

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2942

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 475(STA)
(H) Publish Date: 3/17/06

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

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

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

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

ALASKA STATE LEGISLATURE

Chair
STATE AFFAIRS

Member
RESOURCES

Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
WAYS AND MEANS

REPRESENTATIVE PAUL SEATON
House District 35

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MEMORANDUM

TO: Representative Kevin Meyer, Co-Chair
House Finance Committee

FROM: Representative Paul Seaton

DATE: Tuesday, April 11, 2006

RE: Additional Back-up for CSHB 475

I have include additional information for the House Finance Committee on CSHB 475 version L
Re: Revisions to the Retirement Security Act

Attached please find: memo to the committee outlining changes between CSHB 475(STA) version I and work draft CSHB 475 version L; sponsor statement; abbreviated sectional analysis; and detailed sectional analysis.

Staff contact: Katie Shows, 2028



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REPRESENTATIVE PAUL SEATON
House District 35

MEMORANDUM

TO: House Finance Committee
FROM: Representative Paul Seaton
DATE: April 11, 2006
RE: CSHB 475, Version L

Below I have outlined the changes between the version of CSHB475(STA) and the version that is before the House Finance Committee (version L). Additional revisions to the bill were necessary after Retirement and Benefits conferred with their legal tax council, Ice Miller, LLC. The abbreviated sectional analysis and detailed sectional analysis have both been updated to reflect the blank CS before the committee.

Changes between HB475 version I and version L:

- Deletes the extension from 120 to 180 days that the Office of Administrative Hearings has to issue appeals (Sec. 31, Sec. 32, Sec. 73).
- Sets an immediate effective date for the retroactive repeal to July 1, 2005 of the provision in SB 141 that required employers to never contribute below the normal cost rate (Sec. 82, Sec. 79).
- Establishes that a member who becomes disabled is immediately vested in the employer and employee contributions upon disability regardless of years of service (Sec. 12, Sec. 51, Sec. 53). Sec. 48 was unintentionally included in the CS. It is duplicate language on the same topic and needs to be deleted.



ALASKA STATE LEGISLATURE
REPRESENTATIVE PAUL SEATON
House District 35

- Provides a definition of occupational disability (Sec. 17, Sec. 57).
- Establishes a trust in which to place the payments on behalf of a survivor's retirement benefit while they are receiving a death benefit (Sec. 16, Sec. 20, Sec. 21, Sec. 61).
- Clarifies that when an employer matches an employee's retirement contributions for the purpose of transfer from a DB plan to a DC plan the maximum dollar amount of the employer match may not exceed federal limits (Sec. 22, Sec. 47, Sec. 64).
- Defines employer normal cost and past service cost rate in statute (Sec. 2, Sec. 36).
- Clarifies that the retirement plans established in SB 141 have both DB and DC components and points out the distinctions between the two and which IRS codes the respective portions fall under (Sec. 5, Sec. 6, Sec. 9, Sec. 10, Sec. 23, Sec. 43, Sec. 49, Sec. 63).
- Clarifies that employee voluntary contributions to their retirement account are subject to federal limits in order to qualify as tax exempt (Sec. 7, Sec. 45).
- Deletes references to past service date.



Abbreviated Sectional Analysis for CSHB 475 v.L

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

Sec. 31, Sec. 32, Sec. 41, Sec. 72, Sec. 73

Change: Adds the Supplemental-benefit-annuity Plan (SBS), Health Reimbursement Arrangement (HRA) Plan, Deferred Compensation Plan, and waivers of adjustment under the PERS and TRS Defined Benefit (DB) plans to the jurisdiction of the OAH. Gives members the authority to appeal the administrator's decision to the OAH.

Reason: These changes are necessary to give all applicable appellants the authority to appeal to the OAH.

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

Sec. 3, Sec. 38, Sec. 77, Sec. 79, Sec. 80, Sec. 82

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

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

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

Sec. 4, sec. 39, Sec. 40, Sec. 78, Sec. 81

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

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

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

4a. Funding death and disability benefits

Sec. 8, sec. 46, Sec. 74

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

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

4b. The structure of death and disability benefits

Sec. 12, Sec. 13, Sec. 14, sec. 15, Sec. 17, Sec. 18, Sec. 51, Sec. 52, Sec. 53, Sec. 54, Sec. 55, Sec. 57, Sec. 58

Change: A disabled member is immediately vested in 100% of the employer and employee contributions upon disability. A period spent receiving disability benefits counts as membership service towards vesting. A member is not allowed to take money out of their DC account while receiving disability benefits. Disability benefits terminate when the member first qualifies for normal retirement. However, a member who becomes eligible for normal retirement while receiving disability benefits will be treated as if they were Medicare eligible age for the purpose of qualifying for retiree medical benefits. Death and disability benefits for PERS and TRS members mirror current Tier III benefits. Upon reaching normal retirement age, a disabled police/fire member may choose either their DC account or a pension benefit as if they were in Tier III. If they elect to have their retirement in a monthly pension, the pension will first be paid out of the members individual DC trust account. Provides a definition of occupational disability.

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

4c. Survivor benefits

Sec. 16, Sec. 19, Sec. 20, Sec. 21, Sec. 22, Sec. 59, Sec. 60, Sec. 61, Sec. 62

Change: Clarifies that a survivor's benefit terminates when the beneficiary is no longer eligible or the deceased member would have reached normal retirement. A period spent receiving death benefits counts as membership service for vesting purposes. A survivor is not allowed to take money out of the deceased member's DC account while receiving survivor benefits. Establishes that funds paid towards a survivor's retirement benefit will be paid into a separate trust account in order to meet IRS tax qualifications.

5. Clarifies the eligibility requirements for medical benefits.

Sec. 11, Sec. 34, Sec. 35, Sec. 50, Sec. 56

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

Reason: Without requiring continuous coverage the plan is exposed to an unknown liability in built up medical treatment. It was the intent of the legislature last year to give the member ownership of the HRA, similar to a DC account, and not require that you retire directly from the system to gain access to it.

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

Sec. 24, Sec. 25, Sec. 26, Sec. 27, Sec. 28, Sec. 47, Sec. 64, Sec. 65, Sec. 66, Sec. 67, Sec. 68

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

Reason: A time limit needed to be placed on the transfer option otherwise employers would be opening themselves up to an unknown liability. Clarification on the allowable contribution amount ensures the plan meets IRS standards.

7. Clarifies the basis for calculating employer contribution rates

Sec. 1, Sec. 2, Sec. 36, Sec. 37

Change: Specifies that the past service cost will be applied to the employer's entire wage base. Adds a definition of employer normal cost and past service cost rate.

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

8. Gives regulatory authority to the appropriate party

Sec. 29, Sec. 30

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

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

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

Sec. 33

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

Reason: Without this change the plan is discriminatory and it would not qualify for IRS tax-exempt status.

10. Definitions

Sec. 42, Sec. 70, sec. 71, Sec. 75

Change: Repeals duplicative section regarding the definition of administrator. Provides a clear definition of peace officer and fire fighter under the DC plan. Establishes that 'member' and 'employee' have the same meaning throughout the statute. Clearly defines that a DOL or DEED member whose position requires a teaching certificate is in TRS and not PERS.

Reason: Clean-up language.

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

Sec. 75

Change: Repeals participation of NEA employees in TRS.

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

12. Establishes provisions for employer termination

Sec. 69

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

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

13. Clarifies defined benefit and defined contribution components of the plan

Sec. 5, Sec. 6, Sec. 9, Sec. 10, Sec. 23, Sec. 43, Sec. 44, Sec. 49 Sec. 63

Change: Clarifies that the retirement plans established in SB 141 have both DB and DC components and points out the distinctions between the two and which IRS codes the respective portions fall under.

Reason: This change clarifies what IRS category the plan falls under and consequently the rules that have to be followed. Without the change the plan runs the risk of not qualifying for IRS tax-exempt status.

14. Establishes adherence to IRS limitations

Sec. 7, Sec. 45

Clarifies that employee voluntary contributions to their retirement account are subject to federal limits in order to qualify as tax exempt.

Finance Committee Substitute for House Bill 475(STA) Work Draft \L

Sectional Analysis

Sec. 1 AS 14.25.070(a). Changes the calculation of the employer contributions so that the normal cost rate is applied only to the payroll base of DB plan members and the past service rate is applied to the employer's entire payroll base.

Reason: The current statutes defining contributions by employers reference contributions to the "plan" and specify that the employer contribution rate will be applied to the salaries paid to "members." This amendment allows the contribution rate for past service costs to be applied to the entire payroll base of the employers' workforce without regard to plan (tier) membership, and will keep employer contribution rates for the DB plan lower than would otherwise be calculated.

Consequence: Without amendment, employer rates for past service costs under the DB plan will continue to rise as the amortized liability is applied to a shrinking payroll paid to members of the DB plan. However, this will neither increase the employers' liability nor will it relieve the employers of the liability, it merely restates the liability as a higher percentage of applicable payroll.

Related bill sections: Sec. 2, AS 14.25.070(d)-(e); Sec. 37, AS 39.35.270(a).

Sec. 2 AS 14.25.070(d)-(e). Adds definitions for "employer normal cost rate" and "past service rate."

Reason: In combination with Sec. 1 of this bill, this amendment changes the calculation of the employer contributions so that the normal cost rate is applied only to the payroll base of DB plan members and the past service rate is applied to the employer's entire payroll base. The TRS employer contribution statutes have never contained these definitions because the TRS is a multi-employer shared cost pool. However, the TRS rates developed by the actuary are still based upon normal costs and past service costs.

Related bill sections: Sec. 1, AS 14.25.070(a); Sec. 36 AS 39.35.250.

Sec. 3 AS 14.25.070(f). Establishes a floor on the employer contribution rate at no less than the normal cost rate, effective July 1, 2008.

Reason: This change, combined with the repeal of AS 14.25.070(b) and the effective date in Sec. 80, delays the effective date of the requirement of SB 141 that the employer contribution rate must be not less than the normal cost rate.

Related bill sections: Sec. 38, AS 39.35.270(d); Sec. 76; Sec. 79; Sec. 80.

Sec. 4 AS 14.25.125(c). Effective July 1, 2010, removes the provision that allows members to repay refunded contributions for the purpose of obtaining a conditional service benefit.

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

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

Related bill sections: Sec. 40, AS 39.35.385(c).

Sec. 5 AS 14.25.320(b). Clarifies that the retirement plans established by SB 141 are hybrid plans, containing both defined benefits and defined contributions, which fall under the Internal Revenue Code section 414(k).

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

Consequence: If this amendment is not adopted, the IRS may not recognize and apply the special rules of the §414(k) structure which may result in an IRS plan determination failure.

Related bill sections: Sec. 6, AS 14.25.320(c); Sec. 9, AS 14.25.380; Sec. 10, AS 14.25.400(b); Sec. 23, AS 14.25.510; Sec. 43, AS 39.35.710(b); Sec. 44, AS 39.35.710(c); Sec. 47, AS 39.35.780; Sec. 49, AS 39.35.800(b); Sec. 63, AS 39.35.910.

Sec. 6 AS 14.25.320(c). Clarifies that the retirement plans established by SB 141 are hybrid plans, containing both defined benefits and defined contributions, which fall under the Internal Revenue Code section 414(k).

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

Consequence: If this amendment is not adopted, the IRS may not recognize and apply the special rules of the §414(k) structure which may result in an IRS plan determination failure.

Related bill sections: Sec. 5, AS 14.25.320(b); Sec. 9, AS 14.25.380; Sec. 10, AS 14.25.400(b); Sec. 23, AS 14.25.510; Sec. 43, AS 39.35.710(b); Sec. 44, AS 39.35.710(c); Sec. 47, AS 39.35.780; Sec. 49, AS 39.35.800(b); Sec. 63, AS 39.35.910.

Sec. 7 AS 14.25.340(c). Clarifies that any voluntary contributions made by an employee under AS 14.25.340(b) can only be made with pre-tax dollars to the extent permitted under federal law.

Reason: The Internal Revenue Code allows pre-tax contributions only if the employee does not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement plan. This is the case for contributions mandated by statute; however, a voluntary contribution clearly does not meet this test. Under certain restricted arrangements that involve a one-time irrevocable election, the IRS will allow voluntary contributions on a picked-up (pre-tax) basis. This amendment allows the State the flexibility to define such a restricted arrangement in both regulation and in its Private Letter Ruling request.

Related bill sections: Sec. 45, AS 39.35.730(c).

Sec. 8 AS 14.25.350(e). Requires employers in the Teachers' Retirement System (TRS) to pay occupational disability and death benefits through contributions actuarially calculated, which will be deposited to a separate trust account.

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

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

Related bill sections: Sec. 46, AS 39.35.750(e); Sec. 78.

Sec. 9 AS 14.25.380. Clarifies that only the defined contributions paid into a member's individual account are subject to the limitations of 26 USC 415(c) and not the contributions employers make for the fixed benefits contained in the plans (occupational disability, survivor's pension, etc.). Additionally, the fixed benefits paid to eligible persons are subject to the limitations of §415(b) under the Internal Revenue Code.

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

Consequence: If this amendment is not adopted, the IRS may not recognize and apply the special rules of the §414(k) structure which may result in an IRS plan determination failure.

Related bill sections: Sec. 5, AS 14.25.320(b); Sec. 6, AS 14.25.320(c); Sec. 10, AS 14.25.400(b); Sec. 23, AS 14.25.510; Sec. 43, AS 39.35.710(b); Sec. 44, AS 39.35.710(c); Sec. 47, AS 39.35.780; Sec. 49, AS 39.35.800(b); Sec. 63, AS 39.35.910.

Sec. 10 AS 14.25.400(b). Clarifies that a participant may only direct the investment of the funds held in the participant's individual account by making the distinction between the defined contribution accounts and the fixed benefit accounts established under the plans.

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

Consequence: If this amendment is not adopted, the IRS may not recognize and apply the special rules of the §414(k) structure which may result in an IRS plan determination failure.

Related bill sections: Sec. 5, AS 14.25.320(b); Sec. 6, AS 14.25.320(c); Sec. 9, AS 14.25.380; Sec. 23, AS 14.25.510; Sec. 43, AS 39.35.710(b); Sec. 44, AS 39.35.710(c); Sec. 47, AS 39.35.780; Sec. 49, AS 39.35.800(b); Sec. 63, AS 39.35.910.

Sec. 11 AS 14.25.470(g). Requires a person who originally chose not to participate in the retiree major medical plan, but who later chooses to participate, to provide a letter of continuous coverage or proof of insurability.

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

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

Related bill sections: Sec. 50, AS 39.35.870(g).

Sec. 12 AS 14.25.485(b). Clarifies the termination of a disability benefit when a person no longer meets the requirements to receive occupational disability benefits.

Reason: The intent of an occupational disability benefit is to provide an income for a person who is no longer able to work due to an injury sustained on-the-job. In combination with Sec. 17 of this bill, the amendment makes it clear that if a person is able to perform the duties of another available and comparable position, regardless of employer, then that person no longer meets the requirements to receive occupational disability benefits.

Related bill sections: Sec. 17, AS 14.25.485(j); Sec. 51, AS 39.35.890(b).

Sec. 13 AS 14.25.485(c). Clarifies that a period of disability benefits constitutes membership service in regard to determining eligibility for retirement and medical benefits including the Health Reimbursement Arrangement (HRA).

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

Related bill sections: Sec. 52, AS 39.35.890(c).

Sec. 14 AS 14.25.485(d). Provides that a member who receives disability benefits from the plan is 100% vested in all the employer contributions made to the member's individual account, regardless of years of service worked, once the member is appointed to disability. Clarifies that a member is not entitled to elect distributions from the member's individual account while receiving disability benefits.

Reason: This amendment relates specifically to the continuing employer contributions required under AS 14.25.485(d). 26 USC 415(c)(3)(C) provides special rules that allow the compensation of a disabled member for any year subsequent to the disability to be considered equivalent to the rate of compensation immediately prior to the disability. However, these rules only apply if the contributions are nonforfeitable when made.

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

Consequence: If this amendment is not adopted, the special rules of 26 USC 415(c)(3)(C) would not apply, the member's compensation would be zero for the year following disability, and the allowable contributions would therefore be zero. As a result, the benefits could not be paid in accordance with AS 14.25.485. Also, a disabled member may be able to elect distributions from the member's individual account prior to becoming eligible for normal retirement. This could be regarded as "double dipping," and as thwarting the intent of the legislature to provide a retirement benefit once the disability benefit ends.

Related bill sections: Sec. 20, AS 14.25.487(c); Sec. 53, AS 39.35.890(d); Sec. 60, AS 39.35.892(c).

Sec. 15 AS 14.25.485(g). Clarifies the termination of disability benefits when a disabled member first qualifies for normal retirement.

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

Related bill sections: Sec. 54, AS 39.35.890(g).

Sec. 16 AS 14.25.485(i). Changes made to this subsection, which is related to the benefits for a survivor of a disabled member who dies while receiving disability benefits, mirror other changes being made to the disability and death statutes throughout this bill. The changes are: (1) clarifies the termination of a survivor's pension; (2) clarifies that a survivor cannot access the member's individual account while receiving a survivor's pension; (3) clarifies the normal retirement benefits available to a survivor; and (4) clarifies that the period of disability benefits and the period of survivor benefits constitute membership service for vesting in employer contributions, and eligibility for medical benefits and the Health Reimbursement Arrangement.

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

Related bills sections: Sec. 13, AS 14.25.485(c); Sec. 19, AS 14.25.487(b); Sec. 20, AS 14.25.487(c); Sec. 21, AS 14.25.487(e); Sec. 56, AS 39.35.890(k).

Sec. 17 AS 14.25.485(j). Clarifies the definition of occupational disability.

Reason: The intent of an occupational disability benefit is to provide an income for a person who is no longer able to work due to an injury sustained on-the-job. This definition is slightly different from the definition under AS 39.35.680. In combination with Sec. 12 of this bill, the amendment makes it clear that if a person is able to perform the duties of another available and comparable position, regardless of employer, then that person no longer meets the requirements to receive occupational disability benefits.

Related bill sections: Sec. 12, AS 14.25.485(b); Sec. 57, AS 39.35.890(l).

Sec. 18 AS 14.25.486. Adds an annual cost-of-living adjustment (COLA) to disability benefits equal to 75% of the increase in the Anchorage Consumer Price Index or 9%, whichever is less.

Reason: This amendment is needed to meet the legislative intent of providing occupational disability and occupational death benefits that are commensurate with those provided to members of PERS Tier III and TRS Tier II.

Consequence: If this amendment is not enacted, occupational disability and occupational death benefits of the new retirement tiers will not be comparable to those under PERS Tier III and TRS Tier II. The monthly disability benefits will remain static from year to year without adjustment for inflation.

Related bills sections: Sec. 58, AS 39.35.891.

Sec. 19 AS 14.25.487(b). Clarifies the termination of a survivor's pension under the occupational death benefit provisions, including the end of death benefits when a dependent child no longer meets the definition of dependent.

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

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

Related bill sections: Sec. 59, AS 39.35.892(b).

Sec. 20 AS 14.25.487(c). Clarifies that a survivor of a deceased member is not entitled to elect distributions from the member's individual account while receiving survivor benefits. Clarifies that the continuing contributions required by the employer are made on behalf of the surviving spouse and member's dependent children rather than "beneficiaries." Directs all continuing contributions by the employer into the occupational disability and death trust account in accordance with the Internal Revenue Code (IRC).

Reason: The death benefit provides an income, and eventually retirement benefits, for the family of a member who dies in the line of duty. However, the beneficiaries of a deceased member are arguably immediately eligible for distributions from the individual contribution account under AS 14.25.410. This change preserves the individual account until the survivor is eligible for the normal retirement benefit. The situation is similar to that described under Sec. 14 [AS 14.25.485(d)]. Please see Sec. 21 below for an explanation of the changes required by the IRC.

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

Related bill sections: Sec. 14, AS 14.25.485(d); Sec. 21, AS 14.25.487(e); Sec. 60, AS 39.35.892(c).

Sec. 21 AS 14.25.487(e). Revises the language regarding the continuing contributions employers make on behalf of survivors of members who died occupationally. The contributions will be an actuarially calculated amount required to yield the same results as under SB 141; however, the contributions will be made into the trust account established for occupational disability and death benefits rather than into the member's individual account. The benefits will also be paid from the occupational disability and death trust account. This amendment also clarifies that the period of death benefits constitutes membership service for determining vesting in employer contributions and eligibility for medical benefits and the Health Reimbursement Arrangement.

Reason: Unlike the special rules under 26 USC 415(c)(3)(C) that allow the compensation of a disabled member for any year subsequent to the disability to be considered equivalent to the rate of compensation immediately prior to the disability, there is no corresponding rule for a deceased participant. Thus, there would be no compensation for a deceased member in the year after death and, therefore, no allowable contributions to the deceased member's individual account. The solution this amendment proposes is to make contributions to an account that is allowable under the Internal Revenue Code and add an "additional benefit" that is equal to the amount that would have been contributed to the member's individual account had the member survived, plus an earnings credit.

Consequence: If this amendment is not adopted, the State will not receive a favorable ruling from the Internal Revenue Service and will not be able to pay the intended retirement benefits to survivors.

Related bill sections: Sec. 16, AS 14.25.485(i); Sec. 20, AS 14.25.487(c); Sec. 61, AS 39.35.892(e).

Sec. 22 AS 14.25.488. Adds an annual cost-of-living adjustment (COLA) to the survivor's pension benefit equal to 50% of the increase in the Anchorage Consumer Price Index or 6%, whichever is less. Persons who are receiving a survivor's pension who are age 60 or older and persons who have received a survivor's pension for at least 8 years are eligible for the COLA.

AS 14.25.489. Adds a provision that a person whose disability or survivor benefits are terminated due to eligibility for a normal retirement benefit will be treated as if that person is eligible for Medicare, regardless of age, for the purpose of cost-sharing medical premiums with the Plan.

Reason: These amendments are needed to meet the legislative intent of providing occupational disability and occupational death benefits that are commensurate with those provided to members of PERS Tier III and TRS Tier II.

Consequence: If these amendments are not enacted, occupational disability and occupational death benefits of the new retirement tiers will not be comparable to those under PERS Tier III and TRS Tier II. The monthly disability and survivor benefits will remain static from year to year without adjustment for inflation. Disabled members and survivors who have not reached the age required for Medicare eligibility when they qualify for a normal retirement benefit will have to pay 100% of the monthly premium for retiree major medical insurance.

Related bills sections: Sec. 62, AS 39.35.893, AS 39.35.894.

Sec. 23 AS 14.25.510. Clarifies that the nonguarantee clause relates only to the defined contribution portion of the retirement plans. The fixed benefits contained under these plans are defined by statute.

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

Consequence: If this amendment is not adopted, the IRS may not recognize and apply the special rules of the §414(k) structure which may result in an IRS plan determination failure.

Related bill sections: Sec. 5, AS 14.25.320(b); Sec. 6, AS 14.25.320(c); Sec. 9, AS 14.25.380; Sec. 10, AS 14.25.400(b); Sec. 43, AS 39.35.710(b); Sec. 44, AS 39.35.710(c); Sec. 47, AS 39.35.780; Sec. 49, AS 39.35.800(b); Sec. 63, AS 39.35.910.

Sec. 24 AS 14.25.540(c). Clarifies that the employer match required under the conversion from the defined benefit plan to the defined contribution plan is subject to Internal Revenue Code contribution limitations. The amendment limits the total employer match to the maximum allowed during the limitation year in which the transfer occurs.

Reason: Because the amount that an employer must match under the conversion option is "new money," it has never been subject to Code limitations. 26 USC 415(c) imposes an annual limit on contributions to a defined contribution plan to the lesser of \$44,000 or 100% of employee compensation. In addition, the contributions of the PERS and TRS defined contribution retirement plans are required to be aggregated with the contributions of the SBS Plan.

Consequence: Contributions above the limitations of §415(c) are not allowable under federal law, therefore, any excess contributions must be returned to the employer.

Related bill sections: Sec. 64, AS 39.35.940(c).

Sec. 25 AS 14.25.540(d). Clarifies that transferred membership from the defined benefit (DB) plan to the defined contribution retirement (DCR) plan will be applied to vesting in both the employer's matching contribution and subsequent contributions.

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

Related bill sections: Sec. 65, AS 39.35.940(d).

Sec. 26 AS 14.25.540(h). Provides a time limit -- 12 months from the date the employer consents to the conversion -- within which an eligible member must make the decision to transfer from the DB plan to the DCR plan.

Reason: Under SB 141, an employer's decision to allow its employees to convert is irrevocable and employees have up until the day before they become vested in the Teachers' Retirement System DB plans to convert. However, a plan does not satisfy the qualifications of a §401(a) plan if it includes a cash or deferred arrangement. Treasury Regulation 1.401(k)-1(a)(3) does provide for certain one-time elections. The Division of Retirement and Benefits has received legal tax counsel that implementing a time limit for the decision-making process would meet the requirements of the Treasury Regulation.

Consequence: Without amendment, the State may not receive a favorable plan ruling. Also, because of the open-ended timeframe, employers that would otherwise benefit from consenting to transfers may make the decision not to consent because of annual budgeting uncertainty.

Related bill sections: Sec. 27, AS 14.25.540(i); Sec. 66, AS 39.35.940(h).

Sec. 27 AS 14.25.540(i). An employer who makes a conversion election will have an initial 12-month window open to its eligible employees for transfer from the DB plan to the DCR plan. At the end of the initial 12-month period, the employer may consent to an additional 12-month period open only to those eligible employees to whom the option was not available during the initial period.

Reason: Allowing an employer to elect to consent to transfers during an additional 12-month period provides the employer with the opportunity to achieve greater cost savings if the employer determines that consenting to additional transfers is beneficial. However, in order to meet the requirements of Treasury Regulation 1.401(k)-1(a)(3) for certain one-time elections, the second period will be limited to those employees who did not have the choice during the initial period. The Division of Retirement and Benefits has received legal tax counsel that this particular arrangement has received favorable rulings by the IRS for other plans.

Consequence: Without amendment, the State may not receive a favorable plan ruling.

Related bill sections: Sec. 26, AS 14.25.540(h); Sec. 67, AS 39.35.940(i).

Sec. 28 AS 14.25.540(j). Adds a definition of "membership service" for purposes of clarifying what service credit is eligible for transfer from the DB plan to the DCR plan and disallows years of service for which contributions have not been fully repaid; i.e., reinstatement of refunded contributions, or indebtedness.

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

Consequence: Without amendment, it is unclear whether full service, partial service, or no service credit associated with an indebtedness should be transferred to the new plan. To allow such service to be transferred would be inconsistent with the current statutory provisions of the DB plan (AS 14.25.062).

Related bill sections: Sec. 68, AS 39.35.940(j).

Sec. 29 AS 39.30.160(a). Changes the authority for adopting regulations for the Supplemental Benefits System-Annuity Plan (SBS) program from the Alaska Retirement Management Board (ARMB) to the Commissioner of Administration.

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

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

Related bill sections: Sec. 30, AS 39.30.160(e).

Sec. 30 AS 39.30.160(e). Changes the reference from "board" to "commissioner".

Reason: This completes the change of authority for adopting regulations for the SBS program. See Sec. 29 above.

Related bill sections: Sec. 29, AS 39.30.160(a).

Sec. 31 AS 39.30.165. Adds a provision under the Supplemental Benefits System-Annuity Plan program for a member, annuitant, or beneficiary to appeal a decision of the administrator to the Office of Administrative Hearings (OAH).

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

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

Related bill sections: Sec. 32, AS 39.30.335; Sec. 72, AS 39.45.055; Sec. 73, AS 44.64.030(a).

Sec. 32 AS 39.30.335. Adds a provision under the Health Reimbursement Arrangement Plan for a member to appeal a decision of the administrator to the Office of Administrative Hearings.

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

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

Related bill sections: Sec. 31, AS 39.30.165; Sec. 72, AS 39.45.055; Sec. 73, AS 44.64.030(a).

Sec. 33 AS 39.30.370. Changes the employer contribution from an individual employer contribution amount to a uniform employer contribution amount for all participants of the Health Reimbursement Arrangement Plan.

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

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

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

Sec. 34 AS 39.30.380. Removes the conflict between eligibility for retirement and medical benefits and the statutes that define eligibility for the Health Reimbursement Arrangement Plan.

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

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

Sec. 35 AS 39.30.390. Changes eligibility for reimbursement from the Health Reimbursement Arrangement to persons who meet the eligibility requirements for retirement and medical benefits under either PERS or TRS, rather than under both.

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

Sec. 36 AS 39.35.250. Clarifies the definitions of "consolidated employer normal cost rate" and "past service rate."

Reason: This section has not been updated since 1977. These are technical changes recommended by the State's actuary to accurately reflect that the last benefit enhancements to the DB plan were enacted in 2001 and the entire amortization schedule was reset in 2002 when the process for valuing assets was changed from the corridor method to the smoothing method.

Related bill sections: Sec. 2, AS 14.25.070(d)-(e); Sec. 37, AS 39.35.270(a).

Sec. 37 AS 39.35.270(a). Changes the calculation of the employer contributions so that the normal cost rate is applied only to the payroll base of DB plan members and the past service rate is applied to the employer's entire payroll base.

Reason: The current statutes defining contributions by employers reference contributions to the "plan" and specify that the employer contribution rate will be applied to the salaries paid to "members." This amendment allows the contribution rate for past service costs to be applied to the entire payroll base of the employers' workforce without regard to plan (tier) membership, and will keep employer contribution rates for the DB plan lower than would otherwise be calculated.

Consequence: Without amendment, employer rates for past service costs under the DB plan will continue to rise as the amortized liability is applied to a shrinking payroll paid to members of the DB plan. However, this will neither increase the employers' liability nor will it relieve the employers of the liability, it merely restates the liability as a higher percentage of applicable payroll.

Related bill sections: Sec. 1, AS 14.25.070(a); Sec. 36, AS 39.35.250.

Sec. 38 AS 39.35.270(d). This change, combined with the repeal of AS 39.35.270(b) and the effective date in Sec. 80, delays the effective date of the requirement of SB 141 that the employer contribution rate must be not less than the normal cost rate.

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

Consequence: If this amendment and Sec. 76, Sec. 79, and Sec. 80 are not enacted, 24 currently active PERS employers will pay an increased contribution rate in FY 2006.

Related bill sections: Sec. 3, AS 14.25.070(f); Sec. 76; Sec. 79; Sec. 80.

Sec. 39 AS 39.35.375(a). Effective July 1, 2010, removes the provision that allows employees to repay refunded contributions for the purpose of obtaining a public service benefit.

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

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

Related bill sections: Sec. 77, AS 39.35.375(f).

Sec. 40 AS 39.35.385(c). Effective July 1, 2010, removes the provision that allows employees to repay refunded contributions for the purpose of obtaining a conditional service benefit.

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

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

Related bill sections: Sec. 4, AS 14.25.125(c).

Sec. 41 AS 39.35.522(d). Adds a provision for appeal to the Office of Administrative Hearings of the Commissioner's decisions on waiver requests under PERS.

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

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

Related bill sections: Sec. 73, AS 44.64.030(a).

Sec. 42 AS 39.35.680(3). Incorporates the reference to the new administrator section AS 39.35.003 into the definition of "administrator" under the PERS DB plan.

Reason: AS 39.35.050(a) is repealed in section 75 of the bill. This is a duplicative section regarding the administrator that was replaced with AS 39.35.003 in SB 141.

Sec. 43 AS 39.35.710(b). Clarifies that the retirement plans established by SB 141 are hybrid plans, containing both defined benefits and defined contributions, which fall under the Internal Revenue Code section 414(k).

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

Consequence: If this amendment is not adopted, the IRS may not recognize and apply the special rules of the §414(k) structure which may result in an IRS plan determination failure.

Related bill sections: Sec. 5, AS 14.25.320(b); Sec. 6, AS 14.25.320(c); Sec. 9, AS 14.25.380; Sec. 10, AS 14.25.400(b); Sec. 23, AS 14.25.510; Sec. 44, AS 39.35.710(c); Sec. 47, AS 39.35.780; Sec. 49, AS 39.35.800(b); Sec. 63, AS 39.35.910.

Sec. 44 AS 39.35.710(e). Clarifies that the retirement plans established by SB 141 are hybrid plans, containing both defined benefits and defined contributions, which fall under the Internal Revenue Code section 414(k).

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

Consequence: If this amendment is not adopted, the IRS may not recognize and apply the special rules of the §414(k) structure which may result in an IRS plan determination failure.

Related bill sections: Sec. 5, AS 14.25.320(b); Sec. 6, AS 14.25.320(c); Sec. 9, AS 14.25.380; Sec. 10, AS 14.25.400(b); Sec. 23, AS 14.25.510; Sec. 43, AS 39.35.710(b); Sec. 47, AS 39.35.780; Sec. 49, AS 39.35.800(b); Sec. 63, AS 39.35.910.

Sec. 45 AS 39.35.730(c). Clarifies that any voluntary contributions made by an employee under AS 39.35.730(b) can only be made with pre-tax dollars to the extent permitted under federal law.

Reason: The Internal Revenue Code allows pre-tax contributions only if the employee does not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement plan. This is the case for contributions mandated by statute; however, a voluntary contribution clearly does not meet this test. Under certain restricted arrangements that involve a one-time irrevocable election, the IRS will allow voluntary contributions on a picked-up (pre-tax) basis. This amendment allows the State the flexibility to define such a restricted arrangement in both regulation and in its Private Letter Ruling request.

Related bill sections: Sec. 7, AS 14.25.340(c).

Sec. 46 AS 39.35.750(e). Adds a fund source in statute to pay for the monthly pension that may be elected by a disabled peace officer or fire fighter upon eligibility for normal retirement. Clarifies that the employer contributions for the defined benefits under this subsection (occupational disability, occupational death, and disabled peace officer/fire fighter retirement benefits) will be deposited to a separate trust account.

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

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

Related bill sections: Sec. 8 AS 14.25.350(e); Sec. 55, AS 39.35.890(h).

Sec. 47 AS 39.35.780. Clarifies that only the defined contributions paid into a member's individual account are subject to the limitations of 26 USC 415(c) and not the contributions employers make for the fixed benefits contained in the plans (occupational disability, survivor's pension, etc.). Additionally, the fixed benefits paid to eligible persons are subject to the limitations of §415(b) under the Internal Revenue Code.

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

Consequence: If this amendment is not adopted, the IRS may not recognize and apply the special rules of the §414(k) structure which may result in an IRS plan determination failure.

Related bill sections: Sec. 5, AS 14.25.320(b); Sec. 6, AS 14.25.320(c); Sec. 9, AS 14.25.380; Sec. 10, AS 14.25.400(b); Sec. 23, AS 14.25.510; Sec. 43, AS 39.35.710(b); Sec. 44, AS 39.35.710(c); Sec. 49, AS 39.35.800(b); Sec. 63, AS 39.35.910.

Sec. 48 AS 39.35.790(b). This is a duplicate amendment inserted by mistake. Reference Sec. 53 for correct amendment.

Sec. 49 AS 39.35.800(b). Clarifies that a participant may only direct the investment of the funds held in the participant's individual account by making the distinction between the defined contribution accounts and the fixed benefit accounts established under the plans.

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

Consequence: If this amendment is not adopted, the IRS may not recognize and apply the special rules of the §414(k) structure which may result in an IRS plan determination failure.

Related bill sections: Sec. 5, AS 14.25.320(b); Sec. 6, AS 14.25.320(c); Sec. 9, AS 14.25.380; Sec. 10, AS 14.25.400(b); Sec. 23, AS 14.25.510; Sec. 43, AS 39.35.710(b); Sec. 44, AS 39.35.710(c); Sec. 47, AS 39.35.780; Sec. 63, AS 39.35.910.

Sec. 50 AS 39.35.870(g). Requires a person who originally chose not to participate in the retiree major medical plan, but who later chooses to participate, to provide a letter of continuous coverage or proof of insurability.

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

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

Related bill sections: Sec. 11, AS 14.25.470(g).

Sec. 51 AS 39.35.390(b). Clarifies the termination of a disability benefit when a person no longer meets the requirements to receive occupational disability benefits.

Reason: The intent of an occupational disability benefit is to provide an income for a person who is no longer able to work due to an injury sustained on-the-job. In combination with Sec. 57 of this bill, the amendment makes it clear that if a person is able to perform the duties of another available and comparable position, regardless of employer, then that person no longer meets the requirements to receive occupational disability benefits.

Related bill sections: Sec. 12, AS 14.25.485(b); Sec. 57, AS 39.35.890(l).

Sec. 52 AS 39.35.890(e). Clarifies that a period of disability benefits constitutes membership service in regard to determining eligibility for retirement and medical benefits including the Health Reimbursement Arrangement (HRA).

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

Related bill sections: Sec. 13, AS 14.25.485(e).

Sec. 53 AS 39.35.890(d). Provides that a member who receives disability benefits from the plan is 100% vested in all the employer contributions made to the member's individual account, regardless of years of service worked, once the member is appointed to disability. Clarifies that a member is not entitled to elect distributions from the member's individual account while receiving disability benefits.

Reason: This amendment relates specifically to the continuing employer contributions required under AS 39.35.890(d). 26 USC 415(c)(3)(C) provides special rules that allow the compensation of a disabled member for any year subsequent to the disability to be considered equivalent to the rate of compensation immediately prior to the disability. However, these rules only apply if the contributions are nonforfeitable when made.

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

Consequence: If this amendment is not adopted, the special rules of 26 USC 415(c)(3)(C) would not apply, the member's compensation would be zero for the year following disability, and the allowable contributions would therefore be zero. As a result, the benefits could not be paid in accordance with AS 39.35.890. Also, a disabled member may be able to elect distributions from the member's individual account prior to becoming eligible for normal retirement. This could be regarded as "double dipping," and as thwarting the intent of the legislature to provide a retirement benefit once the disability benefit ends.

Related bill sections: Sec. 14, AS 14.25.485(d); Sec. 20, AS 14.25.487(c); Sec. 60, AS 39.35.892(c).

Sec. 54 AS 39.35.890(g). Clarifies the termination of disability benefits when a disabled member first qualifies for normal retirement.

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

Related bill sections: Sec. 15, AS 14.25.485(g).

Sec. 55 AS 39.35.890(h). Specifies that the monthly pension benefit elected by a disabled peace officer or fire fighter under (2) of this subsection will be paid first from the member's individual account and then from the trust account established under AS 39.35.750(e). Also clarifies that a member who is a peace officer or fire fighter is not entitled to elect distributions from the member's individual account while receiving disability benefits.

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

Consequence: The consequence of not enacting this amendment is that there will be an ambiguity in the statutes regarding the accounts used for payment of these benefits. See also Sec. 53, above.

Related bill sections: Sec. 53, AS 39.35.890(d)

Sec. 56 AS 39.35.890(k). Changes made to this subsection, which is related to the benefits for a survivor of a disabled member who dies while receiving disability benefits, mirror other changes being made to the disability and death statutes throughout this bill. The changes are: (1) clarifies the termination of a survivor's pension; (2) clarifies that a survivor cannot access the member's individual account while receiving a survivor's pension; (3) clarifies the normal retirement benefits available to a survivor; and (4) clarifies that the period of disability benefits and the period of survivor benefits constitute membership service for vesting in employer contributions, and eligibility for medical benefits and the Health Reimbursement Arrangement.

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

Related bills sections: Sec. 16, AS 14.25.485(i); Sec. 52, AS 39.35.890(c); Sec. 59, AS 39.35.892(b); Sec. 60, AS 39.35.892(c); Sec. 61, AS 39.35.892(e).

Sec. 57 AS 39.35.890(l). Clarifies the definition of occupational disability.

Reason: The intent of an occupational disability benefit is to provide an income for a person who is no longer able to work due to an injury sustained on-the-job. This definition is slightly different from the definition under AS 39.35.680. In combination with Sec. 51 of this bill, the amendment makes it clear that if a person is able to perform the duties of another available and comparable position, regardless of employer, then that person no longer meets the requirements to receive occupational disability benefits.

Related bill sections: Sec. 17, AS 14.25.485(j); Sec. 51, AS 39.35.890(b).

Sec. 58 AS 39.35.891. Adds an annual cost-of-living adjustment (COLA) to disability benefits, and to retirement benefits elected by disabled peace officers and fire fighters (P/F) under AS 39.35.890(h)(2), equal to 75% of the increase in the Anchorage Consumer Price Index or 9%, whichever is less.

Reason: This amendment is needed to meet the legislative intent of providing occupational disability and occupational death benefits that are commensurate with those provided to members of PERS Tier III and TRS Tier II.

Consequence: If this amendment is not enacted, occupational disability and occupational death benefits of the new retirement tiers will not be comparable to those under PERS Tier III and TRS Tier II. The monthly disability benefits and monthly P/F retirement benefits will remain static from year to year without adjustment for inflation.

Related bill sections: Sec. 18, AS 14.25.486.

Sec. 59 AS 39.35.892(b). Clarifies the termination of a survivor's pension under the occupational death benefit provisions, including the end of death benefits when a dependent child no longer meets the definition of dependent.

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

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

Related bill sections: Sec. 19, AS 14.25.487(b).

Sec. 60 AS 39.35.892(c). Clarifies that a survivor of a deceased member is not entitled to elect distributions from the member's individual account while receiving survivor benefits. Clarifies that the continuing contributions required by the employer are made on behalf of the surviving spouse and member's dependent children rather than "beneficiaries." Directs all continuing contributions by the employer into the occupational disability and death trust account in accordance with the Internal Revenue Code (IRC).

Reason: The death benefit provides an income, and eventually retirement benefits, for the family of a member who dies in the line of duty. An employer is required to make the same continuing contributions as required for disabled members. The purpose of these contributions would seem to be to accumulate funding for retirement benefits available to the deceased member's surviving spouse once the normal retirement date is reached and death benefits end. However, the beneficiaries of a deceased member are arguably immediately eligible for distributions from the individual contribution account under AS 39.35.810. Additionally, the beneficiaries may not solely be the surviving spouse and or dependent children. The situation is similar to that described under Sec. 53 [AS 39.35.890(d)]. Please see Sec. 61 below for an explanation of the changes required by the IRC.

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

Related bill sections: Sec. 20, AS 14.25.487(c); Sec. 53, AS 39.35.890(d); Sec. 61, AS 39.35.892(e).

Sec. 61 AS 39.35.892(e). Revises the language regarding the continuing contributions employers make on behalf of survivors of members who died occupationally. The contributions will be an actuarially calculated amount required to yield the same results as under SB 141; however, the contributions will be made into the trust account established for occupational disability and death benefits rather than into the member's individual account. The benefits will also be paid from the occupational disability and death trust account. This amendment also clarifies that the period of death benefits constitutes membership service for determining vesting in employer contributions and eligibility for medical benefits and the Health Reimbursement Arrangement.

Reason: Unlike the special rules under 26 USC 415(c)(3)(C) that allow the compensation of a disabled member for any year subsequent to the disability to be considered equivalent to the rate of compensation immediately prior to the disability, there is no corresponding rule for a deceased participant. Thus, there would be no compensation for a deceased member in the year after death and, therefore, no allowable contributions to the deceased member's individual account. The solution this amendment proposes is to make contributions to an account that is allowable under the Internal Revenue Code and add an "additional benefit" that is equal to the amount that would have been contributed to the member's individual account, had the member survived, plus an earnings credit.

Consequence: If this amendment is not adopted, the State will not receive a favorable ruling from the Internal Revenue Service and will not be able to pay the intended retirement benefits to survivors.

Related bill sections: Sec. 21, 14.25.487(c); Sec. 56, AS 39.35.890(k); Sec. 60, AS 39.35.892(c).

Sec. 62 AS 39.35.893. Adds an annual cost-of-living adjustment (COLA) to the survivor's pension benefit equal to 50% of the increase in the Anchorage Consumer Price Index or 6%, whichever is less. Persons who are receiving a survivor's pension who are age 60 or older and persons who have received a survivor's pension for at least 5 years are eligible for the COLA.

AS 39.35.894. Adds a provision that a person whose disability or survivor benefits are terminated due to eligibility for a normal retirement benefit will be treated as if that person is eligible for Medicare, regardless of age, for the purpose of cost-sharing medical premiums with the Plan.

Reason: These amendments are needed to meet the legislative intent of providing occupational disability and occupational death benefits that are commensurate with those provided to members of PERS Tier III and TRS Tier II.

Consequence: If these amendments are not enacted, occupational disability and occupational death benefits of the new retirement tiers will not be comparable to those under PERS Tier III and TRS Tier II. The monthly disability, survivor, and P/F retirement benefits will remain static from year to year without adjustment for inflation. Disabled members and survivors who have not reached the age required for Medicare eligibility when they qualify for a normal retirement benefit will have to pay 100% of the monthly premium for retiree major medical insurance.

Related bill sections: Sec. 22, AS 14.25.488, AS 14.25.489.

Sec. 63 AS 39.35.910. Clarifies that the nonguarantee clause relates only to the defined contribution portion of the retirement plans. The fixed benefits contained under these plans are defined by statute.

Reason: This is one of several conforming amendments necessary to pay all the benefits required in accordance with the intent of SB 141 and the retirement plans contained therein. SB 141 provides both guaranteed fixed benefits for certain eligible persons as well as benefits based upon defined contributions to an individual account, medical benefits, and medical expense reimbursements. This type of plan structure is provided for under 26 USC 414(k) "Certain plans." These changes, in combination with others, are designed to clarify the structure of the new retirement plans in order to successfully obtain a favorable ruling from the IRS.

Consequence: If this amendment is not adopted, the IRS may not recognize and apply the special rules of the §414(k) structure which may result in an IRS plan determination failure.

Related bill sections: Sec. 5, AS 14.25.320(b); Sec. 6, AS 14.25.320(c); Sec. 9, AS 14.25.380; Sec. 10, AS 14.25.400(b); Sec. 23, AS 14.25.510; Sec. 43, AS 39.35.710(b); Sec. 44, AS 39.35.710(c); Sec. 47, AS 39.35.780; Sec. 49, AS 39.35.800(b).

Sec. 64 AS 39.35.940(c). Clarifies that the employer match required under the conversion from the defined benefit plan to the defined contribution plan is subject to Internal Revenue Code contribution limitations. The amendment limits the total employer match to the maximum allowed during the limitation year in which the transfer occurs.

Reason: Because the amount that an employer must match under the conversion option is "new money," it has never been subject to Code limitations. 26 USC 415(e) imposes an annual limit on contributions to a defined contribution plan to the lesser of \$44,000 or 100% of employee compensation. In addition, the contributions of the PERS and TRS defined contribution retirement plans are required to be aggregated with the contributions of the SBS Plan.

Consequence: Contributions above the limitations of §415(e) are not allowable, therefore, any excess contributions must be returned to the employer under federal law.

Related bill sections: Sec. 24, AS 14.25.540(c).

Sec. 65 AS 39.35.940(d). Clarifies that transferred membership from the DB plan to the DCR plan will be applied to vesting in both the employer's matching contribution and subsequent contributions.

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

Related bill sections: Sec. 25, AS 14.25.540(d).

Sec. 66 AS 39.35.940(h). Provides a time limit – 12 months from the date the employer consents to the conversion -- within which an eligible member must make the decision to transfer from the DB plan to the DCR plan.

Reason: Under SB 141, an employer's decision to allow its employees to convert is irrevocable and employees have up until the day before they become vested in the Teachers' Retirement System DB plans to convert. However, a plan does not satisfy the qualifications of a §401(a) plan if it includes a cash or deferred arrangement. Treasury Regulation 1.401(k)-1(a)(3) does provide for certain one-time elections. The Division of Retirement and Benefits has received legal tax counsel that implementing a time limit for the decision-making process would meet the requirements of the Treasury Regulation.

Consequence: Without amendment, the State may not receive a favorable plan ruling. Also, because of the open-ended timeframe, employers that would otherwise benefit from consenting to transfers may make the decision not to consent because of annual budgeting uncertainty.

Related bill sections: Sec. 26, AS 14.25.540(h); Sec. 67, AS 39.35.940(i).

Sec. 67 AS 39.35.940(i). An employer who makes a conversion election will have an initial 12-month window open to its eligible employees for transfer from the DB plan to the DCR plan. At the end of the initial 12-month period, the employer may consent to an additional 12-month period open only to those eligible employees to whom the option was not available during the initial period.

Reason: Allowing an employer to elect to consent to transfers during an additional 12-month period provides the employer with the opportunity to achieve greater cost savings if the employer determines that consenting to additional transfers is beneficial. However, in order to meet the requirements of Treasury Regulation 1.401(k)-1(a)(3) for certain one-time elections, the second period will be limited to those employees who did not have the choice during the initial period. The Division of Retirement and Benefits has received legal tax counsel that this particular arrangement has received favorable rulings by the IRS for other plans.

Consequence: Without amendment, the State may not receive a favorable plan ruling.

Related bill sections: Sec. 27, AS 14.25.540(i); Sec. 66, AS 39.35.940(h).

Sec. 68 AS 39.35.940(j). Adds a definition of "membership service" for purposes of clarifying what service credit is eligible for transfer from the DB plan to the DCR plan and disallows years of service for which contributions have not been fully repaid; i.e., reinstatement of refunded contributions, or indebtedness.

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

Consequence: Without amendment, it is unclear whether full service, partial service, or no service credit associated with an indebtedness should be transferred to the new plan. To allow such service to be transferred would be inconsistent with the current statutory provisions of the DB plan (AS 39.35.350).

Related bill sections: Sec. 28, AS 14.25.540(j).

Sec. 69 AS 39.35.957. Adds a provision for employers to designate classes or groups of employees eligible to participate in (or to be excluded from) the DCR plan. Clarifies that a member of the DB plan will become a member of the DCR plan if employed by an employer that participates only in the DCR plan.

AS 39.35.958. Adds the process by which an employer may terminate participation from the DCR plan and outlines the rights of employees and the costs to the employer upon termination.

Reason: The PERS DB plans have specific statutory guidelines on the process for amending and terminating participation in the PERS. Although a provision for participation was added to the DCR plan, amendment and termination were not.

Consequence: If these amendments are not enacted, there will be no statutory guidelines for amendment and termination of participation in the DCR plan. The Division of Retirement and Benefits will have no basis for making decisions regarding members' rights to medical benefits, including the HRA, if an employer terminates from participation.

Sec. 70 AS 39.35.990(16). Clarifies that "member" and "employee" have the same meaning throughout the PERS DCR statutes and excludes instructors at the Department of Labor and Workforce Development (DLW&D) and the Department of Education and Early Development (DEED) in positions requiring a teacher certificate.

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

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

Sec. 71 AS 39.35.990(20). Provides a clear definition of peace officer and fire under the DCR plan.

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

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

Sec. 72 AS 39.45.055. Adds a provision under the Deferred Compensation program for a member to appeal a decision of the administrator to the Office of Administrative Hearings.

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

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

Related bill sections: Sec. 31, AS 39.30.165, Sec. 32, AS 39.30.335; Sec. 73, AS 44.64.030(a).

Sec. 73 AS 44.64.030(a). Adds the Supplemental Benefit-Annuity Plan, Health Reimbursement Arrangement Plan, Deferred Compensation Plan, and waivers of adjustment under the PERS and TRS defined benefit plans to the jurisdiction of the Office of Administrative Hearings.

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

Related bill sections: Sec. 31, AS 39.30.165; Sec. 32, AS 39.30.335; Sec. 41, AS 39.35.522(a), Sec. 72, AS 39.45.055.

Sec. 74 Sec. 134, ch. 9, FSSLA 2005. Clarifies that the initial FY 2007 employer contribution rates specified in this section for occupational disability and occupational death benefits will be applied only to the payroll base of the members in the DCR plan.

Reason: Technical change to remove any ambiguity in the application of the employer contribution rates.

Sec. 75 AS 14.25.045 and 14.25.570. Repeals participation of National Education Association (NEA) employees in the TRS.

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

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

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

Sec. 76 AS 14.25.070(b) and AS 39.35.270(b). Repeals the requirement enacted in SB 141 that the employer contribution rate must not be less than the normal cost rate retroactive to July 1, 2005.

Reason: These provisions added by SB 141, and effective July 1, 2005, require that an employer's contribution rate may not be less than the normal cost rate. Under the current version of HB 475, the repeal is effective July 1, 2006 (FY 2007). Sec. 79 makes the repeal of these provisions effective for FY 2006.

Related bill sections: Sec. 3, AS 14.25.070(f); Sec. 38, AS 39.35.270(d); Sec. 79; Sec. 80.

Sec. 77 AS 39.35.375(f). This subsection relates to reinstating service associated with refunded contributions for obtaining a public service benefit.

Reason: With the change to the public service benefit under AS 39.35.375(a) – see Sec. 39 - this subsection will have no applicable meaning beginning July 1, 2010.

Sec. 78 **Uncodified law.** Establishes an initial contribution rate for TRS employers to fund occupational disability and death benefits during the first fiscal year of the DCR plan (FY 2007).

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

Consequence: If this section, in combination with Sec. 8 of this bill, is not enacted, there will be no funding source from which to pay TRS occupational disability and death benefits. If Sec. 8 is enacted but not this section, implementation of a cost rate for this benefit, and contributions to the plan, may be delayed until the ARMB can request a calculation by the actuary and approve a contribution rate.

Related bill sections: Sec. 8, AS 14.25.350(e).

Sec. 79 Retroactivity clause for section 76. July 1, 2005.

Sec. 80 Effective date for sections 3 and 38. July 1, 2008.

Sec. 81 Effective date for sections 4, 39, and 40. July 1, 2010.

Sec. 82 Immediate effective date for sections 76 and 79. AS 01.10.070(c).

Sec. 83 Effective date remainder of bill. July 1, 2006.

24-LS1685L

Wayne
4/10/06

replaced 4/12 By 15

CS FOR HOUSE BILL NO. 475()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVE SEATON

A BILL

FOR AN ACT ENTITLED

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

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

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

4 * Section 1. AS 14.25.070(a) is amended to read:

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

16 * Sec. 2. AS 14.25.070 is amended by adding new subsections to read:

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

23 (e) In (a) of this section, "past service rate" means the percentage of
24 compensation of all active members in the system necessary to provide the annual
25 amount required to amortize the unfunded obligations of the employers for benefits
26 earned by members in the plan before the date of the last actuarial valuation over a
27 period not to exceed the maximum period allowed by generally accepted accounting
28 principles of the Governmental Accounting Standards Board. This percentage is
29 uniformly determined for all employers and is applicable to each employer.

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

1 (f) The employer contribution rate may not be less than the rate required, after
2 subtracting the member contribution rate, to fully fund the actuarially calculated
3 benefits expected to be earned by active members during the fiscal year.

4 * Sec. 4. AS 14.25.125(c) is amended to read:

5 (c) Membership service for which contributions were refunded is not
6 creditable under this section [UNLESS THE REFUNDED CONTRIBUTIONS HAVE
7 BEEN REPAID. FOR PURPOSES OF THIS SECTION, A MEMBER OR FORMER
8 MEMBER DOES NOT HAVE TO BE REEMPLOYED UNDER THIS PLAN IN
9 ORDER TO REPAY REFUNDED CONTRIBUTIONS. COMPOUND INTEREST
10 AT THE RATE PRESCRIBED BY REGULATION MUST BE ADDED TO THE
11 REINSTATEMENT INDEBTEDNESS FROM THE DATE OF THE REFUND TO
12 THE DATE OF REPAYMENT].

13 * Sec. 5. AS 14.25.320(b), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

14 (b) The defined contribution retirement plan includes a plan in which savings
15 are accumulated in an individual account for the exclusive benefit of the member or
16 beneficiaries, and certain fixed occupational death and disability benefits are
17 paid. The plan is established effective July 1, 2006, at which time contributions by
18 employers and members begin.

19 * Sec. 6. AS 14.25.320(c), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

20 (c) The defined contribution retirement plan is intended to qualify under 26
21 U.S.C. 401(a), [AND] 414(d), and 414(k) (Internal Revenue Code) as a qualified
22 retirement plan established and maintained by the state for its employees and for the
23 employees of school districts and regional educational attendance areas in the state.

24 * Sec. 7. AS 14.25.340(e), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

25 (e) The employer shall deduct the contribution from the member's
26 compensation at the end of each payroll period, and the contribution shall be credited
27 by the administrator to the member's individual account. To the extent permitted by
28 federal law, the [THE] contributions shall be deducted from the member's
29 compensation before the computation of applicable federal taxes and shall be treated
30 as employer contributions under 26 U.S.C. 414(a)(2). A member may not have the
31 option of making the payroll deduction directly in cash instead of having the

1 contribution picked up by the employer.

2 * **Sec. 8.** AS 14.25.350, as enacted by sec. 35, ch. 9, FSSLA 2005, is amended by adding a
3 new subsection to read:

4 (e) An employer shall make annual contributions to a trust account in the plan,
5 applied as a percentage of each member's compensation from July 1 to the following
6 June 30, in an amount determined by the board to be actuarially required to fully fund
7 the cost of providing occupational disability and occupational death benefits under
8 AS 14.25.485 and 14.25.487.

9 * **Sec. 9.** AS 14.25.380, as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

10 **Sec. 14.25.380. Limitations on contributions and benefits.** Notwithstanding
11 any other provisions of this plan, the annual additions to each member's individual
12 account under this plan and under all defined contribution plans of the employer
13 required to be aggregated with the contributions from this plan under the provisions of
14 26 U.S.C. 415 may not exceed, for any limitation year, the amount permitted under 26
15 U.S.C. 415(c) at any time. If the amount of a member's individual account
16 [DEFINED CONTRIBUTION PLAN] contributions exceeds the limitation of 26
17 U.S.C. 415(c) for any limitation year, the administrator shall take any necessary
18 remedial action to correct an excess contribution. A fixed benefit provided under
19 this plan may not exceed, for or during a limitation year, the amount permitted
20 under 26 U.S.C. 415(b). If a fixed benefit provided under this plan exceeds, for or
21 during a limitation year, the amount permitted under 26 U.S.C. 415(b), the
22 administrator shall take remedial action necessary to comply with the limits on
23 the benefit amount in 26 U.S.C. 415(b). The provisions of 26 U.S.C. 415, and the
24 regulations adopted under that statute, as applied to qualified [DEFINED
25 CONTRIBUTION] plans of governmental employees are incorporated as part of the
26 terms and conditions of the plan.

27 * **Sec. 10.** AS 14.25.400(b), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

28 (b) A participant may direct investment of plan funds held in an individual
29 account among available investment funds in accordance with rules established by the
30 board.

31 * **Sec. 11.** AS 14.25.470(g), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

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

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

12 (b) The occupational disability benefits accrue beginning the first day of the
13 month following termination of employment as a result of the disability and are
14 payable the last day of the month. If a final determination granting the benefit is not
15 made in time to pay the benefit when due, a retroactive payment shall be made to
16 cover the period of deferment. The last payment shall be for the first month in which
17 the disabled member

18 (1) dies;

19 (2) recovers from the disability;

20 (3) fails to meet the requirements under (f), (h), or (j) [(h)] of this
21 section; or

22 (4) reaches normal retirement age.

23 * Sec. 13. AS 14.25.485(c), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

24 (c) If the disabled member becomes ineligible to receive occupational
25 disability benefits before the normal retirement date, the disabled member shall then
26 be entitled to receive retirement benefits if the member would have been eligible for
27 the benefit had employment continued during the period of disability. The period of
28 disability constitutes membership service for the purposes of [IN REGARD TO]
29 determining eligibility for retirement and medical benefits under this chapter and
30 AS 39.30.300 - 39.30.495.

31 * Sec. 14. AS 14.25.485(d), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

1 (d) The monthly amount of an occupational disability benefit is 40 percent of
2 the disabled member's gross monthly compensation at the time of termination due to
3 disability. Notwithstanding AS 14.25.390(b), at the time a member is appointed to
4 disability, the member becomes fully vested in the employer contributions made
5 under AS 14.25.350(a). A disabled member is fully vested in the contributions to
6 the member's individual account made under this subsection. A member is not
7 entitled to elect distributions from the member's individual contribution account
8 under AS 14.25.410 while the member is receiving disability benefits under this
9 section. While a member is receiving disability benefits, based on the disabled
10 member's gross monthly compensation at the time of termination due to disability, the
11 employer shall make contributions to the

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

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

16 * Sec. 15. AS 14.25.485(g), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

17 (g) A disabled member's occupational disability benefit terminates the last
18 day of the month following the date [WHEN] the disabled member first qualifies
19 [ATTAINS ELIGIBILITY] for normal retirement. At that time, the member's
20 retirement benefit shall be determined under the provisions of AS 14.25.420 -
21 14.25.440, 14.25.470, and 14.25.480. A member whose occupational disability
22 benefit terminates under this subsection [RECEIVING DISABILITY BENEFITS
23 UP UNTIL ELIGIBILITY FOR RETIREMENT] shall be considered to have retired
24 directly from the plan.

25 * Sec. 16. AS 14.25.485(i), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

26 (i) Upon the death of a disabled member who is receiving or is entitled to
27 receive an occupational disability benefit, the administrator shall pay the surviving
28 spouse a surviving spouse's pension, equal to 40 percent of the member's monthly
29 compensation at the termination of employment because of occupational disability. If
30 there is no surviving spouse, the administrator shall pay the survivor's pension in equal
31 parts to the dependent children of the member. While the monthly survivor's

1 pension is being paid, the survivor is not entitled to elect distributions from the
2 employee's individual contribution account under AS 14.25.410. The first payment
3 of the surviving spouse's pension or of a dependent child's pension shall accrue from
4 the first day of the month following the member's death and is payable the last day of
5 the month. The last payment shall be made the last day of [FOR] the last month in
6 which there is an eligible surviving spouse or dependent child, or the last day of the
7 month following the earliest date the member would have first qualified for
8 normal retirement if the member had survived, whichever day comes sooner. A
9 retirement benefit shall be determined under the provisions of AS 14.25.420 -
10 14.25.440, 14.25.470, and 14.25.480 based on [. ON] the date the member would
11 have first qualified for normal retirement [OF THE MEMBER WOULD HAVE
12 OCCURRED] if the member had survived. In addition to the payment of the
13 member's individual account, the surviving spouse or, if there is no surviving
14 spouse, the surviving dependent children of the member, shall receive an
15 additional benefit equal to the actuarial value of an amount equal to the
16 contributions that would have been made to the deceased member's individual
17 account under AS 14.25.340(a) and 14.25.350(a), based on the deceased member's
18 gross monthly compensation at the time of occupational disability, from the time
19 of the member's death to the date the member would have first qualified for
20 normal retirement if the member had survived. Earnings shall be allocated to the
21 additional benefit calculated under this subsection based on the actual rate of
22 return, net of expenses, of the trust account established under AS 14.25.350(e)
23 over the period that the contributions would have been made. This additional
24 amount shall be paid in the same manner as determined for the member's
25 individual account under AS 14.25.420 - 14.25.460. For the purpose of
26 determining eligibility of a survivor who is receiving a benefit under this
27 subsection for medical benefits under AS 14.25.470 - 14.25.480, a [LIVED, THE
28 RETIREMENT BENEFIT SHALL BE DETERMINED UNDER THE PROVISIONS
29 OF AS 14.25.420 - 14.25.440, 14.25.470, AND 14.25.480. A] member who died
30 while receiving disability benefits shall be considered to have retired directly from the
31 plan on the date the member would have first qualified for normal retirement [OF

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

8 * Sec. 17. AS 14.25.485(j), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

9 (j) In this section, "occupational disability" means a physical or mental
 10 condition that the administrator determines presumably permanently prevents
 11 an employee from satisfactorily performing the employee's usual duties for an
 12 employer or the duties of another comparable position or job available to the
 13 employee and for which the employee is qualified by training or education;
 14 however, the proximate cause of the condition must be a bodily injury sustained,
 15 or a hazard undergone, while in the performance and within the scope of the
 16 employee's duties and not the proximate result of the wilful negligence of the
 17 employee [HAS THE MEANING GIVEN IN AS 39.35.680].

18 * Sec. 18. AS 14.25 is amended by adding a new section to read:

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

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

28 (c) An increase in benefit payments under this section is effective July 1 of
 29 each year and is based on the percentage increase in the Consumer Price Index for
 30 urban wage earners and clerical workers for Anchorage, Alaska, during the previous
 31 calendar year, as determined by the United States Department of Labor, Bureau of

1 Labor Statistics.

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

5 * Sec. 19. AS 14.25.487(b), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

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

13 * Sec. 20. AS 14.25.487(c), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

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

23 [(1) TO THE MEMBER'S INDIVIDUAL ACCOUNT UNDER
24 AS 14.25.340, WITHOUT DEDUCTION FROM THE SURVIVOR'S PENSION;
25 AND

26 (2)] to the appropriate accounts and funds [ON BEHALF OF THE
27 MEMBER] under AS 14.25.350**(b) - (e)**.

28 * Sec. 21. AS 14.25.487(e), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

29 (e) On the date the member would have first qualified for normal retirement
30 [OF THE MEMBER WOULD HAVE OCCURRED] if the member had survived
31 [LIVED], the retirement benefit shall be determined under the provisions of

1 AS 14.25.420 - 14.25.440, 14.25.470, and 14.25.480. In addition to payment of
2 benefits from the member's individual account, from the time of the member's
3 death, the date the member would have first qualified for normal retirement if
4 the member had survived, the surviving spouse or, if there is no surviving spouse,
5 the surviving dependent children of the member, shall receive an additional
6 benefit equal to the actuarial value of an amount equal to the contributions that
7 would have been made to the deceased member's individual account under
8 AS 14.25.340(a) and 14.25.350(a), based on the deceased member's gross monthly
9 compensation at the time of the member's occupational death. Earnings shall be
10 allocated to the additional benefit calculated under this subsection based on the
11 actual rate of return, net of expenses, of the trust account established under
12 AS 14.25.350(e) over the period that the contributions would have been made.
13 This additional amount shall be paid in the same manner as determined for the
14 member's individual account under AS 14.25.420 - 14.25.460. A member who died
15 and whose survivors receive occupational death benefits under this section shall be
16 considered to have retired directly from the plan on the date the [NORMAL
17 RETIREMENT OF THE] member would have first qualified for normal retirement
18 [OCCURRED] if the member had survived. The period of time during which a
19 survivor's pension is paid under this section constitutes membership service for
20 the purposes of determining vesting in employer contributions under
21 AS 14.25.390(b) and eligibility for retirement and medical benefits under this
22 chapter and AS 39.30.300 - 39.30.495 [LIVED].

23 * Sec. 22. AS 14.25 is amended by adding new sections to read:

24 Sec. 14.25.488. **Survivor's pension adjustment.** (a) Once each year, the
25 administrator shall increase payments to a person 60 years of age or older receiving a
26 survivor's pension under AS 14.25.485(i) or 14.25.487(c) and to a person who has
27 received a survivor's pension under AS 14.25.485(i) or 14.25.487(c) for at least eight
28 years, who is not otherwise eligible for an increase under this section.

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

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

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

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

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

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

26 * **Sec. 23.** AS 14.25.510, as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

27 **Sec. 14.25.510. Nonguarantee of returns, rates, or benefit amounts.** The
28 plan created by AS 14.25.510 - 14.25.590 is, with respect to individual accounts,
29 treated as a defined contribution plan and [PLAN.] not a defined benefit plan. The
30 amount of money in the individual account of a participant depends on the amount of
31 contributions and the rate of return from investments of the account that varies over

1 time. If benefits are paid in the form of an annuity, the benefit amount payable is
2 dependent on the amount of money in the account and the interest rates applied and
3 service fees charged by the annuity payor at the time the annuity is purchased from
4 the carrier and benefits are first paid. Nothing in this plan guarantees a participant

5 (1) a rate of return or interest rate other than that actually earned by the
6 account of the participant, less applicable administrative expenses; or

7 (2) an annuity based on interest rates or service charges other than
8 interest rates available from and service charges by the annuity payor in effect at the
9 time the annuity is paid.

10 * Sec. 24. AS 14.25.540(c), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

11 (c) Each eligible member who elects to participate in the defined contribution
12 retirement plan shall have transferred to a new account the member contribution
13 account balance held in trust for the member under the defined benefit retirement plan
14 of the teachers' retirement system. A matching employer contribution shall be made on
15 behalf of that employee to the new account. The employer shall make the matching
16 contribution from funds other than the trust funds of the defined benefit retirement
17 plan. The amount of the matching employer contribution shall be subject to, and
18 may not exceed, the limitation of 26 U.S.C. 415(c) during the applicable limitation
19 year in which the contribution is made.

20 * Sec. 25. AS 14.25.540(d), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

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

29 * Sec. 26. AS 14.25.540(h), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

30 (h) A member who is eligible to elect transfer to the defined contribution
31 plan must make the election not later than 12 months after the member's

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

20 * **Sec. 27.** AS 14.25.540(i), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended to read:

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

1 retirement plan under this section. The second period commences on the first day
2 of the month following the end of the initial period and continues for 12 months.

3 An employer's initial notice to allow transfers is irrevocable and applicable to all
4 eligible employees of the employer. An employer's second notice to allow transfers
5 under this section is irrevocable and applicable only to those eligible employees to
6 whom the initial period of transfer was not available.

7 * Sec. 28. AS 14.25.540(j), as enacted by sec. 35, ch. 9, FSSLA 2005, is amended by adding
8 a new paragraph to read:

9 (3) "membership service" has the meaning given in AS 14.25.220 and
10 does not include any service for which reinstatement indebtedness has not been fully
11 paid.

12 * Sec. 29. AS 39.30.160(a) is amended to read:

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

- 18 (1) supplemental health benefits;
- 19 (2) supplemental death benefits;
- 20 (3) supplemental disability benefits; and
- 21 (4) supplemental dependent care benefits.

22 * Sec. 30. AS 39.30.160(e) is amended to read:

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

26 * Sec. 31. AS 39.30 is amended by adding a new section to read:

27 Sec. 39.30.165. Appeals. A final decision made under AS 39.30.150 -
28 39.30.180 is subject to appeal under AS 44.64.

29 * Sec. 32. AS 39.30 is amended by adding a new section to read:

30 Sec. 39.30.335. Appeals. A final decision made under AS 39.30.300 -
31 39.30.495 is subject to appeal under AS 44.64.

1 * **Sec. 33.** AS 39.30.370, as enacted by sec. 80, ch. 9, FSSLA 2005, is amended to read:

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

10 * **Sec. 34.** AS 39.30.380, as enacted by sec. 80, ch. 9, FSSLA 2005, is amended to read:

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

21 * **Sec. 35.** AS 39.30.390, as enacted by sec. 80, ch. 9, FSSLA 2005, is amended to read:

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

29 * **Sec. 36.** AS 39.35.250 is amended to read:

30 **Sec. 39.35.250. Calculation of employer's contribution rate.** (a) An
31 employer shall make contributions to the plan in amounts determined in accordance

1 with this section. For the purposes of this section and AS 39.35.270, the [PAST
2 SERVICE DATE FOR EACH EMPLOYER IS THE ENTRY DATE OF THE
3 EMPLOYER OR DECEMBER 31, 1972, WHICHEVER IS LATER. AFTER
4 DECEMBER 31, 1972, IF AMENDMENTS TO AS 39.35.095 - 39.35.680 ARE
5 ENACTED THAT SUBSTANTIALLY AFFECT BENEFITS ACCRUED BEFORE
6 THE EFFECTIVE DATE OF THE AMENDMENT, THE PAST SERVICE DATE
7 WILL BE CHANGED TO DECEMBER 31 OF THE YEAR IMMEDIATELY
8 PRECEDING THAT IN WHICH THE AMENDMENT IS ENACTED. THE]
9 contribution rate is the sum of the consolidated employer normal cost rate and the
10 past service rate as certified by the board.

11 (b) In (a) of this section, "consolidated employer normal cost rate" means the
12 percentage of compensation of all active employees in the plan which, [IF PAID
13 OVER THE PERIOD OF THEIR CREDITED SERVICE AFTER THEIR PAST
14 SERVICE DATE AND] when combined with all employee contributions to the plan,
15 is sufficient to provide the benefits earned during the year beginning after the last
16 valuation date [AFTER SUCH PAST SERVICE DATES]. This percentage is
17 [UNIFORMLY] determined at the plan level for all employers and is applicable to
18 each employer.

19 (c) In (a) of this section, "past service rate" means the percentage of
20 compensation of all active employees in the system [PLAN] necessary to provide the
21 annual amount required to amortize the unfunded obligations of the employer for
22 benefits earned by the employer's members in the plan before the date of the last
23 actuarial valuation [EMPLOYER'S PAST SERVICE DATE] over a period not to
24 exceed the maximum allowed by generally accepted accounting principles of the
25 Governmental Accounting Standards Board [40 YEARS. THE PERIOD OF
26 AMORTIZATION BEGINS AT THE PAST SERVICE DATE OF EACH
27 EMPLOYER]. The percentage is separately determined for each employer.

28 * Sec. 37, AS 39.35.270(a) is amended to read:

29 (a) The amount of each employer's contributions shall be determined by
30 applying the consolidated employer normal cost [EMPLOYER'S
31 CONTRIBUTION] rate [AS CERTIFIED BY THE BOARD.] to the total

1 compensation paid to the employer's active employees of the plan and by applying
 2 the employer's past service rate to the total compensation paid to the employer's
 3 active employees in the system [EMPLOYER] for each payroll period, [AND BY]
 4 including any adjustments to contributions required by AS 39.35.520(a). This amount
 5 shall be remitted by the employer to the administrator in accordance with
 6 AS 39.35.610.

7 * **Sec. 38.** AS 39.35.270 is amended by adding a new subsection to read:

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

11 * **Sec. 39.** AS 39.35.375(a) is amended to read:

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

24 * **Sec. 40.** AS 39.35.385(e) is amended to read:

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

1 REFUND TO THE DATE OF REPAYMENT].

2 * Sec. 41. AS 39.35.522(d) is amended to read:

3 (d) A ruling of the [THE] commissioner of administration denying a waiver
4 under this section may be appealed under AS 44.64. The administrative law
5 judge may reverse the ruling of the commissioner and may impose equitable
6 conditions on the granting of a waiver [WHICH IT CONSIDERS EQUITABLE].
7 These conditions may include requiring the member or beneficiary to make additional
8 contributions to the plan.

9 * Sec. 42. AS 39.35.680(3) is amended to read:

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

13 * Sec. 43. AS 39.35.710(b), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

14 (b) The defined contribution retirement plan includes [IS] a plan in which
15 savings are accumulated in an individual retirement account for the exclusive benefit
16 of the member or beneficiaries, certain fixed occupational death and disability
17 benefit* are paid, and certain fixed retirement and survivor benefits for peace
18 officers and fire fighters are paid. The plan is established effective July 1, 2006, at
19 which time contributions by employers and members begin.

20 * Sec. 44. AS 39.35.710(e), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

21 (e) The retirement plan established by AS 39.35.700 - 39.35.990 is intended to
22 qualify under 26 U.S.C. 401(a), [AND] 414(d), and 414(k) (Internal Revenue Code)
23 as a qualified retirement plan established and maintained by the state for its
24 employees, for the employees of political subdivisions, public corporations, and public
25 organizations of the state, and for the employees of other employers whose
26 participation is authorized by AS 39.35.700 - 39.35.990 and who participate in the
27 plan set out in AS 39.35.700 - 39.35.990.

28 * Sec. 45. AS 39.35.730(c), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

29 (c) The employer shall deduct the contribution from the member's
30 compensation at the end of each payroll period, and the contribution shall be credited
31 by the plan to the member's individual account, To the extent permitted by federal

1 law, the [THE] contributions shall be deducted from the member's compensation
2 before the computation of applicable federal taxes and shall be treated as employer
3 contributions under 26 U.S.C. 414(h)(2). A member may not have the option of
4 making the payroll deduction directly in cash instead of having the contribution picked
5 up by the employer.

6 * **Sec. 46.** AS 39.35.750(e), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

7 (e) An employer shall make annual contributions to a trust account in the
8 plan, applied as a percentage of each member's compensation from July 1 to the
9 following June 30, in an amount determined by the board to be actuarially required to
10 fully fund the cost of providing occupational disability and occupational death benefits
11 under AS 39.35.890 and 39.35.892 and retirement benefits elected by disabled
12 peace officers and fire fighters under AS 39.35.890(1)(2). The contribution required
13 under this subsection for peace officers and fire fighters and the contribution required
14 under this subsection for other employees shall be separately calculated based on the
15 actuarially calculated costs for each group of employees.

16 * **Sec. 47.** AS 39.35.780, as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

17 **Sec. 39.35.780. Limitations on contributions and benefits.** Notwithstanding
18 any other provisions of this plan, the annual additions to each member's individual
19 account under this plan and under all defined contribution plans of the employer
20 required to be aggregated with the contributions from this plan under the provisions of
21 26 U.S.C. 415 may not exceed, for any limitation year, the amount permitted under 26
22 U.S.C. 415(e) at any time. If the amount of a member's individual account
23 [DEFINED CONTRIBUTION PLAN] contributions exceeds the limitation of 26
24 U.S.C. 415(e) for any limitation year, the administrator shall take any necessary
25 remedial action to correct an excess contribution. A fixed benefit provided under
26 this plan may not exceed, for or during a limitation year, the amount permitted
27 under 26 U.S.C. 415(b). If a fixed benefit provided under this plan exceeds, for or
28 during a limitation year, the amount permitted under 26 U.S.C. 415(b), the
29 administrator shall take remedial action necessary to comply with the limits on
30 the benefit amount in 26 U.S.C. 415(b). The provisions of 26 U.S.C. 415, and the
31 regulations adopted under that statute, as applied to qualified [DEFINED

1 CONTRIBUTION] plans of governmental employees are incorporated as part of the
2 terms and conditions of the plan.

3 * Sec. 48. AS 39.35.790(b), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

4 (b) A member shall be fully vested in the employer contributions made on that
5 member's behalf, and related earnings, after five years of service. A member shall be
6 fully vested in the employer contributions made on that member's behalf to that
7 member's individual account, and related earnings, under AS 39.35.890(d)(1). A
8 member is partially vested in the employer contributions made on that member's
9 behalf, and the related earnings, in the ratio of

10 (1) 25 percent with two years of service;

11 (2) 50 percent with three years of service; and

12 (3) 75 percent with four years of service.

13 * Sec. 49. AS 39.35.800(b), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

14 (b) A participant may direct investment of plan funds held in an individual
15 account among available investment funds in accordance with rules established by the
16 board.

17 * Sec. 50. AS 39.35.870(g), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

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

28 * Sec. 51. AS 39.35.890(b), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

29 (b) The occupational disability benefits accrue beginning the first day of the
30 month following termination of employment as a result of the disability and are
31 payable the last day of the month. If a final determination granting the benefit is not

1 made in time to pay the benefit when due, a retroactive payment shall be made to
2 cover the period of deferment. The last payment shall be for the first month in which
3 the disabled employee

4 (1) dies;

5 (2) recovers from the disability;

6 (3) fails to meet the requirements under (f), (j), or (l) [(j)] of this
7 section; or

8 (4) reaches normal retirement age.

9 * **Sec. 52.** AS 39.35.890(c), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

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

17 * **Sec. 53.** AS 39.35.890(d), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

18 (d) The monthly amount of an occupational disability benefit is 40 percent of
19 the disabled employee's gross monthly compensation at the time of termination due to
20 disability. Notwithstanding AS 39.35.790(b), at the time a member is appointed to
21 disability, the member becomes fully vested in the employer contributions made
22 under AS 39.35.750(a). A disabled member is fully vested in the contributions to
23 the member's individual account made under this subsection. An employee is not
24 entitled to elect distributions from the employee's individual contribution
25 account under AS 39.35.810 while the employee is receiving disability benefits
26 under this section. While an employee is receiving disability benefits, based on the
27 disabled employee's gross monthly compensation at the time of termination due to
28 disability, the employer shall make contributions

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

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

1 * Sec. 54. AS 39.35.890(g), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

2 (g) A disabled employee's occupational disability benefit terminates the last
3 day of the month [WHEN] the disabled employee first qualifies [ATTAINS
4 ELIGIBILITY] for normal retirement. At that time, the employee's retirement benefit
5 shall be determined under the provisions of AS 39.35.820 - 39.35.840, 39.35.870, and
6 39.35.880. An employee whose occupational disability benefit terminates under
7 this subsection [RECEIVING DISABILITY BENEFITS UP UNTIL ELIGIBILITY
8 FOR RETIREMENT] shall be considered to have retired directly from the plan.

9 * Sec. 55. AS 39.35.890(h), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

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

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

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

25 * Sec. 56. AS 39.35.890(k), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

26 (k) Upon the death of a disabled employee who is receiving or is entitled to
27 receive an occupational disability benefit, the administrator shall pay the surviving
28 spouse a surviving spouse's pension, equal to 40 percent of the employee's monthly
29 compensation at the termination of employment because of occupational disability. If
30 there is no surviving spouse, the administrator shall pay the survivor's pension in equal
31 parts to the dependent children of the employee. While the monthly survivor's

1 pension is being paid, the survivor is not entitled to elect distributions from the
2 employee's individual contribution account under AS 39.35.810. The first payment
3 of the surviving spouse's pension or of a dependent child's pension shall accrue from
4 the first day of the month following the employee's death and is payable the last day of
5 the month. The last payment shall be made the last day of [FOR] the last month in
6 which there is an eligible surviving spouse or dependent child, or the last day of the
7 month following the earliest date the employee would have first qualified for
8 normal retirement if the employee had survived, whichever day comes sooner. A
9 retirement benefit shall be determined under the provisions of AS 39.35.820 -
10 39.35.840, 39.35.870, and 39.35.880 based on [. ON] the date the employee would
11 have first qualified for normal retirement [OF THE EMPLOYEE WOULD HAVE
12 OCCURRED] if the employee had survived. In addition to payment of benefits
13 from the member's individual account, from the time of the member's death, the
14 date the member would have first qualified for normal retirement if the member
15 had survived, the surviving spouse or, if there is no surviving spouse, the
16 surviving dependent children of the member, shall receive an additional benefit
17 equal to the actuarial value of an amount equal to the contributions that would
18 have been made to the deceased member's individual account under
19 AS 39.35.730(a) and 39.35.750(a), based on the deceased member's gross monthly
20 compensation at the time of occupational disability. Earnings shall be allocated to
21 the additional benefit calculated under this subsection based on the actual rate of
22 return, net of expenses, of the trust account established under AS 39.35.750(e)
23 over the period that the contributions would have been made. This additional
24 amount shall be paid in the same manner as determined for the member's
25 individual account under AS 39.35.820 - 39.35.860. For the purpose of
26 determining eligibility of an employee's survivor who is receiving a benefit under
27 this subsection for medical benefits under AS 39.35.870 - 39.35.880, an employee
28 [LIVED, THE RETIREMENT BENEFIT SHALL BE DETERMINED UNDER THE
29 PROVISIONS OF AS 39.35.820 - 39.35.840, 39.35.870, AND 39.35.880. AN
30 EMPLOYEE] who died while receiving disability benefits shall be considered to have
31 retired directly from the plan on the date the employee would have first qualified for

1 normal retirement if the employee had survived. The period during which the
2 employee was eligible for a disability benefit and the period during which a
3 survivor's pension is paid to a survivor under this subsection each constitute
4 membership service for the purposes of determining vesting in employer
5 contributions under AS 39.35.790(b) and eligibility for retirement and medical
6 benefits under this chapter and AS 39.30.300 - 39.30.495 [NORMAL
7 RETIREMENT OF THE EMPLOYEE WOULD HAVE OCCURRED IF THE
8 EMPLOYEE HAD LIVED].

9 * **Sec. 57.** AS 39.35.890(*l*), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

10 (*l*) In this section, "occupational disability" means a physical or mental
11 condition that the administrator determines presumably permanently prevents
12 an employee from satisfactorily performing the employee's usual duties for an
13 employer or the duties of another comparable position or job available to the
14 employee and for which the employee is qualified by training or education;
15 however, the proximate cause of the condition must be a bodily injury sustained,
16 or a hazard undergone, while in the performance and within the scope of the
17 employee's duties and not the proximate result of the wilful negligence of the
18 employee [HAS THE MEANING GIVEN IN AS 39.35.680].

19 * **Sec. 58.** AS 39.35 is amended by adding a new section to read:

20 **Sec. 39.35.891. Disability benefit and disabled peace officer or fire fighter**
21 **retirement benefit adjustment.** (a) Once each year, the administrator shall increase
22 disability benefits and retirement benefits elected by disabled peace officers or fire
23 fighters under AS 39.35.890(h)(2). The amount of the increase is a percentage of the
24 current disability benefit or retirement benefit equal to the lesser of 75 percent of the
25 increase in the cost of living in the preceding calendar year or nine percent.

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

31 (c) If a disabled peace officer or fire fighter elects to receive a retirement

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

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

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

15 * **Sec. 59.** AS 39.35.892(b), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

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

24 * **Sec. 60.** AS 39.35.892(c), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

25 (c) The monthly survivor's pension in (b) of this section for survivors of
26 employees who were not peace officers or fire fighters is 40 percent of the employee's
27 monthly compensation in the month in which the employee dies. The monthly
28 survivor's pension in (b) of this section for survivors of employees who were peace
29 officers or fire fighters is 50 percent of the monthly compensation in the month in
30 which the employee dies. While the monthly survivor's pension is being paid, the
31 survivor is not entitled to elect distributions from the employee's individual

1 contribution account under AS 39.35.810, except as required by AS 39.35.840.

2 While the monthly survivor's pension is being paid, the employer shall make
3 contributions on behalf of the employee's surviving spouse and employee's
4 surviving dependent children [BENEFICIARIES] based on the deceased employee's
5 gross monthly compensation at the time of occupational death

6 (1) TO THE EMPLOYEE'S INDIVIDUAL ACCOUNT UNDER
7 AS 39.35.730, WITHOUT DEDUCTION FROM THE SURVIVOR'S PENSION;
8 AND

9 (2) to the appropriate accounts and funds under AS 39.35.750(b) - (e).

10 * Sec. 61. AS 39.35.892(e), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

11 (e) On the date the employee would have first qualified for normal
12 retirement [OF THE EMPLOYEE WOULD HAVE OCCURRED] if the employee
13 had survived [LIVED], the retirement benefit shall be determined under the
14 provisions of AS 39.35.820 - 39.35.840, 39.35.870, and 39.35.880. In addition to
15 payment of benefits from the member's individual account, from the time of the
16 member's death, the date the member would have first qualified for normal
17 retirement if the member had survived, the surviving spouse or, if there is no
18 surviving spouse, the surviving dependent children of the member, shall receive
19 an additional benefit equal to the actuarial value of an amount equal to the
20 contributions that would have been made to the deceased member's individual
21 account under AS 39.35.730(a) and AS 39.35.750(a), based on the deceased
22 member's gross monthly compensation at the time of occupational death.
23 Earnings shall be allocated to the additional benefit calculated under this
24 subsection based on the actual rate of return, net of expenses, of the trust account
25 established under AS 39.35.750(e) over the period that such contributions would
26 have been made. This additional amount shall be paid in the same manner as
27 determined for the member's individual account under AS 39.35.820 - 39.35.860.
28 An employee who died and whose survivors receive occupational death benefits under
29 this section shall be considered to have retired directly from the plan on the date the
30 [NORMAL RETIREMENT OF THE] employee would have first qualified for
31 normal retirement [OCCURRED] if the employee had survived. The period of time

1 during which a survivor's pension is paid under this section constitutes
2 membership service for the purposes of determining vesting in employer
3 contributions under AS 39.35.790(b) and eligibility for retirement and medical
4 benefits under this chapter and AS 39.30.300 - 39.30.495 [LIVED].

5 * Sec. 62. AS 39.35 is amended by adding new sections to read:

6 **Sec. 39.35.893. Survivor's pension adjustment.** (a) Once each year, the
7 administrator shall increase payments to a person 60 years of age or older receiving a
8 survivor's pension under AS 39.35.890(k) or 39.35.892(c) and to a person who has
9 received a survivor's pension under AS 39.35.890(k) or 39.35.892(c) for at least five
10 years, who is not otherwise eligible for an increase under this section.

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

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

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

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

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

31 **Sec. 39.35.894. Premiums for retiree major medical insurance coverage**

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

8 * **Sec. 63.** AS 39.35.910, as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

9 **Sec. 39.35.910. Nonguarantee of returns, rates, or benefit amounts.** The
10 plan created by AS 39.35.700 - 39.35.990 is, with respect to individual accounts,
11 treated as a defined contribution plan and [PLAN,] not a defined benefit plan. The
12 amount of money in the individual account of a participant depends on the amount of
13 contributions and the rate of return from investments of the account that varies over
14 time. If benefits are paid in the form of an annuity, the benefit amount payable is
15 dependent on the amount of money in the account and the interest rates applied and
16 service fees charged by the annuity payor at the time the annuity is purchased from
17 the carrier and benefits are first paid. Nothing in this plan guarantees a participant

18 (1) a rate of return or interest rate other than that actually earned by the
19 account of the participant, less applicable administrative expenses; or

20 (2) an annuity based on interest rates or service charges other than
21 interest rates available from and service charges by the annuity payor in effect at the
22 time the annuity is paid.

23 * **Sec. 64.** AS 39.35.940(c), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

24 (c) Each eligible member who elects to participate in the defined contribution
25 retirement plan shall have transferred to a new account the employee contribution
26 account balance held in trust for the member under the defined benefit retirement plan
27 of the public employees' retirement system. A matching employer contribution shall
28 be made on behalf of that employee to the new account. The employer shall make the
29 matching contribution from funds other than the trust funds of the defined benefit
30 retirement plan established under AS 39.35.095 - 39.35.680. The amount of the
31 matching employer contribution shall be subject to, and may not exceed, the

1 limitation of 26 U.S.C. 415(c) during the applicable limitation year in which the
2 contribution is made.

3 * Sec. 65. AS 39.35.940(d), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

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

11 * Sec. 56. AS 39.35.940(h), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

12 (h) An employee who is eligible to elect transfer to the defined
13 contribution plan must make the election not later than 12 months after the
14 employee's employer notifies the administrator that the employee's employer
15 consents to transfers of its employees under (i) of this section. The election to
16 participate in the defined contribution retirement plan must be made in writing on
17 forms and in the manner prescribed by the administrator. Before accepting an election
18 to participate in the defined contribution retirement plan, the administrator must
19 provide the employee planning on making an election to participate in the defined
20 contribution retirement plan with information, including calculations to illustrate the
21 effect of moving the employee's retirement plan from the defined benefit retirement
22 plan to the defined contribution retirement plan as well as other information to clearly
23 inform the employee of the potential consequences of the employee's election. An
24 election made under this subsection to participate in the defined contribution
25 retirement plan is irrevocable. Upon making the election, the participant shall be
26 enrolled as a member of the defined contribution retirement plan, the member's
27 participation in the plan shall be governed by the provisions of AS 39.35.700 -
28 39.35.990, and the member's participation in the defined benefit retirement plan under
29 AS 39.35.115 shall terminate. The participant's enrollment in the defined contribution
30 retirement plan shall be effective the first day of the month after the administrator
31 receives the completed enrollment forms. An election made by an eligible member

1 who is married is not effective unless the election is signed by the individual's spouse.

2 * **Sec. 67.** AS 39.35.940(i), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to read:

3 (i) A member may make an election under this section only if the member's
4 employer participates in both the defined benefit retirement plan and the defined
5 contribution retirement plan and consents to transfers under this section. The employer
6 shall notify the administrator if the employer consents to allowing the employer's
7 members to choose to transfer from the defined benefit retirement plan to the defined
8 contribution retirement plan under this section. The initial period during which the
9 employer's members may choose to transfer commences on the first day of the
10 month following the administrator's receipt of notice under this subsection and
11 continues for 12 months. An employer may consent to extend the initial period to
12 a second period of 12 months during which the employer's members may choose
13 to transfer from the defined benefit retirement plan to the defined contribution
14 retirement plan under this section. The second period commences on the first day
15 of the month following the end of the initial period and continues for 12 months.

16 An employer's initial notice to allow transfers is irrevocable and applicable to all
17 eligible employees of the employer. An employer's second notice to allow transfers
18 under this section is irrevocable and applicable only to those eligible employees to
19 whom the initial period of transfer was not available.

20 * **Sec. 68.** AS 39.35.940(j), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended by
21 adding a new paragraph to read:

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

25 * **Sec. 69.** AS 39.35 is amended by adding new sections to read:

26 **Sec. 39.35.957. Designation of eligible employees, agreement to contribute,**
27 **and amendment of participation.** (a) A political subdivision or public organization
28 participating in the defined contribution retirement plan under AS 39.35.700 -
29 39.35.990 shall designate the departments, groups, or other classifications of
30 employees eligible to participate in the plan and, by participating, shall legally be
31 presumed to have agreed to make contributions each year in the amounts required for

1 members of the plan under AS 39.35.750.

2 (b) If the employer does not participate in the defined benefit retirement plan
3 under AS 39.35.095 - 39.35.680, an employee who is eligible under (a) of this section
4 and who is a member of the defined benefit retirement plan under AS 39.35.095 -
5 39.35.680 does not accrue credited service or make contributions under that defined
6 benefit retirement plan, but shall be a member of the defined contribution retirement
7 plan under AS 39.35.700 - 39.35.990 and make contributions under that plan.

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

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

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

23 (c) When an employer's participation in the plan is terminated, or when an
24 employer terminates coverage of a department, group, or other classification of
25 employees under AS 39.35.957(c), the administrator shall assess the employer an
26 amount that the administrator determines is actuarially required to fully fund the costs
27 to the plan for employees whose coverage is terminated, including the cost of
28 providing the employer's share of retiree health benefits under AS 39.35.880,
29 occupational disability and occupational death benefits under AS 39.35.890 and
30 39.35.892, and retirement benefits elected under AS 39.35.890(h)(2).

31 (d) An employee whose coverage under the plan is terminated as a result of

1 termination of an employer's participation under this section or amendment of the
2 employer's agreement under AS 39.35.957(c) shall be considered fully vested in
3 employer contributions under AS 39.35.790(b) and in the individual account
4 established for the employee under AS 39.30.370. If the employee is later employed
5 with a participating employer, the employee's membership service earned under the
6 plan during employment with a terminated employer shall be credited for purposes of
7 determining vesting in employer contributions under AS 39.35.790(b) and eligibility
8 for retirement and medical benefits under this chapter and AS 39.30.300 - 39.30.495.

9 * Sec. 70. AS 39.35.990(16), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to
10 read:

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

18 * Sec. 71. AS 39.35.990(20), as enacted by sec. 122, ch. 9, FSSLA 2005, is amended to
19 read:

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

26 * Sec. 72. AS 39.45 is amended by adding a new section to read:

27 Sec. 39.45.055. Appeals. A final decision made under AS 39.45.010 -
28 39.45.060 is subject to appeal under AS 44.64

29 * Sec. 73. AS 44.64.030(a) is amended by adding new paragraphs to read:

30 (36) AS 14.25.175 (waiver of adjustments under teachers' defined
31 benefit plan);

- 1 (37) AS 39.30.165 (supplemental benefits system);
- 2 (38) AS 39.30.335 (teachers' and public employees' health
- 3 reimbursement arrangement plan);
- 4 (39) AS 39.35.522 (waiver of adjustments under public employees'
- 5 defined benefit plan)
- 6 (40) AS 39.45.055 (public employees' deferred compensation
- 7 program).

8 * **Sec. 74.** The uncodified law of the State of Alaska enacted in sec. 134, ch. 9, FSSLA
 9 2005, is amended to read:

10 Sec. 134. EMPLOYER CONTRIBUTIONS FOR OCCUPATIONAL
 11 DISABILITY AND DEATH BENEFITS IN THE PUBLIC EMPLOYEES' DEFINED
 12 CONTRIBUTION RETIREMENT PLAN FOR THE FIRST FISCAL YEAR THE
 13 PLAN IS IN EFFECT. Notwithstanding AS 39.35.750(e), added by sec. 122, ch. 9,
 14 FSSLA 2005 [OF THIS ACT], for the first fiscal year in which the public employees'
 15 defined contribution retirement plan is in effect, the employer contribution to fully
 16 fund the cost of providing occupational disability and occupational death benefits
 17 under AS 39.35.890 and 39.35.892 shall be equal to

- 18 (1) 0.4 percent of the compensation for peace officers and fire fighters
- 19 who are members in the plan; and
- 20 (2) 0.3 percent of the compensation for all other employees who are
- 21 members in the plan.

22 * **Sec. 75.** AS 14.25.045, 14.25.570; and AS 39.35.050(a) are repealed.

23 * **Sec. 76.** AS 14.25.070(b) and AS 39.35.270(b) are repealed.

24 * **Sec. 77.** AS 39.35.375(f) is repealed July 1, 2010.

25 * **Sec. 78.** The uncodified law of the State of Alaska is amended by adding a new section to
 26 read:

27 EMPLOYER CONTRIBUTIONS FOR OCCUPATIONAL DISABILITY AND
 28 OCCUPATIONAL DEATH BENEFITS IN THE TEACHERS' DEFINED CONTRIBUTION
 29 RETIREMENT PLAN FOR THE FIRST FISCAL YEAR THE PLAN IS IN EFFECT.
 30 Notwithstanding AS 14.25.550(e), added by sec. 8 of this Act, for the first fiscal year in which
 31 the teachers' defined contribution retirement plan is in effect, the employer contribution to

1 fully fund the cost of providing occupational disability and occupational death benefits under
2 AS 14.25.485 and 14.25.487 shall be equal to 5.22 percent of the amount of compensation
3 paid to all teachers who work for the employer in that year and are members of the plan.

4 * **Sec. 79.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 **RETROACTIVITY.** Section 76 of this Act is retroactive to July 1, 2005.

7 * **Sec. 80.** Sections 3 and 38 of this Act take effect July 1, 2008.

8 * **Sec. 81.** Sections 4, 39, and 40 of this Act take effect on July 1, 2010.

9 * **Sec. 82.** Sections 76 and 79 of this Act take effect immediately under AS 01.10.070(c).

10 * **Sec. 83.** Except as provided in secs. 80 - 82 of this Act, this Act takes effect July 1, 2006.

ALASKA STATE LEGISLATURE

Chair
STATE AFFAIRS

Member
RESOURCES

Member
HEALTH, EDUCATION AND SOCIAL SERVICES

Member
WAYS AND MEANS



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REPRESENTATIVE PAUL SEATON
House District 35

Sponsor Statement HB 475

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

Revisions encompassed in HB 475:

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

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



Louanne Christian

From: Bob Deitrick [deitrick@ptialaska.net]
Sent: Tuesday, April 11, 2006 10:55 AM
To: Louanne Christian
Subject: HB475 Comments

Ms. Christian,

I was advised by Ginny Austerman that you would be the person to contact regarding my concerns about HB 141 and the bill, HB 475, attempting to bring HB 141 into compliance with the IRS code. My understanding is that there are already more than 50 amendments to HB 141 being proposed. Please distribute my message to the members of the House Finance Committee.

The implementation of HB 141 with the intended defined contribution plan causes me great concern. My understanding is that after 5 years a teacher could take their investment, as well as 100% of the district's contribution, and leave the state. Under this plan I believe that there is no commitment for folks to remain in Alaska and provide continuity to programs in our school districts. This is a major NEGATIVE IMPACT to our children and our communities.

I am a retired teacher, Tier 1, and when I started working in Alaska in 1975 the retirement plan was an incentive for me to stay in Alaska, commit to our children and our community. I do not see this happening under the defined contribution plan.

Alaskan school districts are working hard to implement the mandates of No Child Left Behind, Individuals with Disabilities Education Act, state school board policy, and state standards. It is a difficult task which needs experienced folks in order to implement the requirements, and to educate our youth. To continuously recruit and train new teachers in our state is costly, taking away funds that should be used in our classrooms. We need an incentive for folks to stay in Alaska.

When I was employed as a teacher in the Juneau School District, we had a very low turnover rate. It was difficult to get a job in Juneau. HB141 will not provide the needed incentive to stay. We will see a higher turnover rate and the trend is already starting. It is difficult to keep folks in Alaska even with the Tier 1 benefits. Incentives being offered in the "Lower 48" school districts are making it difficult for Alaska's school administrators to recruit educators to come to their districts.

I am very concerned about the recent number of job vacancies posted in my school district, especially in the area of special education.

I have a disabled grandchild who receives special education services.

I believe that for folks to be grounded in special education and provide services desired to educate special needs students, we need to have continuity of staff in special education, as well as in the regular classroom. Special needs students must have access to the general education curriculum in the least restrictive environment, with their non-disabled peers, and taught by regular classroom teachers who are experienced in providing accommodations and modifications in their curriculum/instruction.

HB 141 and the defined contribution plan will have a NEGATIVE impact on my grandchild's education!

I understand the concern regarding the "unfunded liability". I believe that we are not at the crisis stage at this point. There is a need to revise our defined contribution retirement plan.

I encourage your committee to amend HB 141 so that there will be a delay in implementation for 7 years. As Alaskans, we need time to address these issues and develop a sound plan that will provide an incentive for education personnel to remain in Alaska, as well as provide for a sound retirement plan.

Sincerely,

Robert Deitrick
4421 Teel Court
Juneau, Alaska 99801
(907) 789-0951

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Alaska Retirement Management Board

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

January 27, 2006

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

Dear Senator Elton:

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

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

Defined Benefit Plans	Employer Normal Cost		Employee Normal Cost		Total Normal Cost	
	PERS Tier III	TRS Tier II	PERS Tier III	TRS Tier II	PERS Tier III	TRS Tier II
Retirement Benefits	3.51	3.78	6.81	8.85	10.32	12.43
Medical Benefits	7.23	7.93	0.00	0.00	7.23	7.93
Total	10.74	11.71	6.81	8.85	17.56	20.36

The Honorable Kim Iilton
 January 27, 2008
 Page Two

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

Handwritten notes:
 None
 Less
 3/1/08

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

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

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

Sincerely,

Handwritten signature: Gary M. Barber for

Gail R. Schubert, Chair

Enclosure

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

Public Employees' Retirement System					
Tiers I-III Defined Benefit Plan					
Benefit	Normal Cost	Past Service Cost	Total Cost	Employee Contribution	Employer Contribution
Pension	0.36	8.36	17.71	8.87	10.00
Health	8.83	8.14	18.07	0	15.07
Other	1.85	0.37	2.22	0	2.22
Total	26.13	14.87	38.60	8.87	28.19
Tier IV Defined Contribution Retirement Plan					
Benefit	Normal Cost	Past Service Cost	Total Cost	Employee Contribution	Employer Contribution
Pension	13.00	0.00	13.00	8.00	5.00
Health	4.75	0.00	4.75	0.00	4.75
Other	0.31	0.00	0.31	0.00	0.31
Total	18.06	0.00	18.06	8.00	10.06
Difference	-2.07	-14.87	-18.94	1.19	-18.13

Teachers' Retirement System					
Tiers I-II Defined Benefit Plan					
Benefit	Normal Cost	Past Service Cost	Total Cost	Employee Contribution	Employer Contribution
Pension	12.08	18.07	31.08	8.68	22.37
Health	8.83	8.71	17.54	0	17.54
Other	1.53	0.34	1.87	0	1.87
Total	22.44	28.62	50.48	8.68	(41.78)
Tier III Defined Contribution Retirement Plan					
Benefit	Normal Cost	Past Service Cost	Total Cost	Employee Contribution	Employer Contribution
Pension	15.00	0.00	15.00	8.00	7.00
Health	4.75	0.00	4.75	0.00	4.75
Other	0.22	0.00	0.22	0.00	0.22
Total	19.97	0.00	19.97	8.00	11.97
* Disability and death benefits cost estimate; however, these were not included in the employer contribution estimate for the new TPB JCR plan.					
Difference	-2.47	-28.62	-30.49	-0.68	-28.81

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

☆ | We have found no case law that specifically addresses application to former members of changes in public retirement system statutes that provide for reinstatement of service credit. However, it is arguable that a former member who cashed out the TRS or PERS contribution account after severing the employment relationship that gave rise to rights under the retirement system has no remaining rights that could be impaired by any subsequent change to the retirement system statutes. Furthermore, the reinstatement statutes do not explicitly provide that reinstatement of cashed-out service credit upon reemployment also reinstates a former member to the former member's original "tier" status.²³ While a definitive answer to this issue will only be provided by the Alaska Supreme Court, we believe the amendments are defensible.

We addressed the issue of changes to the former law regarding award of ad hoc PRPAs in the memorandum of advice dated April 20, 2005, advising that legislation that limits the administrator's discretion to award an ad hoc PRPA might be subject to challenge.²⁴ However, in enacting the 105 percent standard, the legislature had evidence that ad hoc PRPAs previously granted by the administrator exercising unlimited discretion had contributed substantially to the unfunded liabilities of the TRS and PERS funds. If the legislation establishing a standard for the administrator's exercise of discretion is challenged, this evidence may support the standard.

Regarding amendments to retiree medical coverage provisions made by sec. 22 to AS 14.25. 68(a) and sec. 116 to AS 39.35.535(a), although we have found no case law directly on point, we note that a person who becomes the spouse or a dependent of a retiree's survivor after the retiree's death has no connection with the employment relationship between the retiree and the retiree's TRS or PERS employer that gives rise to any vested right under art. XII, sec. 7, of the Alaska Constitution.²⁵ Therefore, we believe that application of these statutory changes to spouses and dependents of current survivors of deceased members and to new spouses and dependents of eventual survivors

²³ A member's tier status in the current TRS and PERS defined benefit plans determines the age of retirement eligibility and level of medical benefits available upon retirement, based on the law in effect when the member became a member of the pertinent system. TRS currently has two recognized tiers, and PERS has three.

²⁴ 2005 Inf. Op. Att'y Gen.; 663-05-0192 (Apr. 20).

²⁵ New spouses and dependents of survivors who were not dependents of the deceased retiree do not meet the definition of "dependent" of the retiree set out in 26 U.S.C. 152, as required by 26 U.S.C. 401(h). These amendments are made in order for the state's retirement plans to comply with federal plan qualification requirements, and for payment of medical expenses out of the state's trust funds to comply with federal requirements for qualified trusts.



NEA-ALASKA

Affiliated with the National Education Association

TESTIMONY ON HB 475 BILL BJORK, PRESIDENT NEA-ALASKA

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

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

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

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

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

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

Thank you for your time.

Rep. Paul Seaton

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

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

Content analysis details: (1.10 points, 5 required)
VERY_SUSP_RECIPS (1.1 points) Very similar addresses in recipient list

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

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

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

1.

Post Retirement Pension Adjustment**The Issue-**

The SB141 Problem has led to many new members. All want to know if their pensions will be inflation proofed after they are 80 or retired 5 years. The confusion is with the language in an amendment which precluded the administrator from acting upon inflation proofing if the retirement funds were not at 105% funding. The second confusion was the misinformation regarding whether this applied to current plan members.

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

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

The Law-

Sec. 18, AS 14.25 143(a), as that subsection read following amendment by sec. 3, ch. 146, SLA 1980, until amended by sec. 12, ch. 106, SLA 1988, is amended to read:

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

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

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

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

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

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

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

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

2.

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

Hello Mr. Gallagher and Mrs. Robbins:

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

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

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

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

Keep an eye on the ARM Board.

Gary Wilken

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

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

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

1. Automatic inflation proofing still continues as before at 50% of the Anchorage cpi for all three tiers until 65 and 75% after 65.

2. There is an Ad Hoc provision for tier 1 to get 100% of the Anchorage cpi, if the Commissioner requests it. However SB141 now defines that the fund must be 105% in order for the Commissioner to even consider the 100% "Ad Hoc" inflation proofing.

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

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

Discussion of the Consequences—

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

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