.** Adds language specifically authorizing self-insurance of retiree medical, dental, vision, audio, and long-term care plans. This authorization applies to PERS, TRS, JRS and EPORS.

*Reason: Codifies practice and clarifies current statute.*

\* **Section 29.** This section makes PERS board membership separate from the Personnel Board. Currently the three appointed members on the PERS Board serve by virtue of their appointment to the Personnel Board. This would make PERS Board appointment separate. Rationale: the PERS Board meets almost monthly to hear

disability appeals and has other broad responsibilities. The level of activity has risen to the point where separate appointment is appropriate.

*Reason: Board request.*

\* **Section 30.** Adds language to clarify how the winner in a PERS board election is determined. Current language uses the term "majority." A majority of votes cast means the winner must receive greater than 50% of the cast votes. This is virtually impossible since a PERS board election usually draws ten or more candidates. The use of the term "majority" virtually assures a runoff election, therefore doubling the cost of the election process. With this change the winner is the person who receives the most votes. If two seats are open, then the top two vote getters are elected.

*Reason: Board request and efficiency measure.*

\* **Section 31.** Two physicians sit on the TRS and PERS boards when medical disability appeals are heard. The current statute requires the Governor to appoint two physicians from each of the four judicial districts in the state. The statute goes on to require that the physicians residing in the locality of the appeal hearing are first to be called to serve. Practically speaking, the Governor has had a very difficult time recruiting physician board members. This change would simplify the appointment process by requiring the Governor to appoint two physicians and two alternate physicians to serve on the PERS Board. This amendment also provides that when two physicians are not available, one physician may satisfy the quorum rules for a medical disability case. There is difficulty in appointing physician members and scheduling meetings to mesh with the schedules of those who have been appointed. Efficiencies and cost savings would follow if but one physician member would satisfy the statute, provided there is a need. The TRS parallel is section 2.

*Reason: Board request and efficiency measure.*

\* **Section 32.** This amendment provides for an honorarium payment to PERS board members consistent with that paid to members of the Alaska State Pension Investment

Board (currently \$150/day) and recognizes the significant workload entrusted to board members. This provision requires no general fund money. It is financed by the PERS fund. The TRS parallel is section 3.

*Reason: Board request.*

\* **Section 33.** This section allows the PERS Board to adopt regulations defining a quorum for the conduct of its business. Subsection 12 is added giving the PERS Board authority over setting the contribution surcharge for noncertificated school district employees who elect to have their service calculated using the TRS schedule. This provision was added through Senate Bill 9, which passed last session. This section brings the setting of the contribution surcharge into an open forum. The TRS parallel is section 4.

*Reason: Board request/clarification of legal authority.*

\* **Section 34.** The first part of this section clarifies that the PERS board has the authority to adopt regulations for the conduct of hearings. The second part addresses an inconsistency in statute relating to the issuance of subpoenas, administration of oaths, depositions and affidavits. The board already has similar authority to that addressed in this subsection, but curiously only for hearings concerning waivers of adjustments under AS 39.35.522. This new subsection extends that authority to all board hearings. However, the scope of the authority is limited to the hearing proceedings themselves, and by its terms does not extend to prehearing discovery. The goal is to ensure that appropriate evidence may be presented at a hearing without complicating proceedings by broadening the scope to prehearing discovery. In addition, this is added to allow the board to appoint hearing officers to hear and decide appeals. This provision would allow (but not necessarily require) the board to appoint hearing officers for these situations. By regulation, the Board could identify the types of appeals it might hear itself and set qualifications for hearing officers. Appellants would always have the option to appeal to the Board, even if a hearing officer has considered their cases.

If the board's vote on an appeal is a tie vote of those members present and voting, the administrator's decision is affirmed; the board, by regulation, shall provide for a method for it to reconsider a decision it has reached. This codifies the current and past practice of the board. Finally, this section adds final decisions of the board may be appealed by an aggrieved party to the superior court. The TRS parallel is section 5.

*Reason: Board request. This provision restates rights that exist as a matter of case law, and also amplifies that a "final" decision by the board is a precondition to further appeal.*

\* **Section 35.** This amendment clarifies a conflict that existed in statute. This clarification places retirement system eligibility of employees, including compensated elected officials, in the control of the employer.

*Reason: Addresses conflict in statute.*

\* **Section 36.** This section eliminates an inequity in current law. Currently, a PERS member who retires early (not under the RIP) and returns to work receives a penalty for their early retirement. On returning to work, the member's early retirement benefit stops. When the member subsequently retires, their early retirement benefit resumes and they receive a second benefit based on their reemployment service. There is no adjustment for the early retirement benefits foregone. This section will authorize the division to make an actuarial adjustment to make the member whole. This same inequity would be corrected for level income option benefit recipients who return to work before age 65. It is anticipated that this section will have no financial impact to the TRS fund. The TRS parallel is section 6.

*Reason: Addresses inequity in current law and member request.*

\* **Section 37.** This amendment removes the irrevocability of election by a noncertificated school district employee under authority of SB 9, which passed last legislative session.

*Reason: Clarification of SB 9, which passed the last legislative session.*

\* **Section 38.** This amendment removes the irrevocability of an election by a noncertificated school district employee under authority of SB 9, which passed last legislative session. Revocation would only be allowed when a person changes their work status from seasonal to full year employment (and vice versa).

*Reason: Clarification of SB 9, which passed the last legislative session.*

\* **Section 39.** Adds a new section that sets out the conditions under which a qualified employee of the State of Alaska may make an election once they have passed the initial opportunity at hiring.

*Reason: Clarification of SB 9, which passed the last legislative session.*

\* **Section 40.** This amended to remove the irrevocability of election as this does not consider those instances when a qualified employee of a school district, regional educational attendance area or other qualified employer may change their work status from seasonal to full year employment.

*Reason: Clarification of SB 9, which passed the last legislative session.*

\* **Section 41.** Adds a new section that sets out the conditions under which a qualified employee of a school district, regional educational attendance area or other qualified employer may make an election once they have passed the initial opportunity at hiring.

*Reason: Clarification of SB 9, which passed the last legislative session.*

\* **Section 42.** This amends a section of the PERS statute requiring, unless there are extraordinary circumstances, a member to file a nonoccupational disability application within 90 days after the member terminated employment. The TRS parallel is section 9.

*Reason: Establishes consistency between PERS and TRS disability requirements.*

**\*Section 43.** This adds a subsection to the PERS statute requiring, unless there are extraordinary circumstances, a member must file an occupational disability application within six months of the date the member's disability began or 90 days after the member terminated employment (whichever is later). The TRS parallel is section 9.  
*Reason: Establishes consistency between PERS and TRS disability requirements.*

**\* Section 44.** Clarifies language regarding the "level income option" that was repealed effective July 1, 1996. This section simply recognizes that people hired before that date have a right to the level income option.  
*Reason: State Constitution requirement.*

**\* Section 45.** This provision would specifically recognize the role of the PERS board in advising on ad hoc post retirement pension adjustments. The TRS parallel is section 10.  
*Reason: Codifies practice.*

**\* Section 46.** Amends PERS language to clarify that an alternate payee under a qualified domestic relations order (QDRO) has a right to the contribution account of a member, not just any benefit payment. TRS parallel is Section 14.  
*Reason: This clarifies and simplifies QDRO procedures.*

**\* Section 47.** Adds language that allows the PERS to pay a lump sum distribution directly to an Individual Retirement Account - IRA. Also authorizes a retired member to request a deduction from their benefit check to pay membership dues for a nonprofit retirement organization whose membership is limited to members and beneficiaries of a state retirement system. The parallels are sections 15 (TRS), 24 (JRS), 27 (NGNMRS) and 61 (EPORS).  
*Reason: Simplifies procedures for members.*

\* **Section 48.** Removes requirement that the PERS board must rule on a waiver of adjustment appeal within 120 days of its receipt. The purpose is to have a consistent process for all appeals. TRS parallel is Section 12.

*Reason: Board request to increase flexibility to appellants and the PERS.*

\* **Section 49.** This repeals language no longer needed with the additions to AS 39.35.077. Makes the hearing process consistent for all types of hearing. This supports section 34.

*Reason: The purpose is to have a consistent process for all appeals.*

\* **Section 50.** This repeals language no longer needed with the additions to AS 39.35.077. Makes the hearing process consistent for all types of hearing. This supports section 34.

*Reason: The purpose is to have a consistent process for all appeals.*

\* **Section 51.** This section adds language in PERS authorizing the division's long-standing practice of deducting retiree insurance premiums (medical, dental, vision, audio, and long-term care) from retirement checks. The parallels are sections 11 (TRS) and 25 (JRS).

*Reason: Codifies practice.*

\***Section 52.** This amendment protects PERS employers from costs arising from requests by employee groups to change their retirement system coverage.

*Reason: System efficiency.*

\***Section 53.** This section updates PERS statutes relating to fraud, making such actions class A misdemeanors. TRS parallel is in Sections 16 and 17.

*Reason: Clarification of the law.*

**\*Section 54.** This section clarifies the purposes of Senate Bill 9, enacted during the 1999 legislative session. Under SB9, a person can elect to receive a year of service credit for working at least 172 days in a school year. This amendment clarifies calculation of average monthly compensation for this group.

*Reason: Legal clarification.*

**\* Section 55.** Adds language in PERS that defines a compensation limit for pension plan purposes for all members first hired on or after July 1, 1996. All members hired after that date must follow the limitations set by Section 401(a)(17) of the IRS code (initially set at \$150,000). The parallels are sections 18 (TRS) and 22 (JRS).

*Reason: Compliance with federal law.*

**\* Section 56.** Clarifies that the income and interest earned by the PERS fund belong to the fund. Codifies the practice in place since PERS was established in the 1960s and the trust requirements of the retirement fund. The TRS parallel is section 20.

*Reason: Codifies practice.*

**\* Section 57.** Amends the PERS definition of QDRO to clarify that a former spouse has a right to the contribution account of a member. Current language limits the former spouse to the benefit payable. The parallels are sections 14 (TRS), 24 (JRS), 27 (NGNMRS) and 61 (EPORS).

*Reason: Addresses legal inconsistency.*

**\* Section 58.** Both the PERS and the TRS statutes require appointment of physician board members to hear disability appeals. Due to the disclosure requirements of AS 39.50 (especially disclosure of individual patients), the division and the Governor's Office have had great difficulty recruiting physicians to board appointment. This would amend the law to remove physicians appointed to the PERS and TRS boards from the definition of public official under AS 39.50.

*Reason: Conflict with patient confidentiality.*

\* **Section 59.** Repeals sections relating to PERS board hearings that are no longer necessary with the addition of AS 39.35.077 in Section 34.

*Reason: Addresses statutory consistency.*

\***Section 60.** Allows an EPORS member to receive a refund of any principle or interest paid on prior indebtedness. Also grants EPORS members the right to repay an indebtedness at any time up to the time of retirement. This language makes EPORS rules consistent with other state retirement systems.

*Reason: Makes EPORS statute consistent with PERS and TRS.*

\***Section 61.** Places qualified domestic relations order (QDRO) language in EPORS which is equivalent to that contained in PERS and TRS statutes. Also creates the mechanism for members to transfer their contribution account to another qualified plan or IRA. The parallels are sections 14 and 19 (TRS), 24 and 26 (JRS), 27 (NGNMRS), 46 and 57 (PERS).

*Reason: Makes EPORS statute consistent with PERS and TRS.*

\* **Section 62.** Parallels Section 29, which separates the PERS Board from the Personnel Board. Addresses length of initial appointment of PERS Board appointees.

*Reason: Ensures continuity of membership on the PERS Board.*

**HB**

**335**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/19/00

REPORTED OUT OF  
SFC 4/20/00

FURTHER:

DATE TURNED  
IN TO OFFICE: 20 April 00

Finance Committee considered

CS FOR HOUSE BILL NO. 335(FIN)

## STATE RETIREMENT SYSTEMS AND BENEFITS

and recommends:

- be replaced with S CS HB 335 (FIN)
- adopt previous \_\_\_\_\_ CS CS
- attached amendment(s) forthcoming
- adopt Letter of Intent by \_\_\_\_\_
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Bill El...</i>	✓	<i>See Adams</i>	X		
<i>Lynne Gregory</i>	✓	<i>Don...</i>	X		
<i>Walt Kelly</i>	✓				
<i>Lawrence...</i>	✓				
<i>Gary White</i>	✓				
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			
Co-Chair:		Co-Chair:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
<del>forth coming</del>			
<del>Admin.</del>			

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
Admin	7/5/00		29.2

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

FISCAL NOTE

Bill Version: CSHB 335 (STA)

(H) Publish Date: 2/23/00

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

Revision Date 2/14/00 Dept. Affected Administration  
 Title An Act relating to information contained in BRU Centralized Administrative Services  
retirement systems... Component Retirement and Benefits  
 Sponsor Representative Hudson  
 Requester (H) State Affairs Component No. 64

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel	29.2	29.2	29.2	29.2	29.2	29.2
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>29.2</b>	<b>29.2</b>	<b>29.2</b>	<b>29.2</b>	<b>29.2</b>	<b>29.2</b>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (PERS/TRS)	29.2	29.2	29.2	29.2	29.2	29.2
<b>TOTAL</b>	<b>29.2</b>	<b>29.2</b>	<b>29.2</b>	<b>29.2</b>	<b>29.2</b>	<b>29.2</b>

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached

Prepared by: Guy Bell Phone 465-4471  
 Division Retirement and Benefits Date/Time 2/14/00 8:42 AM  
 Approved by Commissioner Robert Poe Jr. Date 2/14/00 2/15/00  
 Agency Department of Administration

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COMMITTEE COPY

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## HB335 Fiscal Note Analysis

Section 3 (Teachers' Retirement System) and Section 29 (Public Employees' Retirement System) are the only sections in this bill which have any fiscal impact on the retirement funds. These sections would provide an honorarium payment to board members consistent with that paid to members of the Alaska State Pension Investment Board (currently \$150 per day).

For the purposes of this fiscal note we have assumed that the PERS Board will meet 25 days per year and the TRS Board 14 days per year. Each board has five members. Therefore the fiscal impact is calculated as follows:

PERS Board:	25 days x \$150/day x 5 members =	\$ 18.750
TRS Board:	14 days x \$150/day x 5 members =	<u>10.500</u>
Total Cost:		\$ 29.250



Donley COMMITTEE  
2000 COMMITTEE ACTION

Bill Number	HB 335		
Amendment	#2		
Motion	adopt		
<u>Motion by</u>	Ph		
<u>Objection by</u>	A		
Removed			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	Vote	N
Senator Dave Donley	✓		
Senator Loren Leman	✓		
Senator Al Adams			✓
Senator Gary Wilken			✓
Senator Pete Kelly			✓
Senator Lyda Green		Abstain	
Senator Randy Phillips	✓		
Co-Chair Sean Parnell		—	
Co-Chair John Torgerson	✓		
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>			

VOIDED

Delete sections 58 & 59  
entirely

(Will probably require title change)

Amendment #27

CS HB 335 (STF)

1-LS1217\ ~~3~~

ERROR  
S/B "M"  
Version

Delete Section 5B  
entirely

~~Pg 29 line 27  
through  
Pg 30 line 20~~

Page 29 lines 14-26

~~Will probably require title change~~



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### FAX COVER SHEET

DATE: 20 April 00 TIME: 10:10 am

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 3

FROM: MINDY ROWLAND  
SENATE FINANCE COMMITTEE SECRETARY  
PHONE: 465-4935  
FAX: 465-2187

NOTES: HB 335 1-LS12.17 M

plus attached amendments

final please

Thx  
Mindy

corrected  
by Tam

CS HB335 (FIN)

SENATE FINANCE  
COMMITTEE  
Amendment Number: # Amended  
Bill Number: HB 335  
Sponsor: Wilken date: 4/20/07  
Logged In By: Mindy

Amend Section 29, lines 18 and 19 as follows:

Sponsor:  
Sen. Wilken

The governor shall fill a [A] vacancy in an unexpired elective term [SHALL BE FILLED] by [ELECTION FOR A NEW SIX-YEAR] appointment for the remainder of the [term.]

until the next regularly scheduled election.

SENATE FINANCE  
COMMITTEE

Amendment Number: #1  
Bill Number: HB 335  
Sponsor: Wilken date: 4/20/00  
Logged In By: Mindy

CS HB335 (FIN)

Amend Section 29, lines 18 and 19 as follows:

Sponsor:  
Sen. Wilken

**The governor shall fill a [A] vacancy in an unexpired elective term [SHALL BE FILLED] by [ELECTION FOR A NEW SIX-YEAR] appointment for the remainder of the term.**

Leman COMMITTEE  
2000 COMMITTEE ACTION

Bill Number	-HB 335		
Amendment	#1 amended		
Motion	adopt		
<u>Motion by</u>	W		
<u>Objection by</u>	T none		
Removed	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Loren Leman			
Senator Al Adams			
Senator Gary Wilken			
Senator Pete Kelly			
Senator Lyda Green			
Senator Randy Phillips			
Senator Dave Donley			
Co-Chair Sean Parnell			
Co-Chair John Torgerson			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u> Pass			

Kelly COMMITTEE  
2000 COMMITTEE ACTION

Bill Number	HB 335		
Amendment	# 1		
Motion	amend		
<u>Motion by</u>	W		
<u>Objection by</u>	none		
Removed			
<b>Second Objection by</b>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Pete Kelly			
Senator Lyda Green			
Senator Randy Phillips			
Senator Dave Donley			
Senator Loren Leman			
Senator Al Adams			
Senator Gary Wilken			
Co-Chair Sean Parnell			
Co-Chair John Torgerson			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u> Pass			

Wilken COMMITTEE  
2000 COMMITTEE ACTION

Bill Number	HB 335		
Amendment	# 2A		
Motion	adopt		
<u>Motion by</u>	Ph		
<u>Objection by</u>	A		
Removed			
<b>Second Objection by</b>			
<u>Committee Member</u>	Y	Vote	N
Senator Gary Wilken			✓
Senator Pete Kelly	✓		
Senator Lyda Green	✓		
Senator Randy Phillips	✓		
Senator Dave Donley	✓		
Senator Loren Leman	✓		
Senator Al Adams			✓
Co-Chair Sean Parnell		—	
Co-Chair John Torgerson	✓		
<b>Tally</b>			
Yea	6		
Nay	2		
Absent	1		
<b>MOTION</b> Pass			

Delete sections 58 & 59 entirely  
 pg 29 line 27 through pg 30 line 21  
 divided: # 2A section 58  
           # 2B section 59  
 Will probably require title change



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### MEMORANDUM

TO: Tam Cook, Director  
Legal Services  
Legislative Affairs Agency

FROM: Darwin Peterson  
Senate Finance Committee Staff

A handwritten signature in cursive script, appearing to read "Darwin R. Peterson".

RE: HB 335

Please make the following changes to the Senate Finance Committee version of HB 335 to reflect the actions and intent of the Committee.

- Insert language contained in Section 56 of the State Affairs Committee version (1-LS1217\M) relating to AS 39.50.200(a)(8)
- Delete language contained in Section 58 of the State Affairs Committee version relating to uncodified law Elected Public Officers Retirement System Provisions

Thank you for your attention to this matter.



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### FAX COVER SHEET

DATE: 20 April 00 TIME: 6:20 pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 2

FROM: MINDY ROWLAND  
SENATE FINANCE COMMITTEE SECRETARY  
PHONE: 465-4935  
FAX: 465-2187

NOTES: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notes on bills in Sen Fin this morning:

**HB 325 -**

Amendment #2 adopted unanimously - amendment allows a compromise for all parties involved - allows for hospitals and doctors and nurses to stay first in line for a lien position when the states files a lien against a person who has received medial assistance under state law.

Reminder: don't forget to introduce and pass Amend #1 (attached)  
Bill moved from committee.

**HB 372 - Cows**

No amends.

Moved from committee.

**HB 335 - EPORS**

Amendment #2A - deleted Section 58 which allows EPORS employees to buy back their retirement if they are elected - passed.

Amendment #1 - passed  
(failed #2B)

New fiscal note ordered.

Moved from committee.

**HB 324 - Motor vehicle records - '64 GTO**

No amends.

Moved from committee.

**HB 432**

Amendment #1 adopted.

Moved from committee.

**Held:**

HB 206

HB 419



# Alaska State Legislature

Please enter into the record my testimony to the \_\_\_\_\_ SKIN

committee name

Committee on \_\_\_\_\_ HB 335 \_\_\_\_\_, dated \_\_\_\_\_ 4/30/00

bill # / subject

*Please accept the following as  
written testimony.*

Signed:

Mrs. Anita G. Byers  
Testifier

Representing (optional)

P.O. Box 865  
Address

2626188  
Phone number

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Thank you for the opportunity to speak to you on this very important bill. This bill contains many changes to the retirement system I am only speaking to sections 37, 38, 39, and 40 of this bill; others can speak to other sections of the bill. I am speaking on behalf of the Support Employees in Kenai. These sections of the bill will allow support employees whose job status changes at some time in the future to make a different decision when and if that happens. If you don't pass this bill these employees will be paying for a benefit and not receiving any additional service. Under the current law a person must guess what their job status will be in the future as they make their choice. House Bill 335 is that clarifies some of the issues in SB 9. This is an oversight that occurred in SB 9 and HB 335 will fix the oversight. This will allow for members who are paying for this service to revoke their choice under some very strict guidelines if their job status changes in the future. Please move HB 335 from your Committee so that these lowest paid school employees could afford to make an informed decision on this issue.

Thank you for the opportunity to testify on this bill.

(This is found on page 20, 21 and 22 of the bill)



# Alaska State Legislature

## Representative Bill Hudson

State Capitol  
Juneau, Alaska  
99801-1182  
Phone: (907) 465-3744  
Fax: (907) 465-2273

Committees:  
Chair  
Fisheries  
Utilities Restructuring  
Member  
Transportation  
State Affairs

## SPONSOR STATEMENT

### HB 335, Retirement and Benefits Clean-up Legislation

HB 335 has been introduced at the request of the Division of Retirement and Benefits, and is essentially a cleanup bill. According to the department, there are federal laws, court settlements and other technical issues that need to be addressed in an updated state law. Also addressed in this legislation are some efficiency measures requested by the various retirement boards. There has not been a cleanup bill in many years and many of the issues addressed in HB 335 are longstanding ones.

This legislation is aimed at addressing issues involving clarification of current practices and law, compliance with new federal laws, compliance with various settlements, and board efficiencies. We have made every effort to stay away from policy changes and just address the cleanup issues.

There is nothing in this legislation that enhances or diminishes any retirement benefit for active employees or retirees in any public retirement system, and no section in this bill will increase the employers costs.

Thank you for your consideration.

**CS House Bill 335 (Finance)  
Sectional Analysis**

Section	System	Explanation
1	All	This section exempts member records, including retiree records, under the Public Records Act, thereby making member name, address, and other information confidential. The Division of Retirement and Benefits' regulations 02 AAC 35.860 and 02 AAC 36.820 making member records confidential was struck down by the Alaska Superior Court (on the grounds that we needed a specific exemption under the Public Records Act). This change would, once again, protect member records. In addition, this section limits release of member records only under specific, authorized circumstances.
2, 30	TRS/PERS	This change would simplify the appointment process by requiring the Governor to appoint two physicians and two alternate physicians to serve on the TRS and PERS Board. This amendment also provides that when two physicians are not available, one physician may satisfy the quorum rules for a medical disability case. There is difficulty in appointing physician members and scheduling meetings to mesh with the schedules of those who have been appointed. Efficiencies and cost savings would follow if but one physician member would satisfy the statute, provided there is a need.
3, 31	TRS/PERS	This amendment would provide for an honorarium payment to TRS/PERS Board members consistent with that paid to members of the Alaska State Pension Investment Board (currently \$150/day) recognizing the significant workload and responsibility entrusted to board members. This provision requires no general fund money. It is financed by the TRS and PERS funds.
4,32	TRS/PERS	This allows each board to adopt regulations defining a quorum for the conduct of its business.
5, 33	TRS/PERS	This section makes the hearing process consistent for all hearings and between PERS and TRS. In addition, the board would be allowed to appoint hearing officers to hear and decide appeals. This provision would allow (but not necessarily require) the board to appoint hearing officers for these situations. By regulation, the Board could identify the types of appeals it might hear itself and set qualifications for hearing officers. Appellants would always have the option to appeal to the Board, even if a hearing officer has considered their cases. Subsection (c) adds that if the board's vote on an appeal under this section is a tie vote, the administrator's decision is affirmed; the board, by regulation, shall provide for a method for it to reconsider a decision it has reached. This codifies the current practice of the board. Subsection (d) allows any person to appeal a final administrative decision to the superior court.
6, 35	TRS/PERS	This section eliminates an inequity in current law. Under the current law, a TRS/PERS member who retires early (not under the RIP) and returns to work receives a penalty for their early retirement. On returning to work, the member's early retirement benefit stops. When the member subsequently retires, their early retirement benefit resumes and they receive a second benefit based on their reemployment service. There is no adjustment for the early retirement benefits foregone. This section will authorize the division to make an actuarial adjustment to make the member whole. This section will not affect employer rates.

**CS House Bill 335 (Finance)  
Sectional Analysis**

<b>Section</b>	<b>System</b>	<b>Explanation</b>
7	TRS	This section is amended based on the long-standing policy that the eight year vesting requirement in TRS must be met with at least five years of membership service with the balance made up of Alaska BIA service. The current statute requires a person to have at least three years of BIA service for that service to apply to vesting.
8	TRS	The TRS statute allows a disabilitant to receive an additional 10 percent for each dependent child. It does not clearly state 10 percent of what. This section clarifies the division's long-standing interpretation that the dependent child benefit is 10 percent of the member's base salary immediately before becoming disabled.
9, 41, 42	TRS/PERS	This adds a section to the TRS/PERS statute requiring, unless there are extraordinary circumstances, a member to file a disability application within six months of the date the member's disability began or 90 days after the member terminated employment (whichever is later). The change will make the PERS and TRS filing requirements the same.
10, 24, 49	TRS/PERS/JRS	Adds language authorizing the division's long-standing practice of deducting retiree insurance premiums (medical, dental, vision, audio, and long-term care) from retirement checks.
11, 12, 46, 47, 48, 57	TRS/PERS	This repeals language no longer needed with the additions to in Sections 5 and 33. Makes the hearing process consistent for all types of hearing.
13, 18, 23, 25, 26, 44, 55, 59	All	Amends language to clarify that an alternate payee has a right to the contribution account of a member, not just any benefit payment. This will add significant convenience and protection to members and alternate payees.
14, 23, 26, 45, 59	All	Adds language that allows the retirement system to pay a lump sum distribution directly to another plan or to an Individual Retirement Account - IRA. Without this, division must pay the contribution account balance to the former member, who must then write a check to the IRA custodian.
15, 16, 51	TRS/PERS	Update statutes relating to fraud, making such actions class A misdemeanors.
17, 21, 53	TRS/PERS/JRS	Adds language that sets an upper compensation limit for pension plan purposes for all members first hired on or after July 1, 1996. For this purpose, pension plan employee contributions cannot exceed the limits set out in federal regulations. All members hired after that date must follow the limitations set by Section 401(a)(17) of the IRS code (initially set at \$150,000). This section is necessary for the system to comply with federal law.
19, 54	TRS/PERS	Clarifies that the income and interest earned by the retirement fund belong to the fund. Codifies the practice in place since these funds were established and the trust requirements of the retirement funds.
20	TRS	This section changes the definition to make any Department of Education member subject to the same definition as all other member, namely, certification and being in a position requiring a teaching or administrator's certificate as a condition of employment.

**CS House Bill 335 (Finance)  
Sectional Analysis**

<b>Section</b>	<b>System</b>	<b>Explanation</b>
22, 58	JRS/EPORS	Adds language to allow JRS and EPORS members to receive a refund of any principle and interest paid on prior indebtedness. Removes the one-year limitation to repay any prior refunds and allows member to make any repayments up to the time of retirement. Makes JRS and EPORS consistent with PERS and TRS.
27	All	Adds language specifically authorizing self-insurance of retiree medical, dental, vision, audio, and long-term care plans. This authorization applies to PERS, TRS, JRS and EPORS.
28	PERS	This section makes PERS board membership separate from the Personnel Board. Currently the three appointed members on the PERS Board serve by virtue of their appointment to the Personnel Board. This would make PERS Board appointment separate. Rationale: the PERS Board meets almost monthly to hear disability appeals and has other broad responsibilities. The level of activity has risen to the point where separate appointment is appropriate.
29	PERS	Adds language to change how the winner in a PERS board election is determined. Current language uses the term "majority." A majority of votes cast means the winner must receive greater than 50% of the cast votes. This is virtually impossible since a PERS board election usually draws ten or more candidates. The use of the term "majority" virtually assures a runoff election, therefore doubling the cost of the election process. With this change the winner is the person who receives the most votes.
32	PERS	Gives the PERS Board authority over setting the contribution surcharge for noncertificated school district employees who elect to have their service calculated using the TRS schedule. This provision was added through Senate Bill 9, which passed last session. This section brings the setting of the contribution surcharge into an open forum.
34	PERS	This amendment clarifies a conflict that existed in statute. This clarification places retirement system eligibility of employees, including compensated elected officials, in the control of the employer (i.e. city council).
36, 37, 38, 39, 40	PERS	This amendment removes the irrevocability of an election by a noncertificated school district employee under authority of SB 9, which passed last legislative session. Revocation would only be allowed when a person changes their work status from seasonal to full year employment (and vice versa).
43	PERS	Clarifies language regarding the "level income option" that was repealed effective July 1, 1996. This section simply recognizes that people hired before that date have a right to the level income option.
50	PERS	This amendment protects PERS employers from costs arising from requests by employee groups to change their retirement system coverage.
52	PERS	This section clarifies the purposes of Senate Bill 9, enacted during the 1999 legislative session. Under SB9, a person can elect to receive a year of service credit for working at least 172 days in a school year. This amendment clarifies calculation of average monthly compensation for this group.

**CS House Bill 335 (Finance)**

**Sectional Analysis**

56	TRS/PERS	Both the PERS and the TRS statutes require appointment of physician board members to hear disability appeals. Due to the disclosure requirements of AS 39.50 (especially disclosure of individual patients), the division and the Governor's Office have had great difficulty recruiting physicians to board appointment. This would amend the law to remove physicians appointed to the PERS and TRS boards from the definition of public official under AS 39.50.
60	PERS	Parallels Section 28, which separates the PERS Board from the Personnel Board. Addresses length of initial appointment of PERS Board appointees.

March 1, 2000

CS HOUSE BILL NO. 335 (FIN)

SECTIONAL ANALYSIS

BY REPRESENTATIVE HUDSON

**“An Act relating to...”**

\* **Section 1.** This section exempts member records, including retiree records, under the Public Records Act, thereby making member name, address, and other information confidential. The Division of Retirement and Benefits' regulations 02 AAC 35.860 and 02 AAC 36.820 making member records confidential was struck down by the Alaska Superior Court (on the grounds that we needed a specific exemption under the Public Records Act). This change would, once again, protect member records. In addition, this section limits release of member records only under specific, authorized circumstances.

*Reason: Necessary due to Court action.*

\* **Section 2.** Two physicians sit on the TRS and PERS boards when medical disability appeals are heard. The current statute requires the Governor to appoint two physicians from each of the four judicial districts in the state. The statute goes on to require that the physicians residing in the locality of the appeal hearing are first to be called to serve. Practically speaking, the Governor has had a very difficult time recruiting physician board members. This change would simplify the appointment process by requiring the Governor to appoint two physicians and two alternate physicians to serve on the TRS Board. This amendment also provides that when two physicians are not available, one physician may satisfy the quorum rules for a medical disability case. There is difficulty in appointing physician members and scheduling meetings to mesh with the schedules of those who have been appointed. Efficiencies and cost savings would follow if but one physician member would satisfy the statute, provided there is a need. The PERS parallel is section 30.

*Reason: Board recommendation for efficiency.*

\* **Section 3.** This amendment would provide for an honorarium payment to TRS Board members consistent with that paid to members of the Alaska State Pension Investment Board (currently \$150/day) recognizing the significant workload and responsibility entrusted to board members. This provision requires no general fund money. It is financed by the TRS fund. The PERS parallel is section 31.

*Reason: Board request.*

\* **Section 4.** This allows the TRS board to adopt regulations defining a quorum for the conduct of its business. The PERS parallel is section 32.

*Reason: Board efficiency.*

\* **Section 5.** The first part of this section clarifies that the TRS board has the authority to adopt regulations for the conduct of hearings. The second part addresses an inconsistency in statute relating to the issuance of subpoenas, administration of oaths, depositions and affidavits. The board already has similar authority to that addressed in this subsection, but curiously only for hearings concerning waivers of adjustments under AS 14.25.175. This new subsection extends that authority to all board hearings. However, the scope of the authority is limited to the hearing proceedings themselves, and by its terms does not extend to prehearing discovery. The goal is to ensure that appropriate evidence may be presented at a hearing without complicating proceedings by broadening the scope to prehearing discovery. In addition, the board would be allowed to appoint hearing officers to hear and decide appeals. This provision would allow (but not necessarily require) the board to appoint hearing officers for these situations. By regulation, the Board could identify the types of appeals it might hear itself and set qualifications for hearing officers. Appellants would always have the option to appeal to the Board, even if a hearing officer has considered their cases.

Subsection (c) adds that if the board's vote on an appeal under this section is a tie vote, the administrator's decision is affirmed; the board, by regulation, shall provide for a method for it to reconsider a decision it has reached. This codifies the current practice of the board.

Subsection (d) allows an aggrieved person to appeal a final administrative decision of the TRS board to the superior court. This provision restates rights that exist as a matter of case law, and also amplifies that a "final" decision by the board is a precondition to further appeal. The PERS parallel is section 33.

*Reason: Board recommendation for efficiency and to reduce costs associated with appeals. This provision tracks a sensible provision now applicable only to waivers of adjustment. It clarifies what has been practice and policy.*

\* **Section 6.** This section eliminates an inequity in current law. Under the current law, a TRS member who retires early (not under the RIP) and returns to work receives a penalty for their early retirement. On returning to work, the member's early retirement benefit stops. When the member subsequently retires, their early retirement benefit resumes and they receive a second benefit based on their reemployment service. There is no adjustment for the early retirement benefits foregone. This section will authorize the division to make an actuarial adjustment to make the member whole. It is anticipated that this section will have no financial impact to the TRS fund. The PERS parallel is section 35.

*Reason: Member request to address inequity.*

\* **Section 7.** This section is amended based on the long-standing policy that the eight year vesting requirement in TRS must be met with at least five years of membership service with the balance made up of Alaska BIA service. The current statute requires a person to have at least three years of BIA service for that service to apply to vesting.

*Reason: Clarifies existing practice.*

\* **Section 8.** The TRS statute allows a disabilitant to receive an additional 10 percent for each dependent child. It does not clearly state 10 percent of what. This section clarifies the division's long-standing interpretation that the dependent child benefit is 10 percent of the member's base salary immediately before becoming disabled.

*Reason: Clarifies existing practice*

\* **Section 9.** This adds a section to the TRS statute requiring, unless there are extraordinary circumstances, a member to file a disability application within six months of the date the member's disability began or 90 days after the member terminated employment (whichever is later). The change will make the PERS and TRS filing requirements the same. The PERS parallels are sections 41 and 42.

*Reason: Creates consistency between PERS and TRS systems.*

\* **Section 10.** This section adds language authorizing the division's long-standing practice of deducting retiree insurance premiums (medical, dental, vision, audio, and long-term care) from retirement checks. The JRS parallel is Section 24 and the PERS parallel is Section 49.

*Reason: Not addressed in current statute.*

\* **Section 11.** Removes requirement that the TRS board must rule on a waiver of adjustment appeal within 120 days of its receipt. The purpose is to have a consistent process for all appeals. PERS parallel is Section 46.

*Reason: Board request to increase flexibility to appellants and the TRS.*

\* **Section 12.** This repeals language no longer needed with the additions to AS 14.25.037 in Section 5. Makes the hearing process consistent for all types of hearing. PERS parallel is Section 48.

*Reason: The purpose is to have a consistent process for all appeals.*

\* **Section 13.** Amends language to clarify that an alternate payee has a right to the contribution account of a member, not just any benefit payment. This will add significant convenience and protection to members and alternate payees. The parallels are sections 23 and 25 (JRS), 44 and 55 (PERS).

*Reason: Efficiency and member request.*

\* **Section 14.** Adds language that allows the retirement system to pay a lump sum distribution directly to another plan or to an Individual Retirement Account - IRA. Without this, TRS must pay the contribution account balance to the former member, who must then write a check to the IRA custodian. The parallels are sections 23 (JRS), 26(NGNMRS), 45 (PERS) and 59 (EPORS).

*Reason: Efficiency and member request.*

\* **Section 15 and 16.** This section updates TRS statutes relating to fraud, making such actions class A misdemeanors. PERS parallel is Section 51.

*Reason: Clarification of the law.*

\* **Section 17.** Adds language that sets an upper compensation limit for pension plan purposes for all members first hired on or after July 1, 1996. For this purpose, pension plan employee contributions cannot exceed the limits set out in federal regulations. All members hired after that date must follow the limitations set by Section 401(a)(17) of the IRS code (initially set at \$150,000). This section is necessary for the system to comply with federal law. The parallels are sections 21 (JRS) and 53 (PERS).

*Reason: Required to comply with federal law.*

\* **Section 18.** Companion to Section 13. Amends the TRS Qualified Domestic Relations Order (QDRO) definition to clarify that a former spouse has a right to the contribution account of a member. Current language limits the former spouse to the benefits payable. The parallels are sections 23 and 25 (JRS), 55 and 59 (PERS).

*Reason: Efficiency and member request.*

\* **Section 19.** Clarifies that the income and interest earned by the TRS fund belong to the fund. Codifies the practice in place since TRS was established in the 1950s and the trust requirements of the retirement fund. The PERS parallel is section 54.

*Reason: Codifies practice.*

\* **Section 20.** The current definition of teacher in TRS is very broad in that it includes the "commissioner of education and all supervisory employees in the Department of Education." This section changes the definition to make any Department of Education member subject to the same definition as all other members; namely, certification and being in a position requiring a teaching or administrator's certificate as a condition of employment.

*Reason: Codifies practice.*

\* **Section 21.** Adds language that defines a compensation limit for pension plan purposes for all Judicial Retirement System (JRS) members first hired on or after July 1, 1996. For this purpose, pension plan employee contributions cannot exceed the limits set out in federal regulations. All justices and judges hired after that date must follow the limitations set by Section 401(a)(17) of the IRS code (initially set at \$150,000). The parallels are sections 17 (TRS) and 53 (PERS).

*Reason: Required to comply with federal law*

\* **Section 22.** Adds language to allow judges to receive a refund of any principle and interest paid on prior indebtedness. Removes the one-year limitation to repay any prior refunds and allows the judge to make any repayments up to the time of retirement. The parallel is section 58 (EPORS).

*Reason: Consistency with PERS and TRS.*

\* **Section 23.** Adds language paralleling that in the other retirement systems defining the rights of justices and judges to a refund when a qualified domestic relations order (QDRO) has been filed. Adds language that protects JRS benefits from any voluntary

or involuntary garnishment or assignment, with the exception of a Qualified Domestic Relations Order (QDRO) or a Medicaid trust. It also allows the retirement system to make payments to Individual Retirement Accounts. Federal law now requires that the retirement system make direct distributions to the former spouse and to other qualified plans. This change will bring the JRS into compliance with federal law. The parallels are sections 13 and 18 (TRS), 44 and 45 (PERS) and 59 (EPORS).

*Reason: Consistency with PERS and TRS.*

\* **Section 24.** This section adds language authorizing the division's long-standing practice of deducting retiree insurance premiums (medical, dental, vision, audio, and long-term care) from JRS retirement checks. The parallels are sections 10 (TRS) and 49 (PERS).

*Reason: Codifies existing practice.*

\* **Section 25.** Amends JRS language to clarify that a former spouse under a Qualified Domestic Relations Order (QDRO) has the right to the contribution and interest account of a justice or judge. Current language limits the former spouse to the benefits payable. The parallels are sections 13 and 18 (TRS), 26 (NGNMRS), 44 and 55 (PERS), 59 (EPORS).

*Reason: Consistency with PERS and TRS.*

\* **Section 26.** Adds language paralleling that in the other retirement systems defining the rights of National Guard Naval Militia Retirement System (NGNMRS) members to a refund when a Qualified Domestic Relations Order (QDRO) has been filed. Adds language that protects NGNMRS benefits from any voluntary or involuntary garnishment or assignment, with the exception of a (QDRO) or a Medicaid trust. It also allows the retirement system to make payments to Individual Retirement Accounts. Federal law now requires that the retirement system make direct distributions to a former spouse and to other qualified plans. This change will bring the NGNMRS into compliance with federal law. The EPORS parallel is section 59.