

SCOMM

#51:28

July 6, 1983

HB 51: Limiting the adjustment of retirement benefits

History - IN THE HOUSE

L & C

Hearing 2/7 and 3/25. At first hearing, Ken Humphreys, Director of Retirement & Benefits, testified that current law provides that the boards of retirement may waive collection of an overpayment where there is hardship. He added that in fact, the boards have been generous in waiving overpayments (as they have been). Committee staff urged passage of the bill & compared its provisions to federal requirements which are imposed on private pension funds.

State Affairs

Hearing 4/29. The Senate version, SB 57, arrived in State Affairs just before the hearing, and the committee acted on that bill rather than this one.

Companion bill: CS SB 57 is the companion and is the one which moved out of House State Affairs. This bill is therefore inactive. The administration prefers CS SB 57 to the original bill.

Introduced: 1/18/83
Referred: Labor & Commerce,
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 HOUSE

2 HOUSE BILL NO. 51

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act limiting the adjustment of retirement bene-
7 fits; 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
10 read:

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

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

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

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

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

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

24 (2) the change or error was not caused by the employee or
25 beneficiary; and

26 (3) the change or error relates to the employee's credited
27 service with the state and does not relate to credited service with
28 another participating employer.

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

1 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
2 10.070(c).

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT & BENEFITS

POUCH CR

JUNEAU, ALASKA 99811

Public Employees' Retirement System
Teachers' Retirement System
Judicial Retirement System
Elected Public Officers Retirement System
National Guard Retirement System
Territorial Retirement System
Retirees' Voluntary Dental-Vision-Audio Plan
Supplemental Benefits System
Group Health/Life Insurance Benefits
Deferred Compensation Plan
Public Employers Social Security Contributions

Bill Sheffield, Governor

(907) 465-4460

May 13, 1983

Honorable Mitchell Abood, Jr.
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Abood:

You requested further written clarification of the Department of Administration's position on HB 51. The department, as well as the Public Employees' and Teachers' Retirement Boards, feel that adequate and equitable mechanisms already exist (AS 14.25.175 and AS 39.35.522) to grant relief in the form of waivers of adjustments to retirees who have been overpaid as a result of errors.

However, if the legislature feels that some change is appropriate, we feel that two major deficiencies in HB 51 should be addressed. First, the bill would prevent recovery of an overpayment even if the recipient of the overpayment knew or had reason to know an error had occurred. The language on page 1, lines 16 and 17 and on page 2, lines 8 and 9 of the attached CSSB 57 addresses this problem. Second, HB 51 makes no provision for oversight by the boards or for a hearing by the boards if it appears that a waiver of overpayment may not be justified. The language on page 1, lines 18-29 and on page 2, lines 10-21 of CSSB 57 addresses this problem.

Please let us know if you need further information.

Sincerely,


J.K. Humphreys
Director

JKH/jb
Enclosure

cc: Members of the HSA Committee
Eleanor Andrews
Cynthia Halterman

Offered: 4/26/83
Referred: Rules

Original sponsor: Rules/Legislative Council

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 57 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act limiting the adjustment of retirement bene-
7 fits; 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 new subsections to read:

10 (b) An adjustment that requires the recovery of benefits may not
11 be made under this section if

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

14 (2) the error was not the result of erroneous information
15 supplied by the member or beneficiary; and

16 (3) the member or beneficiary did not have reasonable
17 grounds to believe that the amount of the benefit was in error.

18 (c) At each regularly scheduled meeting of the Teachers' Retirement
19 Board, the administrator shall report to the board on all sit-
20 uations since the administrator's last report in which an adjustment
21 has been prohibited under (b) of this section. If the board finds
22 that there is reason to believe that one or more of the conditions set
23 out in (b) of this section have not been met, the administrator shall
24 notify the member or beneficiary that an adjustment will be made to
25 recover the overpayment. A member or beneficiary who receives notice
26 of adjustment under this subsection may appeal to the board for a
27 waiver of the adjustment under AS 14.25.175. An adjustment that
28 requires the repayment of benefits may not be required while the
29 appeal is pending.

1 * Sec. 2. AS 39.35.520 is amended by adding new subsections to read:

2 (b) An adjustment that requires the recovery of benefits may not
3 be made under this section if

4 (1) the incorrect benefit was first paid two years or more
5 before the member or beneficiary was notified of the error;

6 (2) the error was not the result of erroneous information
7 supplied by the member or beneficiary; and

8 (3) the member or beneficiary did not have reasonable
9 grounds to believe that the amount of the benefit was in error.

10 (c) At each regularly scheduled meeting of the Public Employees'
11 Retirement Board, the administrator shall report to the board on all
12 situations since the administrator's last report in which an
13 adjustment has been prohibited under (b) of this section. If the
14 board finds that there is reason to believe that one or more of the
15 conditions set out in (b) of this section have not been met, the
16 administrator shall notify the member or beneficiary that an
17 adjustment will be made to recover the overpayment. A member or
18 beneficiary who receives notice of adjustment under this subsection
19 may appeal to the board for a waiver of the adjustment under
20 AS 39.35.522. An adjustment may not be required while the appeal is
21 pending.

22 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
23 10.070(c).



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

April 14, 1983

TO: House State Affairs Committee

FROM: Teresa B. Cramer *Teresa B. Cramer*
Administrative Assistant

SUBJECT: House Bill 51 - Limiting the Adjustment of Retirement Benefits

Retired state employees may have substantial difficulties if they are required to repay retirement benefits improperly received because of errors made by the Division of Retirement and Benefits or because of a change in law. The commission is proposing legislation to limit the authority of the division to collect amounts paid improperly through no fault of the beneficiary or retired person if the error is not corrected within two years.

One woman testified to the commission that before she retired she asked the division to verify her years of credited service. Several years later a court-ordered change in retirement regulations reduced the number of years for which she received credit. Her employment with the University of Alaska could no longer be counted as credited service in PERS. As a result she had received more than \$5000 in benefits to which she was not entitled. The division reduced her benefit to the correct amount and began withholding an additional \$100 per month to be applied to the overpayment. She appealed to the Public Employees Retirement Board asking that collection of the overpayment be waived. The Board agreed.

Both the Public Employees' Retirement Board and the Teachers' Retirement Board have authority to waive collection of overpayments, but the uncertainty of an appeal can cause considerable stress to people on fixed incomes. Both boards are required to determine whether there would be undue hardship imposed by requiring repayment. AS 14.25.175 and AS 39.35.522. In establishing whether there is financial hardship, the entire family financial situation is considered, not just the resources of the petitioner.

The commission recommends that a two-year statute of limitations be placed on the collection of overpayments which resulted from errors which were not caused by the retired state employee. Two years provides ample opportunity for the division to audit its records and correct any errors. After that period, a retired person should not be required to repay benefits erroneously received if he or she did not cause the error. The division would still correct the amount of future benefits paid to the retired person.

Bill Analysis

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| Page 1
Line 9 | The first section of the proposed legislation adds the two-year statute of limitations to the Teachers' Retirement System. |
| Line 18 | The second section adds the same provision to the Public Employees' Retirement System. The amendment to PERS is applied only to state employees because the Blue Ribbon Commission considered that requiring other participating employers to pay for errors made by the state was inappropriate. |
| Line 29 | The third section makes the bill effective retroactively to July 1, 1979, in order to apply to those individuals whose situations came to the commission's attention. |
| Page 2
Line 2 | The fourth section of the bill contains an immediate effective date clause. |



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 25, 1983

TO: House Labor and Commerce Committee

FROM: Teresa B. Cramer *Teresa B. Cramer*
Administrative Assistant

SUBJECT: House Bill 51 - Limiting the Adjustment of Retirement Benefits

On several occasions the Blue Ribbon Commission has heard testimony about problems created by overpayments of retirement benefits. Retired state employees may have substantial difficulties if they are required to repay retirement benefits improperly received because of errors made by the Division of Retirement and Benefits or because of a change in law. The commission is proposing legislation to limit the authority of the division to collect amounts paid improperly through no fault of the beneficiary or retired person if the error is not corrected within two years.

One woman testified to the commission that before she retired she asked the division to verify her years of credited service. Several years later a court-ordered change in retirement regulations reduced the number of years for which she received credit. Her employment with the University of Alaska could no longer be counted as credited service in PERS. As a result she had received more than \$5000 in benefits to which she was not entitled. The division reduced her benefit to the correct amount and began withholding an additional \$100 per month to be applied to the overpayment. She appealed to the Public Employees Retirement Board asking that collection of the overpayment be waived.

Both the Public Employees' Retirement Board and the Teachers' Retirement Board have authority to waive collection of overpayments, but the uncertainty of an appeal can cause considerable stress to people on fixed incomes. Both boards are required to determine whether there would be undue hardship imposed by requiring repayment. AS 14.25.175 and AS 39.35.522. In establishing whether there is financial hardship, the entire family financial situation is considered, not just the resources of the petitioner.

The commission recommends that a two-year statute of limitations be placed on the collection of overpayments which resulted from errors which were not caused by the retired state employee. Two years provides ample opportunity for the division to audit its records and correct any errors. After that period, a retired person should not be required to repay benefits erroneously received if he or she did not cause the error. The division would still correct the amount of future benefits paid to the retired person.

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Line 29	The third section makes the bill effective retroactively to July 1, 1979, in order to apply to those individuals whose situations came to the commission's attention.
Page 2 Line 2	The fourth section of the bill contains an immediate effective date clause.