

SCOMM

#51:14

Introduced: 2/20/81

Referred: State Affairs and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE LEGISLATIVE  
COUNCIL (for the Blue Ribbon  
Commission on the State  
Personnel Act)

1 IN THE SENATE

2 SENATE BILL NO. 195

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act limiting the adjustment of retirement benefits;  
7 and providing for an effective date."

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

9 \* Section 1. AS 14.25.173 is amended by adding a new subsection to read:

10 (b) An adjustment which requires repayment of benefits may not be  
11 made under this section if

12 (1) the incorrect benefit was first paid two years or more  
13 before the member or teacher or beneficiary was notified of the change  
14 or error; and

15 (2) the change or error was not caused by the member or  
16 teacher or beneficiary.

17 \* Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

18 (b) An adjustment which requires repayment of benefits may not be  
19 made under this section if

20 (1) the incorrect benefit was first paid two years or more  
21 before the employee or beneficiary was notified of the change or error;

22 (2) the change or error was not caused by the employee or  
23 beneficiary; and

24 (3) the change or error relates to the employee's credited  
25 service with the state and <sup>does relate to the EE's credited service</sup> not with another participating employer.

26 \* Sec. 3. This Act is retroactive to July 1, 1979.

27 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-  
28 070(c).

29



JUNEAU, ALASKA

# Alaska State Legislature

BLUE RIBBON COMMISSION ON THE  
STATE PERSONNEL ACT  
Pouch AG/Mail Stop 0123  
Juneau, Alaska 99811  
(907) 465-4442

Senator Bill Ray  
Chairman

## MEMORANDUM

April 20, 1981

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer *TBC*  
Administrative Assistant

SUBJECT: SB 194: Relating to Nepotism in State Employment

The present statute prohibiting nepotism in state employment is directed at relatives of the executive head of a department or agency. It prohibits the employment of anyone related within the second degree of kindred to the executive head. However, the Personnel Rules also prohibit the employment of persons related within the second degree of kindred to the head of the division or subdivision within which the person is working. (PR 13 09.2). In addition, the Rule requires that before a person may be employed in the same agency with a close relative, that the Director of Personnel and the appointing authority for the department or agency must give express approval to the appointment. (PR 13 09.3)

The scope of the Personnel Rules is broader than the scope of the statute. The Attorney General has advised the Division of Personnel that the Rules are therefore not completely enforceable. The Blue Ribbon Commission considered the issue and the majority recommends that the scope of the statute be enlarged to include the provisions of the Personnel Rules. While provisions against nepotism limit the opportunities of some Alaskans to find employment with particular offices in the state, the disadvantage to those people should be weighed against the appearance of impropriety and favoritism which is created if relatives of the head of a division or department are working within that division or department.

The Director of Personnel advised the commission that in the past he has routinely approved waivers for relatives to work in a non-supervisory status in the same office. The majority of the commission recommends that requirement for review of these situations be placed in

the statute to provide a mechanism for review should an instance of abuse arise.

SECTION BY SECTION ANALYSIS

Section 1. Subsection (a) prohibits the employment of a person related to the top-level managers of a department or agency. It encompasses the present substance of AS 39.10.010 and extends it to include deputy and assistant commissioners.

Subsections (b) and (c) extend the scope of the statute to include the provisions of the Personnel Rule. Subsection (b) prohibits the employment within a particular division of persons related to the division director. It applies to all three branches of government.

Subsection (c) provides that before two close relatives may work in the same office in the executive branch of government, the Director of Personnel and the person who is making the hiring decision must both approve the appointment in writing.

Section 2. Because the state is operating without an effective nepotism law, the commission recommends that the bill take effect immediately.

TBC:lmk  
Attachment

§ 39.10.010 PUBLIC OFFICERS AND EMPLOYEES § 39.15.030

**Sec. 39.10.010. Nepotism prohibited.** It is unlawful for a person who is the spouse of or is related by blood within and including the second degree of kindred to the executive head of a principal state department or agency to be employed in that department or agency. (§ 1 ch 98 SLA 1959)

Am. Jur. 2d reference. — 63 Am. Jur. 2d, Public Officers and Employees, § 97.

## Chapter 15. Official Bonds.

| Section                                      | Section                                 |
|----------------------------------------------|-----------------------------------------|
| 10. Form, amount, and conditions             | 60. Number of sureties                  |
| 20. Obligation and effect                    | 70. Justification of sureties           |
| 30. Action on bond                           | 80. Release of sureties                 |
| 40. Recovery on defective bond               | 90. Proceedings for release of sureties |
| 50. Procedure when bond becomes insufficient | 100. Failure to file new bond           |

**Sec. 39.15.010. Form, amount, and conditions.** The official bond of an officer or employee of the state required by statute, or rule or regulation under authority of law shall be in a form joint and several, and made payable to the state in the penal sum and with the conditions required by law. (§ 11-2-1 ACLA 1949)

**Cross reference.** — As to surety bonds furnished by the principal executive officer of each department and subordinate officials, see AS 39.05.050.

**Am. Jur. 2d references.** — 12 Am. Jur. 2d, Bonds, § 1 et seq.; 63 Am. Jur. 2d, Public Officers and Employees, §§ 122, 414-482.

**Sec. 39.15.020. Obligation and effect.** Bonds of state officers and employees are in force and obligatory upon the principal and sureties for breach of the condition of the bond committed during the time the officer or employee discharges the duties of or holds the office or appointment. Each bond is considered in force and obligatory upon the principal and sureties for the faithful discharge of all duties required of the officer or employee by any law enacted after the execution of the bond and this condition shall be set out in the bond. (§ 11-2-2 ACLA 1949)

**Sec. 39.15.030. Action on bond.** An official bond executed by a state officer or employee is in force and obligatory upon the principal and sureties to and for the state, and for the use and benefit of all persons injured or aggrieved by the wrongful act or default of the officer or employee in his official capacity or employment. A person injured or aggrieved may bring suit on the bond in his name. (§ 11-2-3 ACLA 1949)

1981

BILL NUMBER SB 195

Title of Bill

BRC

Limiting the Adjustment of Retirement Benefits

1981  
2/20

DATE

289

Introduced/Referred

SA - Fin

(Hearing 4/7-4/9)

1982

3/19-6/19

Committee Report

Finley/Bradley/Polan - Motion d/p to Fin

2nd Reading

3rd Reading

Reconsideration

Vote: Ayes: \_\_\_\_\_ Nays: \_\_\_\_\_ Passed \_\_\_\_\_ Failed \_\_\_\_\_

(Opposed voters: \_\_\_\_\_)

Sent to Other House:

Introduced/Referred

Committee Report

2nd Reading

SB 195

## II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Labor Services

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01 (PERS)

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

### EXPENDITURES (Thousands of Dollars)

|                        | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 |
|------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES  |       |       |       |       |       |       |
| 200 TRAVEL             |       |       |       |       |       |       |
| 300 CONTRACTUAL        |       |       |       |       |       |       |
| 400 COMMODITIES        |       |       |       |       |       |       |
| 500 EQUIPMENT          |       |       |       |       |       |       |
| 600 LAND & STRUCTURES  |       |       |       |       |       |       |
| 700 STATE TRS MATCHING |       |       |       |       |       |       |
| 100 BENEFITS           |       |       |       |       |       |       |
| TOTAL                  | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |

### FUNDING (Thousands of Dollars)

|                  |  |  |  |  |  |  |
|------------------|--|--|--|--|--|--|
| GENERAL FUND     |  |  |  |  |  |  |
| FEDERAL FUNDS    |  |  |  |  |  |  |
| VETERAN'S FUND   |  |  |  |  |  |  |
| FISH & GAME FUND |  |  |  |  |  |  |
| HIGHWAY FUND     |  |  |  |  |  |  |
| AIRPORT FUND     |  |  |  |  |  |  |
| CAPITAL FUND     |  |  |  |  |  |  |
| PERS             |  |  |  |  |  |  |
| TRS              |  |  |  |  |  |  |

### POSITIONS NONE

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL TIME |  |  |  |  |  |  |
| PART TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

## III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Undoubtedly there will be some costs to the retirement system, but they cannot be measured. In most instances the individual adjustment would be small.

IV. DATE 4/02/81 PREPARED BY Paul B. Arnoldt, Director  
 AGENCY Division of Retirement & Benefits

*Ken Humphreys, for*  
*gc*

B111 Number \_\_\_\_\_

DATE

3rd Reading

Reconsideration

VOTE: Ayes: \_\_\_\_\_ Nays: \_\_\_\_\_ Passed \_\_\_\_\_ Failed \_\_\_\_\_

(Opposed voters: \_\_\_\_\_)

Returned to Other House:

Sent to Governor: Date Needed For Action: \_\_\_\_\_

Action by Governor: Signed: \_\_\_\_\_  
Without Signature: \_\_\_\_\_  
Vetoed: \_\_\_\_\_

Chapter: \_\_\_\_\_ Effective Date: \_\_\_\_\_

Sustained:

Overridden:

COMMENTS:

SB 195

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement & Benefits

Program Category Affected Labor Services and Elementary & Secondary Education

IRU, Program, or Subprogram(s) Affected 02-96-8-01-01-02 (TRS) 02-11-8-02-01-00 (TRS MATCH)

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

|                        | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 |
|------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES  |       |       |       |       |       |       |
| 200 TRAVEL             |       |       |       |       |       |       |
| 300 CONTRACTUAL        |       |       |       |       |       |       |
| 400 COMMODITIES        |       |       |       |       |       |       |
| 500 EQUIPMENT          |       |       |       |       |       |       |
| 600 LAND & STRUCTURES  |       |       |       |       |       |       |
| 700 STATE TRS MATCHING |       |       |       |       |       |       |
| 100 BENEFITS           |       |       |       |       |       |       |
| TOTAL                  | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |

FUNDING (Thousands of Dollars)

|                  |  |  |  |  |  |  |
|------------------|--|--|--|--|--|--|
| GENERAL FUND     |  |  |  |  |  |  |
| FEDERAL FUNDS    |  |  |  |  |  |  |
| VETERAN'S FUND   |  |  |  |  |  |  |
| FISH & GAME FUND |  |  |  |  |  |  |
| HIGHWAY FUND     |  |  |  |  |  |  |
| AIRPORT FUND     |  |  |  |  |  |  |
| CAPITAL FUND     |  |  |  |  |  |  |
| PERS             |  |  |  |  |  |  |
| TRS              |  |  |  |  |  |  |

POSITIONS NONE

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL TIME |  |  |  |  |  |  |
| PART TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Undoubtedly there will be some costs to the retirement system, but they cannot be measured. In most instances the individual adjustment would be small.

IV. DATE 4/02/81

PREPARED BY

*Ken Humphreys, for*  
Paul B. Arnoldt, Director

AGENCY

Division of Retirement & Benefits

PHONE

465-4460

Original: Legislative Finance

Introduced: 2/20/81  
Referred: State Affairs and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE LEGISLATIVE  
COUNCIL (for the Blue Ribbon  
Commission on the State  
Personnel Act)

1 IN THE SENATE

2 SENATE BILL NO. 195

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act limiting the adjustment of retirement benefits;  
7 and providing for an effective date."

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

9 \* Section 1. AS 14.25.173 is amended by adding a new subsection to read:

10 (b) An adjustment which requires repayment of benefits may not be  
11 made under this section if

12 (1) the incorrect benefit was first paid two years or more  
13 before the member or teacher or beneficiary was notified of the change  
14 or error; and

15 (2) the change or error was not caused by the member or  
16 teacher or beneficiary.

17 \* Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

18 (b) An adjustment which requires repayment of benefits may not be  
19 made under this section if

20 (1) the incorrect benefit was first paid two years or more  
21 before the employee or beneficiary was notified of the change or error;

22 (2) the change or error was not caused by the employee or  
23 beneficiary; and

24 (3) the change or error relates to the employee's credited  
25 service with the state and not with another participating employer.

26 \* Sec. 3. This Act is retroactive to July 1, 1979.

27 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-  
28 070(c).

29



JUNEAU, ALASKA

# Alaska State Legislature

BLUE RIBBON COMMISSION ON THE  
STATE PERSONNEL ACT  
Pouch AG/Mail Stop 0123  
Juneau, Alaska 99811  
(907) 465-4442

Senator Bill Ray  
Chairman

## MEMORANDUM

April 7, 1981

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer  
Administrative Assistant

SUBJECT: Senate Bill 195: Limiting the Adjustment of Retirement Benefits

### BACKGROUND

This bill remedies a problem which the Blue Ribbon Commission was advised of in testimony from a retired state employee. When the employee retired in 1976, she had been advised on four separate occasions by the staff of the Division of Retirement and Benefits that she was eligible for more than nine years of credited service with the state. Shortly after she retired the legislature amended the retirement laws and she was told that she would receive credit for an additional three years because of her military service. She began receiving retirement benefits on that basis.

In 1979 the division wrote to advise her that their original computations had been in error and that her years of employment with the University of Alaska could not be included in her credited service. Therefore, she had received over \$5000 in benefits which she would have to repay. They reduced the amount of her check by \$100 to be credited towards that overpayment, in addition to reducing the check to the amount she was actually entitled to receive. The basis for denying credit for the employee's period of service with the University of Alaska was a regulation adopted by the Division of Retirement and Benefits in 1978 -- two years after she had retired.

The employee appealed to the Public Employee Retirement Board, which can waive collection of overpayments in cases of hardship. In determining whether there would be hardship to the employee, the board considered her family's financial situation and found that she was not entitled to the waiver.

Commission members discovered that this was not an isolated instance. A number of retired state employees have undergone similar

experiences. They relied on assurances from the Division of Retirement and Benefits only to discover a considerable time later that errors had been made and that their benefits would be reduced.

The commission recommends that a two-year statute of limitations be placed on the collection of overpayments. Two years gives the Division of Retirement and Benefits ample time to audit its records and find and correct any errors made. After that period of time, a retired person should be freed from the burden of having to pay back the state for mistakes of the state's employees. This protection should be available only in cases where the retired person did not contribute to causing the error. It should not apply to persons working for employers other than the state, since those employers may not be in a financial position to absorb the cost of errors made by state employees.

#### SECTION BY SECTION ANALYSIS

Section 1 amends the Teachers Retirement System by prohibiting the Division of Retirement and Benefits from decreasing benefits in order to collect for a previous overpayment if two conditions are met. The first condition is that the overpayment began two years or more before the division told the retired teacher of the error. The second condition is that the teacher did not cause the error.

Section 2 amends the Public Employee Retirement System in the same way that section 1 amends the TRS. However, in this section there is an additional condition. The error in computation must relate to the employee's credited service with the state, and not with another participating employer.

Section 3 makes the Act retroactive in order to include the retired person who testified before the commission.

Section 4 provides that the Act takes effect immediately in order to address the hardship to retired state employees.

Introduced: 2/20/81  
Referred: State Affairs

BY THE RULES COMMITTEE BY  
REQUEST OF THE LEGISLATIVE  
COUNCIL (for the Blue Ribbon  
Commission on the State  
Personnel Act)

1 IN THE SENATE

2 SENATE BILL NO. 196

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the membership of the Public  
7 Employees Retirement Board."

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

9 \* Section 1. AS 39.35.030(b) is amended to read:

10 (b) One [THREE] board member [MEMBERS] shall be appointed by the  
11 governor and shall serve at his pleasure [MEMBERS OF THE PERSONNEL  
12 BOARD OF THE DEPARTMENT OF ADMINISTRATION]. The remaining four [TWO]  
13 board members shall be members of the system [AND] elected by the  
14 members of the system, and at least one of the elected board members  
15 shall be retired.

16 \* Sec. 2. Notwithstanding AS 39.35.030(b), as amended by sec. 1 of this  
17 Act, a person serving on the Public Employees Retirement Board on the effec-  
18 tive date of this Act who was from the personnel board of the Department of  
19 Administration shall continue to serve until his successor is elected or  
20 appointed by the governor.



JUNEAU, ALASKA

# Alaska State Legislature

BLUE RIBBON COMMISSION ON THE  
STATE PERSONNEL ACT  
Pouch AG/Mail Stop 0123  
Juneau, Alaska 99811  
(907) 465-4442

Senator Bill Ray  
Chairman

## MEMORANDUM

April 3, 1981

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer *TBC*  
Administrative Assistant

SUBJECT: SB 196 Relating to the Membership of the Public  
Employees Retirement Board.

This bill amends the Public Employees Retirement Act to change the membership of the Public Employees Retirement Board. The law presently requires that the three members who are appointed to the Personnel Board shall also serve on the PERB. AS 39.35.030. Those three individuals are also, by statute, appointed to the Labor Relations Agency, which is involved in collective bargaining issues. AS 23.40.250(3). The activities of both the LRA and the PERB have grown considerably recently. In the last legislative session, the PERB was made responsible for overseeing the supplemental employee benefit program and the deferred compensation program for state employees. AS 39.35.040(9) and (10). The increase in the number of state employees who are members of collective bargaining organizations has led to additional work for the LRA. The three members of the Personnel Board are citizen volunteers appointed by the Governor who are not employed by the state.

While the issues which are addressed by the Personnel Board are related to some of the issues addressed by the Labor Relations Agency, this is not the case with the subjects of concern to the Public Employees Retirement Board. Therefore, the Blue Ribbon Commission recommends that the members of the Personnel Board continue to serve as the members of the LRA and that they be removed from the PERB. The PERB should be composed of four elected members and one member appointed by the Governor. In addition, the commission recommends that one of the elected members should be a retired person to insure that those most directly affected by the system have a voice in the decision-making body.

Section 1 of the bill sets out the changes in membership of the PERS board which are discussed above.

Section 2 is a temporary measure to enable the board to continue to act until new members have been selected according to the new method.

TBC:lmk

# FISCAL NOTE

FILE WITH BILL

## I. REQUEST

Bill/Resolution No. Senate Bill No. 196  
 Title An Act Relating to the Membership of the Public Employees Retirement Board  
 Requested by Senator Fischer Date 4/03/81

## II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Labor Services

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01 (PERS)

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

### EXPENDITURES (Thousands of Dollars)

|                        | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 |
|------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES  |       |       |       |       |       |       |
| 200 TRAVEL             |       |       |       |       |       |       |
| 300 CONTRACTUAL        |       | 14.0  |       |       |       |       |
| 400 COMMODITIES        |       |       |       |       |       |       |
| 500 EQUIPMENT          |       |       |       |       |       |       |
| 600 LAND & STRUCTURES  |       |       |       |       |       |       |
| 700 STATE TRS MATCHING |       |       |       |       |       |       |
| 100 BENEFITS           |       |       |       |       |       |       |
| TOTAL                  | -0-   | 14.0  | -0-   | -0-   | -0-   | -0-   |

### FUNDING (Thousands of Dollars)

|                  |  |      |  |  |  |  |
|------------------|--|------|--|--|--|--|
| GENERAL FUND     |  |      |  |  |  |  |
| FEDERAL FUNDS    |  |      |  |  |  |  |
| VETERAN'S FUND   |  |      |  |  |  |  |
| FISH & GAME FUND |  |      |  |  |  |  |
| HIGHWAY FUND     |  |      |  |  |  |  |
| AIRPORT FUND     |  |      |  |  |  |  |
| CAPITAL FUND     |  |      |  |  |  |  |
| PERS             |  | 14.0 |  |  |  |  |
| TRS              |  |      |  |  |  |  |

### POSITIONS

NONE

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL TIME |  |  |  |  |  |  |
| PART TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

## III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Costs in FY82 are to conduct a PERS wide election of two Board members.

Term of office is six years.

IV. DATE 4/06/81 PREPARED BY Ken Humphreys, for Paul B. Arnoldt, Director  
 AGENCY Division of Retirement & Benefits  
 PHONE 465-4460  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named) Senator Ray  
 Office of the Governor (Keith Specking)

SB 196

Introduced: 2/20/81  
Referred: State Affairs and  
Judiciary

BY THE RULES COMMITTEE BY  
REQUEST OF THE LEGISLATIVE  
COUNCIL (for the Blue Ribbon  
Commission on the State  
Personnel Act)

1 IN THE SENATE

2 SENATE BILL NO. 197

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act applying the Administrative Procedure Act  
7 (AS 44.62) to adoption of regulations by state retire-  
8 ment systems."

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

10 \* Section 1. AS 39.35.042 is repealed and reenacted to read:

11 Sec. 39.35.042. REGULATIONS. Adoption of regulations under this  
12 chapter is subject to the Administrative Procedure Act (AS 44.62).

13 \* Sec. 2. AS 14.25.022 is repealed and reenacted to read:

14 Sec. 14.25.022. REGULATIONS. Adoption of regulations by the  
15 administrator under this chapter is subject to the Administrative  
16 Procedure Act (AS 44.62).

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JUNEAU, ALASKA

# Alaska State Legislature

BLUE RIBBON COMMISSION ON THE  
STATE PERSONNEL ACT  
Pouch AG/Mail Stop 0123  
Juneau, Alaska 99811  
(907) 465-4442

Senator Bill Ray  
Chairman

## MEMORANDUM

April 3, 1981

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer *TBC*  
Administrative Assistant

SUBJECT: SB 197 Applying the Administrative Procedure Act (AS 44.62)  
to Adoption of Regulations by State Retirement Systems.

This bill amends the law to require that both the Public Employees Retirement Board and the Teachers Retirement System administrators comply with the Administrative Procedure Act when adopting regulations. Both retirement systems are presently exempted from the APA. The Blue Ribbon Commission recommends the change because of concern that regulations have been adopted in the past without adequate opportunity for public comment. Although rule-making under the APA may be more time-consuming than rule-making under the present methods of the retirement systems, the improved public notice requirements outweigh that disadvantage. In instances in which either retirement system is faced with a need for immediate change in regulations, the APA provides for emergency rule-making. AS 44.62.250.

Section 1 of the bill amends the Public Employees Retirement System statute to make the PERS subject to the APA rule-making requirements.

Section 2 amends the Teachers Retirement System statute to make the TRS subject to the APA rule-making requirements.

TBC:lmk

JEST

Bill/Resolution No. Senate Bill No. 197

Title An Act Applying the Administrative Procedure Act (AS 44.62) to Adoption of Regulation

Requested by Senator Vic Fischer

Date

## II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Labor Services

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01 (PERS)

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

|                        | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 |
|------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES  |       |       |       |       |       |       |
| 200 TRAVEL             |       |       |       |       |       |       |
| 300 CONTRACTUAL        |       |       |       |       |       |       |
| 400 COMMODITIES        |       |       |       |       |       |       |
| 500 EQUIPMENT          |       |       |       |       |       |       |
| 600 LAND & STRUCTURES  |       |       |       |       |       |       |
| 700 STATE TRS MATCHING |       |       |       |       |       |       |
| 100 BENEFITS           |       |       |       |       |       |       |
| TOTAL                  | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |

FUNDING (Thousands of Dollars)

|                  |  |  |  |  |  |  |
|------------------|--|--|--|--|--|--|
| GENERAL FUND     |  |  |  |  |  |  |
| FEDERAL FUNDS    |  |  |  |  |  |  |
| VETERAN'S FUND   |  |  |  |  |  |  |
| FISH & GAME FUND |  |  |  |  |  |  |
| HIGHWAY FUND     |  |  |  |  |  |  |
| AIRPORT FUND     |  |  |  |  |  |  |
| CAPITAL FUND     |  |  |  |  |  |  |
| PERS             |  |  |  |  |  |  |
| TRS              |  |  |  |  |  |  |

POSITIONS NONE

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL TIME |  |  |  |  |  |  |
| PART TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

## III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

SAA

SB 197

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement & Benefits

Program Category Affected Labor Services and Elementary & Secondary Education

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-02 (TRS) 02-11-8-02-01-00 (TRS MATCH

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

|                        | FY 81 | FY 82 | FY 83 | FY 84 | FY 85 | FY 86 |
|------------------------|-------|-------|-------|-------|-------|-------|
| 100 PERSONAL SERVICES  |       |       |       |       |       |       |
| 200 TRAVEL             |       |       |       |       |       |       |
| 300 CONTRACTUAL        |       |       |       |       |       |       |
| 400 COMMODITIES        |       |       |       |       |       |       |
| 500 EQUIPMENT          |       |       |       |       |       |       |
| 600 LAND & STRUCTURES  |       |       |       |       |       |       |
| 700 STATE TRS MATCHING |       |       |       |       |       |       |
| 100 BENEFITS           |       |       |       |       |       |       |
| TOTAL                  | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |

FUNDING (Thousands of Dollars)

|                  |  |  |  |  |  |  |
|------------------|--|--|--|--|--|--|
| GENERAL FUND     |  |  |  |  |  |  |
| FEDERAL FUNDS    |  |  |  |  |  |  |
| VETERAN'S FUND   |  |  |  |  |  |  |
| FISH & GAME FUND |  |  |  |  |  |  |
| HIGHWAY FUND     |  |  |  |  |  |  |
| AIRPORT FUND     |  |  |  |  |  |  |
| CAPITAL FUND     |  |  |  |  |  |  |
| PERS             |  |  |  |  |  |  |
| TRS              |  |  |  |  |  |  |

POSITIONS NONE

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL TIME |  |  |  |  |  |  |
| PART TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)