

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8216 SENATE ○ COMMUNITY & REGIONAL AFFAIRS ○

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On the other hand, the various emergency planning statutes differ in degree of requirements. The Alaska Disaster Act is worded very broadly and affords much room for discretion. SARA Title III and AS 46.13.090 are very precise; many requirements are straight forward and ministerial; for example, the identification of covered facilities, designation of facility emergency coordinators, and description of available emergency equipment and facilities would rarely require the exercise of discretion. Many of the planning tasks do not involve funding decisions, but rather entail the compilation of information, much of which is furnished by covered facilities pursuant to statutory requirements. Negligent errors and omissions in the plans with respect to those matters which are ministerial in nature may not be immunized.

The HSSTRC is not involved in the preparation of emergency plans, but rather its functions are advisory in nature, and largely related to research, policy, and funding. In the unlikely event a claim for negligence is brought against the council, the discretionary function exception would probably provide immunity.

V. EFFECT OF THE STATUS OF THE EMERGENCY RESPONSE PLANS ON LIABILITY

A factual determination of whether negligence, gross negligence, or intentional misconduct exists as a result of the emergency planning performed by the Alaska SERC or the LEPCs may very well take into account the existence and status of the emergency response plans.

¹¹ (...continued)

State Emergency Response Comm'n, Nos. 91AP-173, 91AP-174, 1991 WL 94447 (May 1, 1991), the court held that commission rules which required annual detailed facilities site plans showing the location of hazardous substances exceeded the scope of the commission's statutory authority and were unlawful. McCormick v. Anshutz Mining Corp., 29 ERC 1701 (Jan. 29, 1989), involved in part an action against the Missouri State Emergency Response Commission for failure to disseminate tier II information. The claim was dismissed because the plaintiffs had never requested the information and a regional commission had already promised to provide the information.

A. No Plan

The various planning statutes impose upon the state, the Alaska SERC, and the LEPCs the duty to develop and keep current emergency plans. SARA Title III requires local emergency response plans for extremely hazardous substances to have been completed by October 1988. 42 U.S.C.A. § 11003(a). SARA Title III does not provide an enforcement mechanism for this deadline;¹² however, as discussed below, inaction and unreasonable delay can provide the basis for a tort claim. The state planning statutes do not impose deadlines.

1. Potential Alaska SERC and LEPC liability

Inaction can result in liability, as can unreasonable delay. Adams v. State, 555 P.2d 235, 240 (Alaska 1976); State v. Guinn, 555 P.2d 530, 536-37 (Alaska). EPA has observed:

State law may require a State Emergency Response Commission or a Local Emergency Planning Committee to develop a current emergency preparedness or hazardous materials response plan. The failure to develop this plan and keep it current could be the basis for a suit against the state commission or local committee by individuals who believe that they were harmed by the failure of the commission or committee to carry out the law; i.e., that the committee was negligent in fulfilling its responsibilities.

EPA, Tort Liability in Emergency Planning 5 (Jan. 1989).

Further, the Federal Emergency Management Agency concluded:

[A] state statutory duty to have a current emergency preparedness disaster plan imposes an obligation on the governmental jurisdiction to prepare a plan. Failure to carry out a statutory

¹² The House Report accompanying the bill which provided much of the text for SARA Title III states, "There is no penalty for violation of the timeframes outlined above, but the Committee feels that the strong public sentiment for emergency planning will ensure prompt action." H.R. Rep. No. 99-253(I), 99th Cong., 1st Sess., Vol. 4, at 113 (1985), reprinted in 1986 U.S.C.C.A.N. 2835, 2895.

duty might lead to liability even though the emergency management statute includes an immunity provision The statutory immunity in the emergency preparedness law might not protect a jurisdiction that failed to carry out a legal duty (to develop and maintain an emergency plan . . . where the immunity is provided only during a designated disaster.

John C. Pine, Federal Emergency Management Agency, Tort Liability of Governmental Units in Emergency Actions and Activities 12 (July 1988).

Thus, the failure to develop a plan or to keep it current arguably might provide the basis for a negligence claim against the state.

2. Liability of responders

In the absence of an emergency response plan, those persons involved in a response action have a common law duty to use due care and may have a statutory duty to meet applicable statutory or regulatory standards of care.

B. Plan Under Development

1. Potential Alaska SERC and LEPC liability

A plan under development, including interim plans, may potentially provide some guidance during a response action. However, as discussed above, negligence may be found where inaction or inexcusable delay result in injury.

2. Liability of responders

Responders have a common law duty to use due care and may have a statutory duty of care derived from applicable statutory requirements.

C. Approved Plan

1. Potential Alaska SERC and LEPC liability

With respect to highway engineering plans, the court has remarked, "The state need not guarantee a perfect plan or

results. But the state is liable for a failure to exercise reasonable care and skill." Moloso v. State, 644 P.2d 205, 217 (Alaska 1982). By analogy, provided the Alaska SERC and the LEPCs exercise reasonable care and skill in the preparation, review, and approval of the emergency response plans and follow applicable statutory requirements, the state will most likely enjoy immunity from any claim for damages arising from negligence in the planning process.

2. Liability of responders

Evidence of conduct in accordance with an emergency plan or departing from a plan may be weighed in determining liability. For example, in State v. Abbott, 498 P.2d 712 (Alaska 1972), the plaintiff introduced into evidence the Department of Highways' Standard Operating Procedures (S.O.P.s) for wintertime highway maintenance.¹³ With respect to the S.O.P.s, the court noted, "Failure to comply with the S.O.P.s would seem to be operational negligence rather than policy-making discretion." 498 P.2d at 722 n.30. The S.O.P. quoted in footnote 13 resembles in level of detail many of the provisions that would be found in an emergency plan. To the degree the various emergency plans may be analogized to the S.O.P.s, and depending on the circumstances of the response, the failure to comply with a plan may be found to be operational negligence and not immune.

¹³ S.O.P. 4301-06, for example, provided:

Sanding crews must be dispatched at the first indication that traffic is having difficulty, with particular attention given to intersection and grades. Maintenance crews in outlying areas must keep steep grades and sharp curves well sanded, working overtime and at night if conditions warrant. Maintenance foreman must be alert to this condition and plan accordingly, and employees should be instructed to report for duty when inclement weather threatens. Sanding operations must continue as long as conditions warrant. First priorities should be given to hills, intersections and curves.

Quoted in Abbott, 498 P.2d at 722 n.30.

VI. PERSONAL LIABILITY OF THE MEMBERS OF THE ALASKA SERC, THE LEPs, AND THE HSSTRC

The personal liability of the members of the Alaska SERC, the LEPs, and the HSSTRC has been of concern, and during this legislative session, House Bill No. 407 and Senate Bill No. 359, which would provide immunity from personal liability, were introduced into the legislature. These bills would also immunize the Alaska SERC, the LEPs, and the HSSTRC as state agencies. To further respond to the members' concerns, the common law on official immunity is discussed below. To the extent the Department of Law previously advised you that AS 09.50.250(1) provides state employees immunity from personal liability, that advice was incorrect and should be disregarded. As discussed below, AS 09.50.250(1) only immunizes the state and state employees acting in their official capacity, not state employees in their personal capacity. See Aspen Exploration Corp. v. Sheffield, 739 P.2d 150, 162 n.29 (Alaska 1987).

A. Official Capacity Suits Versus Personal Capacity Suits

A lawsuit which names an individual in his or her official capacity is a suit against the state, not the individual. The plaintiff, if successful, recovers the judgment from the state, not the individual. Hafer v. Melo, ___ U.S. ___, 60 U.S.L.W. 4001, 4002 (Nov. 3, 1991); Vest v. Schafer, 757 P.2d 588, 599 (Alaska 1988). When a state official is sued in his or her personal capacity, the plaintiff does not collect the judgment from the state. Rather, the plaintiff may recover from the individual's assets, his or her liability insurance, any official bond he or she may have and possibly, from an indemnification agreement. See Vest, 757 P.2d at 600 n.45.

B. Common Law Official Immunity

The Alaska Supreme Court has created a common law immunity for public officers, called "official immunity." Aspen Exploration Corp. v. Sheffield, 739 P.2d 150 (Alaska 1987). Official immunity applies only to administrative officials, that is, members of the executive branch of government or members of bodies which do not strictly belong to any of the three traditional branches of government. Id. at 153 n.7. Thus, members of the Alaska SERC, LEPs, and HSSTRC are protected by the doctrine of official immunity.

For executive acts alleged to violate common law rights, the court has adopted a two-step analysis: First, it

must be determined whether or not the doctrine of official immunity applies to the public officer's alleged negligent conduct. If it does, the scope of that immunity must be determined. Absolute immunity immunizes an official from suit as well as damages; qualified immunity extends only to damages. Id. at 154, 158 n.17, n.19.

The doctrine of official immunity applies if the officer's actions are within the scope of his or her authority and are discretionary in nature. "Discretionary" in this context has a different meaning than that discussed above in connection with the discretionary function exception to state tort liability. The planning-operational distinction does not come into play. Instead, the court has described a public officer's discretionary acts as those involving a mistake in judgment or discretion, an erroneous interpretation and application of the law, or discretionary-policy decisions. Discretionary acts in this context require personal deliberation, decision, and judgment; while ministerial acts consist of obedience of orders or the performance of a duty in which the officer is left with no choice of his or her own. Id. at 155.

Some examples may clarify the difference between discretionary and ministerial acts. In Bridges v. Alaska Hous. Auth., 375 P.2d 696 (Alaska 1962), the court held that officers of the Alaska Housing Authority were immune from personal liability for damages when the plaintiff's buildings were demolished for an urban renewal project under an illegal declaration of taking. The officers were acting within the scope of their official duties, but had made a mistake in the exercise of a discretionary function in that they believed they had the power to use a declaration of taking when in fact they only had the power of eminent domain.

In State v. Stanley, 506 P.2d 1284 (Alaska 1973), an official of the Alaska Department of Fish and Game was not immune from personal liability for damages resulting from the sinking of a crab boat in the state's possession. The officer's failure to inspect the boat and to give proper instructions to department personnel on securing the boat or to permit the owner to secure the boat occurred at the ministerial level.

A state trooper who ordered the speed limit reduced on a road under construction because of perceived hazardous conditions was found immune in Earth Movers of Fairbanks, Inc. v. State, 691 P.2d 281 (Alaska 1984). The court observed that the trooper "was not confronted with a simple set of tasks to perform. He had complaints to investigate, a highway to examine, and a difficult judgment call to make." Id. at 285.

Finally, the investment decisions of borough officials were found discretionary in Integrated Resources Equity Corp. v. Fairbanks North Star Borough, 799 P.2d 295 (Alaska 1990). The court, however, also held that the borough officials could be found personally liable if, in performing an alleged discretionary function, they violated a statute or ordinance that could be characterized as "clearly established law," unless they could prove that they non-negligently were not aware of the law. Id. at 301.

To determine whether a public officer is entitled to absolute versus qualified immunity, the court considers the following factors:

(1) The nature and importance of the function that the officer performed to the administration of government (i.e. the importance to the public that this function be performed; that it be performed correctly; that it be performed according to the best judgment of the officer unimpaired by extraneous matters);

(2) The likelihood that the officer will be subjected to frequent accusations of wrongful motives and how easily the officer can defend against these allegations; and

(3) The availability to the injured party of other remedies or other forms of relief (i.e. whether the injured party can obtain some other kind of judicial review of the correctness or validity of the officer's action).

Aspen, 739 P.2d at 160. If, as a matter of law, the court determines that immunity should be absolute, any allegations of improper motive are irrelevant and the case is dismissed. If, on the other hand, qualified immunity is appropriate, motive becomes relevant. Under qualified immunity, a public officer is shielded from liability only when discretionary acts within the scope of the officer's authority are performed in good faith and are not malicious or corrupt. Id. at 158-60.

For example, in Bauman v. State, 768 P.2d 1097 (Alaska 1989), an action by a parent and child against a state trooper arising out of an investigation of an anonymous complaint of sexual abuse, the court found that all of the trooper's actions appeared to be within the scope of his authority and discretionary in nature. In an affidavit, the trooper had portrayed his investigation as objectively reasonable, undertaken in good

faith, not malicious, and not corrupt. In the absence of evidence to the contrary, the trooper was entitled to qualified immunity.

Applying the balancing test established in Aspen, the members of the Alaska SERC, the LEPCs, and the HSSTRC would probably enjoy qualified immunity. There is little reason to shield the members of these entities from liability for actions which are undertaken in bad faith or which are malicious or corrupt. Qualified immunity will protect the members from personal liability for discretionary acts that are within the scope of the member's statutory authority and that are performed in good faith. The members are not shielded from personal liability for negligence in performing ministerial acts or acts outside the scope of their statutory authority.

CONCLUSIONS AND RECOMMENDATIONS

1) Without statutory authorization, the Alaska SERC may not delegate interim approval authority over emergency response plans to a committee. To facilitate the approval process, the Alaska SERC may wish to adopt by regulation a procedure whereby plans which essentially fulfill all statutory requirements, but require a limited degree of fine-tuning, could be given partial approval or conditional approval, subject to resolution of all items of concern within a specified timeframe.

2) Under SARA Title III, local emergency response plans for extremely hazardous substances were to have been completed by October 1988. Both inaction and unreasonable delay might provide a basis for a tort claim. It is incumbent upon the LEPCs and the Alaska SERC to meet the federal requirements for these plans as soon as reasonably possible.

For those districts where it has proven difficult to establish an LEPC, the Alaska SERC should continue with its efforts to establish LEPCs, but at the same time, may wish to consider alternative means of preparing emergency response plans, if those districts would otherwise be without plans for a significant length of time. Under AS 46.13.040(8), the Alaska SERC is authorized to "perform other coordinating, advisory, or planning tasks related to hazardous substance emergency planning and preparedness" This statute provides the commission a measure of flexibility and discretion in establishing priorities and accommodating the planning process to the unique needs of the state of Alaska. Once an LEPC is formed; however, the LEPC must assume the emergency planning responsibilities assigned to LEPCs under SARA Title III and AS 46.13.

3) Alaska SERC policies which have the effect of regulations or standards of general application are regulations and, to be valid, must be adopted according to the Administrative Procedures Act, AS 44.62.¹⁶ Compliance with statutory and regulatory requirements will reduce the state's liability exposure; therefore, under AS 46.13.040(11), the Alaska SERC should begin preparing regulations in accordance with the Administrative Procedures Act in order to carry out the provisions of AS 46.13 and the emergency planning provisions of SARA Title III. The development and promulgation of regulations will undoubtedly be a long term project and will entail considerable public participation. The Alaska SERC may wish begin this process by identifying those policies which should be promulgated as regulations.

4) The Alaska SERC, the LEPCs, and the HSSTRC are state agencies for purposes of tort liability and immunity. Many of the emergency planning activities of the Alaska SERC and the LEPCs are discretionary in nature and thus, the state is likely to be immune from liability for negligence in planning under AS 09.50.250(1). However, at least some planning activities occur at the operational or ministerial level, and the state would not be shielded from liability for negligence in these activities. In addition, the failure of the LEPCs or the Alaska SERC to complete their plans or unreasonable delay in the completion of the plans could expose the state to liability. Further, action outside the scope of statutory authority is not immunized.

House Bill No. 407 and its identical counterpart, Senate Bill No. 359, would clarify the law with respect to the state's liability in emergency planning for hazardous substances and oil spills by providing that a civil action for damages and costs may not be brought against the Alaska SERC, LEPCs established by the Alaska SERC, or the HSSTRC for any act or omission occurring within the course and scope of their duties under AS 46.13, unless the act or omission constitutes gross negligence or intentional misconduct. Unlike the discretionary function exception of AS 09.50.250(1), these bills would shield the state from liability for negligence occurring at the operational level.

5) A lawsuit against a member of the Alaska SERC, the LEPCs, or the HSSTRC in his or her official capacity is a suit against the state, not the individual.

6) Members of the Alaska SERC, the LEPCs, and the HSSTRC currently enjoy common law official immunity from personal

¹⁶ See Kenai Peninsula Fisherman's Coop. Ass'n v. State, 628 P.2d 897, 906 (Alaska 1981).

liability for discretionary acts occurring within the scope of their statutorily authorized activities. In addition, under a Memorandum of Agreement executed June 13, 1991, between the Department of Law, the Department of Administration, and DEC, the state agreed to defend and indemnify the members of these entities against claims arising out of their acts or omissions occurring within the scope of their statutorily authorized activities on behalf of these administrative entities. The state will not indemnify for judgments resulting from gross negligence or intentional misconduct or for punitive damages. The indemnity agreement provides broader coverage than common law immunity in that the agreement extends to ministerial acts. The indemnity agreement was intended to provide interim protection from tort liability until such time as immunity legislation is enacted.

House Bill No. 407 and Senate Bill No. 359 would provide clarity and certainty for the members of the Alaska SERC, the LEPCs, and the HSSTRC by providing immunity from personal liability for any act or omission occurring within the course and scope of the member's official duties under AS 46.13, unless the act or omission constitutes gross negligence or intentional misconduct. Unlike common law immunity, which only extends to discretionary acts, these bills would shield the members from personal liability arising from negligence in performing ministerial acts.

Regardless of whether the members are protected under the common law, the indemnity agreement, or the proposed legislation, there are limits to the protection afforded. That is, the members of these entities may be held personally liable for gross negligence, intentional misconduct, or conduct that exceeds the scope of their statutory authority.

7) To varying degrees, a number of statutes protect responders, including governmental entities and their employees or agents, during emergency response actions, provided the criteria specified in the statutes are met. Local governments, in particular, enjoy broad immunity.

If you have any questions regarding this matter, please do not hesitate to contact me.

MS:tg



SENATOR LOREN LEMAN

Northwest Anchorage

311 "C" Street Anchorage, AK 99503 561-7614 During Session: State Capitol Juneau, AK 99801 465-2095

SPONSOR STATEMENT

SB35: An Act providing immunity for the Alaska State Emergency Response Commission, the local emergency planning committees, the Hazardous Substance Spill Technology Review Council, and their members for official actions; and providing for an effective date.

PROPOSAL

SB 35 adds a new section to AS 46.13 to address liability of state officials and public volunteers who serve on the named entities. These individuals are working to protect the health and welfare of their fellow Alaskans. I am concerned that the exposure to liability associated with these statutorily authorized duties will discourage otherwise interested members of the public from accepting appointments to the SERC, LEPCs and the HSSTRC.

If these entities or their members are sued, the state Department of Law will pay all costs of litigation, which initially would entail the state bringing a motion to dismiss the case. This hold harmless provision is applicable only when the entities and their members are acting within the scope of their official duties under AS 46.13.

The exceptions to this immunity for the SERC, LEPCs and the HSSTRC and their members are those acts or omissions which constitute gross negligence or intentional misconduct or which may be the subject of relief under applicable federal law. This latter language regarding federal law is included in SARA Title III.

MEMORANDUM OF AGREEMENT

1. Recitals

There currently exist liability concerns by persons who contribute their time and service to the State Emergency Response Commission ("SERC"), Local Emergency Planning Committees ("LEPCs"), and the Hazardous Substance Spill Technology Review Council ("HSSTRC"). By providing protection against liability costs, this memorandum of agreement is intended as an interim method of insuring that such persons will be willing to provide assistance to the SERC, LEPCs, and the HSSTRC. This agreement is entered into between the Department of Law, the Division of Risk Management in the Department of Administration, and the Commissioner of Environmental Conservation on behalf of the SERC, LEPCs, and the HSSTRC.

2. State Defense of Claims

The State of Alaska (State) agrees to defend the SERC and its members, SERC-approved LEPCs and their members, and the HSSTRC and its members against all non-insured claims arising from their acts or omissions occurring within the course and scope of statutorily authorized activities on behalf of the SERC, SERC-approved LEPCs, and the HSSTRC. When defense is provided under this agreement, the State will select and retain counsel to represent the members and entities covered by this agreement. The State will not be obligated to pay expenses of defense counsel

independently retained by members and entities without the approval of the Division of Risk Management.

3. Indemnification

The State agrees to indemnify the SERC, SERC-approved LEPCs, the HSSTRC, and their members for non-insured judgments arising from their acts or omissions occurring within the course and scope of statutorily authorized activities on behalf of the SERC, SERC-approved LEPCs, the HSSTRC, except that the State will not indemnify for judgments for damages resulting from gross negligence or intentional misconduct, or for punitive damages.

4. Definition of Non-Insured Claims and Judgments

As used in this agreement, "non-insured claims" and "non-insured judgments" refer to all or a portion of a claim or judgment (including a settlement) for which a member or entity covered by this agreement or a member's employer is not protected by a policy of insurance. Where a portion of a claim is insured, the State will endeavor to arrive at a cooperative agreement with the insurer for proration of defense costs and assignment of defense counsel. In the event of inability to reach such agreement, the State will, with prior written approval, reimburse the member covered by this agreement for reasonable non-insured defense costs and attorney fees incurred in defense of claims.

5. Notice of Claim

A member or entity covered by this agreement against whom a claim is made must submit a written request for defense to the State of Alaska, Division of Risk Management within 30 days of knowledge or receipt of a claim.

6. Conditions

The State will appear and defend a member or entity covered by this agreement unless and until it is determined by the State that the claim does not arise out of acts or omissions occurring within the course and scope of statutorily authorized activities on behalf of the SERC, SERC-approved LEPCs, or the HSSTRC, or that the acts or omissions complained of amounted to gross negligence or willful misconduct, in which case the State may reject defense of the claim. The State's obligation to defend and indemnify is further conditioned upon cooperation of the member or entity in defense against the claim. The member or entity shall not, except at their own cost, admit liability, voluntarily make any payment, assume any obligation, or incur any expense, without prior approval of the Division of Risk Management. Failure to provide timely notice of a claim, conduct prejudicial to the State's position, or failure to cooperate in defense voids the State's obligations under this agreement.

7. Recision of this Agreement

This memorandum of agreement may be revoked by the State upon 30 days notice to the entities covered by this agreement.

DATED: 6-12-91,

Charles E. Cole
Charles E. Cole
Attorney General
Department of Law

DATED: 6/13/91

Brad Thompson
Brad Thompson, Deputy Director
Division of Risk Management
Department of Administration

DATED: 6/13/91

John Sandor
John Sandor
Commissioner
Department of Environmental
Conservation

FEB 11 1993

SENATOR LOREN LEMAN

Northwest Anchorage

3111 "C" Street Anchorage, AK 99503 561-7614 During Session: State Capitol Juneau, AK 99801 465-2095

TO: SENATOR RANDY PHILLIPS, Chairman
Senate Community and Regional Affairs

February 9, 1993

FROM: SENATOR LOREN LEMAN
Sponsor



Please schedule at your earliest convenience, SB 35:

"An Act providing immunity for the Alaska State Emergency Response Commission, the local emergency planning committees, the Hazardous Substance Spill Technology Review Council, and their members for official actions; and providing for an effective date".

This bill provides immunity for the volunteers who serve on these entities. Currently the state has agreed to defend the SERC, its members; the SERC-approved LEPCs, their members; and the HSSTRC and its members against all non-insured claims arising from their acts or omissions occurring within the course and scope of statutorily authorized activities on behalf of those entities. This bill would not protect members for actions or omissions constituting gross negligence or reckless or intentional misconduct.

SB

39

FIRST COMMITTEE OF REFERRAL

DATE: 1/11/93

FURTHER: STATE AFFAIRS
FINANCE

Date of 5-Day Notice: 1/19/94
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 2-4-94

CRA Committee considered SENATE BILL NO. 39

"An Act relating to credited service and retirement benefits."

and recommends:

replace with _____ CS _____ ()

same title
 new title
 technical title change (HB only)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
Admin	1/18/94		\$128.2

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

Bill Adams - No Rec
Steven A. Herman - No Rec

Carol E. [Signature] No Rec.

Chair: Signature and Recommendation

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 39

Revision Date: _____ Dept. Affected: All State Agencies
 Title: An act relating to credited service and retirement benefits BRU: All State Agencies
 Component: All State Agencies
 Sponsor: Duncan
 Requestor: (S) CSRA COMPONENT SERIAL NO. 64

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	128.2	128.2	128.2	128.2	128.2	128.2
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	128.2	128.2	128.2	128.2	128.2	128.2

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts	13.2	13.2	13.2	13.2	13.2	13.2
1003 GF Match	3.6	3.6	3.6	3.6	3.6	3.6
1004 GF	79.9	79.9	79.9	79.9	79.9	79.9
1005 GF/Program Receipts	4.5	4.5	4.5	4.5	4.5	4.5
1006 GF/MHTIA	4.0	4.0	4.0	4.0	4.0	4.0
Other	23.0	23.0	23.0	23.0	23.0	23.0
TOTAL	128.2	128.2	128.2	128.2	128.2	128.2

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY94) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary.) It will also increase political subdivision PERS contributions by approximately \$85.8 in FY 95 and each year thereafter. The attached pages discuss the fiscal implications of this bill to the PERS.

Prepared by: Robert F. Stalnaker *Robert F. Stalnaker* Phone: 465-4470
 Division: Retirement & Benefits Date: _____
 Approved by Commissioner: Nancy Bear Usery *Nancy Bear Usery* Date: 1/13/94
 Agency: Department of Administration

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SB 39
Analysis of Financial Impact
Prepared by the Division of Retirement & Benefits
Department of Administration

Analysis: Passage of this bill will

1. establish a new benefit in the PERS, enabling a PERS member who is not vested in PERS or TRS (but has at least two years of service in PERS and at least five years of service between PERS and TRS) to qualify for the special public sector benefit under the PERS. The benefit is restricted to years of service actually worked in PERS and TRS, and will be calculated using the PERS multiplier. The full actuarial cost of this benefit is to be covered by the employee. The employee's cost is offset by the contributions already paid into both systems by the employee and any outstanding costs must be paid in full by the employee.

We estimate that approximately 59 people will be eligible to retire solely under this "public sector benefit" provision.

2. grant PERS service to vested members for employment with the former Alaska State Development Corporation. The member will pay the full actuarial cost of this service.

We estimate that only a few people will claim service under this provision.

3. grant PERS service to vested members for federal active duty while serving in the National Guard, federal reserves or naval militia. The member will pay the full actuarial cost of this service.

We estimate that approximately 2,500 members will claim an average of three months of service under this provision.

4. grant PERS service to vested members for temporary employment with the legislature if the member has not previously received credit.

We estimate approximately 400 people will claim an average of two years of service.

5. allow members in the PERS to use their temporary service towards meeting the minimum service requirements for normal retirement (under the 20 or 30 and out provisions). Currently, members may only use temporary service to increase the number of years for benefit calculation purposes. Again, the member would pay the full actuarial cost of this provision.

The statutes already allow employees to claim temporary service. The additional costs for using temporary service to reach the service requirements for normal retirement will be borne by the member and there will be no additional residual cost to the employers.

Analysis of Financial Impact (cont'd)

To fund this bill, the State PERS contribution rate would increase by .02 percent. The State payroll is estimated to be \$570,150,876 in FY 95 and remain stable each year thereafter. The University of Alaska (U of A) PERS payroll is estimated to be \$71,085,353 in FY 95 and remain stable each year thereafter.

The State cost of \$128,247 is calculated as follows:

Estimated FY 95 State PERS salaries	\$570,150,876.	
The increase in contribution rate	X .02%	
Total State PERS costs		\$114,030
Plus estimated U of A salaries	71,085,353.	
The increase in contribution rate	X .02%	
Total U of A PERS cost		14,217
Total FY 95 State Costs		<u>\$128,247</u>

In addition to the State's costs noted above, political subdivision costs would increase by \$85,850 in FY 95 based on estimated salaries of \$429,125,437. The political subdivision salaries are also estimated to remain constant each year thereafter.

Estimated FY 95 Political Subdivision PERS salaries	\$429,125,437	
The increase in contribution rate	X .02%	
Total FY 95 Political Subdivision Costs		<u>\$85,850</u>

Passage of this bill will decrease the PERS funding ratio by .1% and will increase the present value of the PERS unfunded liability by \$2,236,000.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 39

Revision Date: _____ Dept. Affected: All State Agencies
 Title: An Act relating to credited service and retirement BRU: All State Agencies
benefits Component: All State Agencies
 Sponsor: Duncan
 Requestor: _____ COMPONENT SERIAL NO. 64

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	119.1	119.1	119.1	119.1	119.1	119.1
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	119.1	119.1	119.1	119.1	119.1	119.1

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	12.3	12.3	12.3	12.3	12.3	12.3
1003 GF Match	3.3	3.3	3.3	3.3	3.3	3.3
1004 GF	74.2	74.2	74.2	74.2	74.2	74.2
1005 GF/Program Receipts	4.2	4.2	4.2	4.2	4.2	4.2
1006 GF/MHTIA	3.7	3.7	3.7	3.7	3.7	3.7
Other	21.4	21.4	21.4	21.4	21.4	21.4
TOTAL	119.1	119.1	119.1	119.1	119.1	119.1

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: \$ Zero

ANALYSIS: (attach a separate page if necessary.) It will also increase political subdivision PERS contributions by approximately \$73.6 in FY 94 and each year thereafter. The attached pages discuss the fiscal implications of this bill to the PERS.

Prepared By: Robert F. Stalnaker *Robert F. Stalnaker* Phone: 465-4470
 Division: Retirement and Benefits Date: April 23, 1993

Approved by Commissioner: Nancy Bear Usura *Nancy Bear Usura* Date: 4/26/93
 Agency: Department of Administration

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

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Senate Bill 39
Analysis of Financial Impact
Prepared by the Division of Retirement and Benefits
Department of Administration
April 23, 1993

Analysis: Passage of this bill will

1. establish a new benefit in the PERS, enabling a PERS member who is not vested in PERS or TRS (but has at least two years of service in PERS and at least five years of service between PERS and TRS) to qualify for the special public sector benefit under the PERS. The benefit is restricted to years of service actually worked in PERS and TRS, and will be calculated using the PERS multiplier. The full actuarial cost of this benefit is to be covered by the employee. The employee's cost is offset by the contributions already paid into both systems by the employee and any outstanding costs must be paid in full by the employee.

We estimate that approximately 59 people will be eligible to retire solely under this 'public sector benefit' provision.

2. grant PERS service to vested members for employment with the former Alaska State Development Corporation. The member will pay the full actuarial cost of this service.

We estimate that only a few people will claim service under this provision.

3. grant PERS service to vested members for federal active duty while serving in the National Guard, federal reserves or naval militia. The member will pay the full actuarial cost of this service

We estimate that approximately 2,500 members will claim an average of three months of service under this provision.

4. grant PERS service to vested members for temporary employment with the legislature if the member has not previously received credit.

We estimate approximately 400 people will claim an average of two years of service.

5. allow members in the PERS to use their temporary service towards meeting the minimum service requirements for normal retirement (under the 20 or 30 and out provisions). Currently, members may only use temporary service to increase the number of years for benefit calculation purposes. Again, the member would pay the full actuarial cost of this provision.

The statutes already allow employees to claim temporary service. The additional costs for using temporary service to reach the service requirements for normal retirement will be borne by the member and there will be no additional residual cost to the employers.

Senate Bill 39
 Analysis of Financial Impact
 Prepared by the Division of Retirement and Benefits
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 April 23, 1993

Even though employees are required to pay the full actuarial cost under each proposal of the bill, adverse selection will cause some additional employer cost. Adverse selection is caused when employees who know they will benefit from the provision select coverage with greater frequency than those employees who will not benefit (or benefit as much) from the provision.

To fund this bill, the State PERS contribution rate would increase by .02 percent. The State payroll is estimated to be \$525,990,975 in FY94 and remain stable each year thereafter. The University of Alaska (U of A) PERS payroll is estimated to be \$69,578,637 in FY 94 and remain stable each year thereafter.

The State cost of \$119,114 is calculated as follows:

Estimated FY94 State PERS salaries	\$525,990,975.	
The increase in contribution rate	<u>X .02%</u>	
TOTAL State PERS cost.....		\$105,198
Plus estimated U of A PERS salaries	69,578,637.	
The increase in contribution rate	<u>X .02%</u>	
TOTAL U of A PERS cost.....		13,916
TOTAL FY 94 STATE COSTS		<u>\$119,114</u>

In addition to the State's costs noted above, political subdivision costs would increase by \$73,559 in FY94 based on estimated salaries of \$367,678,320. The political subdivision salaries are also estimated to remain constant each year thereafter.

Estimated FY94 Political Subdivision PERS salaries	\$367,678,320	
The increase in contribution rate	<u>X .02%</u>	
TOTAL FY94 Political Subdivision Costs		<u>\$ 73,559</u>

Passage of this bill will decrease the PERS funding ratio by .1% and will increase the present value of the PERS unfunded liability by \$ 2,236,000 .

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 1/11/93

FURTHER: STATE AFFAIRS
FINANCE

Date of 5-Day Notice: 1/19/94
(in accordance with Uniform Rule 23)

DATE TURNED
INTO OFFICE: _____

CRA Committee considered SENATE BILL NO. 39

"An Act relating to credited service and retirement benefits."

and recommends:

replace with _____ CS _____ (_____)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

same title
 new title
 technical
title change
(HB only)

do pass

do not pass

no recommendation

individual recommendations

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
<i>All Agencies</i>	<i>1/18/94</i>		<i>128.2</i>

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

(All (ada st) - No Rec
Robin A. Smith - No Rec

2000 E. J. ...
Chair: Signature and Recommendation

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

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CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	119.1	119.1	119.1	119.1	119.1	119.1

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

1002 Federal Receipts	123	123	123	123	123	123
1003 GF Match	33	33	33	33	33	33
1004 GF	742	742	742	742	742	742
1005 GF/Program Receipts	42	42	42	42	42	42
1006 GF/MHITA	3.7	3.7	3.7	3.7	3.7	3.7
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Prepared By: Robert F. Stalnaker *Robert F. Stalnaker* Phone: 465-4470
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Approved by Commissioner: Nancy Bear Usura *Nancy Bear Usura* Date: 4/26/93
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Official Business

COMMITTEE:

SENATE COMMUNITY & REGIONAL

DATE: 1/27/94

Subject of meeting:

SB 39 RETIREMENT CREDITED SERVICE & BENEFITS

SIGN-IN

PLEASE PRINT!

NAME ADDRESS (MAILING) & (ZIP) PHONE REPRESENTING DO YOU WANT TO TESTIFY?

EARL Clark	9163 PARKWOOD, Juneau	789-9735	Self +	YES
Ken Gruff	Box 32916 Tareau	789-1530	Self	Yes
Manahan Spatz	Box 20211 Juneau	780-4340	Self	yes
Dr. Mark Damon	1101 1st Douglas	364-3453	"	"
BOB STALNAKER	P.O. BOX CR	465-4470	DIVISION OF RETIREMENT & BENEFITS	YES

1
1
1
1
1

Senator Randy Phillips
Chairman, Community and Regional Affairs
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811-3100

January 24, 1994

Dear Senator Phillips:

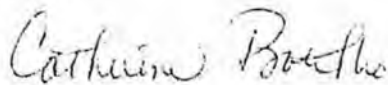
Senate Bill 39, a bill which would permit state employees with temporary service time to claim that time towards retirement years of service credit, has been scheduled for consideration on January 27th before the Community and Regional Affairs Committee. In 1992, SB 338, essentially identical to SB 39, died on the floor of the House on the last day of the session. It was a great disappointment to those of us who worked for years as temporary employees.

A letter and petition was circulated to state employees in 1992 in a loosely organized, grass-roots effort. It was supported by over 200 state employees, some of whom would not be directly affected. It is my understanding that passage of this bill will have no fiscal impact to the State of Alaska, because the employee would be required to pay the full actuarial cost of this option. It is also my understanding that a number of present employees may qualify, and opt, for immediate retirement, effectively resulting in a reduction in the state work force. In some small way, this may allow the state to achieve staff reductions without forcing layoffs of people with less time in state service.

Personally, I worked for 5.8 years as a temporary during the late 60's and 70's. If SB 39 passed, I would owe Retirement and Benefits approximately \$45,250 if I chose to exercise this option. While I may not be able to afford to pay this amount, I would appreciate having that option. With each passing day, the amount I would owe rises, and there are some people with more temporary time than me.

I urge you to support this bill.

Sincerely,



Catherine A. Botelho
P.O. Box 210515
Auke Bay, Alaska 99821

July 30, 1992

Dear State Employees:

As many of you remember, a petition was circulated last year to credit temporary service toward either retirement benefits or for counting the temporary time toward total service with the state. This petition was presented to Senator Jim Duncan, who agreed to sponsor what became Senate Bill 338. The bill had the support of the Department of Administration, passed the Senate, and made it through all the necessary House committees before dying on the floor of the House on the last day of the regular session. The point is that it got very, very close to being passed.

This bill moved on its own momentum due in part to the outspoken support and diligent efforts of many people throughout the state. The basic legislative research on this bill was accomplished during the last session by Senator Duncan and his staff. He is committed to sponsoring a bill with the same substance during the next legislative session.

Historical background

To provide historical background, the Blue Ribbon Commission on the State Personnel Act to the Eleventh Alaska State Legislature in 1979 concluded that temporary employees received none of the benefits provided to permanent employees by the state. As a result of the Commission's findings, Senate Bill 198 passed in 1980 to redefine the term "temporary" to "nonpermanent" and eliminate the inconsistencies and abuses in the hiring of "temporary" employees. Through this legislative reform the hiring of "non-permanent" employees after 1980 was made more equitable by law. However, this reclassifying of temporary positions, which received no benefits, to seasonal or permanent positions with benefits, did not address the issue of time spent as a "temporary" employee being counted towards service based retirement. Without legislation the system remains inequitable to employees who have worked in temporary positions during the 1960's and 1970's.

Benefits for temporary service

The legislation being proposed would allow employees eligible for "30 and out" or "20 and out" retirement to claim temporary service towards normal retirement. **There is no fiscal impact to the State** under this proposed legislation, because the employee would be required to pay the full actuarial cost of this option. Individuals interested in what the cost of this option would be should contact Ms. Liz Johnson in Retirement and Benefits (465-4460).

Request for your participation

Our goal is to have the attached petition circulated throughout the state and returned to me by November 1 so that by the time the 1993 Legislative session begins, we can have clear, well-documented support to present to Senator Duncan. Many of you signed last year's petition.

Temp. serv. credit
Section 4 & 8

Please sign this year's petition also. The 1993 House and Senate will be made up of many new members who should be informed of the importance of this bill to many state employees with many years of service. Your name on this petition will also allow us to keep you informed of developments and progress.

Once elections are over, you can help by writing your legislators in support of legislation to credit temporary time. If you are writing or FAXing to your legislators, **DO NOT** use State stationary or State FAX machines. These documents are circulated to every legislator and appear in every committee package and use of State supplies or equipment is inappropriate.

Please return completed petitions to:

Cathy Botelho
PO Box 210515
Auke Bay, Alaska 99821
(907) 789-4270 (res)

We the undersigned support legislation to allow employees covered by the Alaska Public Employees Retirement System to claim temporary service for retirement. Employees should have a choice of either 1) increasing their retirement benefit or 2) using this time to count toward their total service time under the terms of this legislation.

Printed Name	Address / City / Zipcode	No. of Months as a Temporary	Signature
Arnold Shaul	P.O. Box 2081 Kodiak, AK. 99615	21	<i>Arnold Shaul</i>
Robert Berceci	P.O. Box 106 Cold Bay, AK. 99571	13	<i>Robert Berceci</i>
Dean Beers	Box 235 TRADACR CRIC 99683	0	<i>Dean Beers</i>

SUPPORT FOR SECTIONS 4 & 8.

We the undersigned support legislation to allow employees covered by the Alaska Public Employees Retirement System to claim temporary service for retirement. Employees should have a choice of either 1) increasing their retirement benefit or 2) using this time to count toward their total service time under the terms of this legislation.

Printed Name	Address / City / Zipcode	No. of Months as a Temporary	Signature
KENNETH C GRIFFIN	Box 556 Dutch Harbor 99692	17	Kenneth C. Griffin
Michael Ward	P.O. Box 421 Dutch Harbor AK 99692	11	Michael Ward
RANCE MORRISON	P.O. Box 1047 Dutch Harbor AK	19	Rance Morrison
Dawn Tracy	P.O. Box 868 Dutch Harbor	0	Dawn A. Tracy
Ben Kirkpatrick	Box 868 Dutch Harbor	0	Ben Kirkpatrick

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

July 30, 1992

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We the undersigned support legislation to allow employees covered by the Alaska Public Employees Retirement System to claim temporary service for retirement. Employees should have a choice of either 1) increasing their retirement benefit or 2) using this time to count toward their total service time under the terms of this legislation.

Printed Name	Address / City / Zipcode	No. of Months as a Temporary	Signature
Arnold Shaul	P.O. Box 2081 Kodiak, AK, 99615	21	<i>Arnold Shaul</i>
Robert Berceci	P.O. Box 106 Cold Bay, AK, 99571	13	<i>Robert Berceci</i>
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DANN TRACY	P.O. Box 868 Dutch Harbor	0	Dann A. Tracy
Ben Kirkpatrick	Box 868 Dutch Harbor	0	Ben Kirkpatrick

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Printed Name	Address / City / Zipcode	No. of Months as a Temporary	Signature
James R. Dangel	1504 SMC, P.O. Box 219, Sitka 99835	1.3 years	James R. Dangel
DEMARIE S. WOOD	P.O. Box 7391	1.3 years	Demarie Wood
Robert De Jong	1907 Cascade Creek, Sitka	12 months	Robert De Jong
Jeffrey D Kelly	2109 S.M.C. Road Sitka	28 months	Jeffrey D Kelly
Patricia M. Skannas	Box 6035, Sitka	17 months	Patricia M. Skannas
Janet Hall Schempf	800 Fritz Cove Road, Juneau 99801	20 months	Janet Schempf
GARY H. SANDERS	9167 RIVERWOOD DR., JUNEAU, AK 99801	20 MONTHS	Gary H. Sanders
SUSAN MILLARD	P.O. Box 211286 ANCHORAGE, AK 99521	2.7 YEARS	Susan Millard

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Printed Name	Address / City / Zipcode	No. of Months as a Temporary	Signature
ALMA SEWARD	2151 A CROW HILL RD, DOUGLAS, AK 99824		Alma Seward
Doug Jones	9360 MINER DR, JUNEAU AK	13	Doug Jones
Steve Elliott	P.O. Box 240653, Douglas AK	12	Steve Elliott
Roger Harding	P.O. 240463 Douglas AK		Roger Harding
KURT KONZELA	P.O. Box 210931 ANK BAY AK 99821		Kurt Konzela
ROBERT MARSHALL	P.O. BOX 211461 ANK BAY AK 9982		Robert Marshall
Paul Suchanek	Box 240107, Douglas, AK 99824		Paul Suchanek
Robert Johnson	1027 ARCTIC CIRCLE JUNEAU AK 99801	(APPROX) 40	Robert Johnson
Brian Glynn	2320 Fritz Cove Rd. JUNEAU AK 9981		Brian Glynn
Jandra Geyer	426 EAST ST. JUNEAU AK 99801		Jandra Geyer
Beverly A. Milton	Box 220028 JUNEAU AK 99802		Beverly A. Milton
CHERYL SEIFERT	P.O. BOX 34016 JUNEAU, AK 99803		Cheryl Seifert

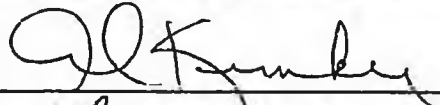
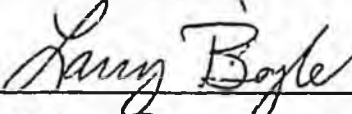


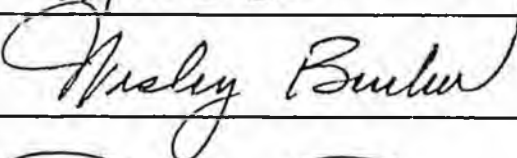

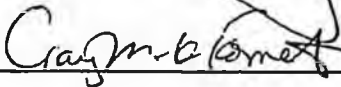
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Printed Name	Address / City / Zipcode	No. of Months as a Temporary	Signature
LEN SCHWARZ	BOX 533 KODIAK 99615	18	Len Schwarz
Roger B. Smith	Box 2473 Kodiak 99615	9	Roger B. Smith
Joseph J DiManno	Box 3045 Kodiak 99615	12	Joseph J. DiManno
Lois Menick	Box 631 Kodiak 99615	24 MONTHS	Lois A. Menick
Louise White	P.O. Box 4053 KODIAK 99615	12	Louise White
LESLIE J WATSON	PO Box 2473 Kodiak 99615	24+	Leslie J. Watson
S. Forrest Blau	SR 7700 Kodiak 99615	12	S. Forrest Blau
Jim Blackburn	P.O. Box 948 Kodiak 99615	6	James E. Blackburn
Patricia Roche	PO Box 3015 Kodiak 99615	0	Patricia Roche
Charles O. Swanson	P.O. Box 2502 Kodiak 99615	0	Charles O. Swanson
Lucinda R. Neel	PO Box 1071 Kodiak 99615	0	Lucinda R. Neel
SHARON HARRIS	235 ALDER WAY KODIAK, AK 99615	± 18	Sharon Harris

We the undersigned support legislation to allow employees covered by the Alaska Public Employees Retirement System to claim temporary service for retirement. Employees should have a choice of either 1) increasing their retirement benefit or 2) using this time to count toward their total service time under the terms of this legislation.

Printed Name	Address / City / Zipcode	No. of Months as a Temporary	Signature
KEVIN BRENNAN	P.O. 2230 / Kodiak, AK / 99615	0	<i>Kevin Brennan</i>
DAVID PROKOPOWICZ	P.O. Box 3299 / Kodiak, AK / 99615	~ 8.0	<i>David Prokopowicz</i>
Dennis Grotzch	211 Mission Rd / Kodiak AK / 99615	~ 8.0	<i>Dennis Grotzch</i>
Joan Brodie	715 Upper Mill Bay / Box 296 Kodiak, AK. 99615	? if any not many	<i>Joan Brodie</i>
SHARON THEIS	713 Upper Mill Bay / Kodiak	0	<i>Sharon Theis</i>
Joan Peterson	1417 Baranof St / Kodiak	0	<i>Joan Peterson</i>
JOANNE B. SHAKER	P.O. Box 2898 / Kodiak, AK 99615	0	<i>Joanne B. Shaker</i>
DAVID R. JACKSON	11248 KALSIK DR. Kodiak AK 99615	33	<i>David R. Jackson</i>
JAMES A SPALINGER	P.O. Box 1462 / Kodiak, AK / 99615	9	<i>James A Spalinger</i>
GEORGIA PUTNEY	PO Box 8301 Kodiak 99615	0	<i>Georgia Putney</i>
William Donaldson	1713 Mission Rd. Kodiak AK 99615	3	<i>William Donaldson</i>
PETER J. PROBASCIO	P.O. Box 3149 / Kodiak, AK. / 99615	~ 34+	<i>Peter J. Probascio</i>

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Printed Name	Address / City / Zipcode	No. of Months as a Temporary	Signature
Al Kimker	Box 4303 HOMER AK 99603	16	
LARRY BOYLE	PO Box 2198 HOMER AK 99603	12	
D. THOMAS BALLARD	PO Box 673 Homer, AK 99603	44	
MARK DICKSON	58986 DEITZ LANE HOMER, AK. 99603	12	
WESLEY BUCHER	P.O. Box 1138 HOMER, AK. 99603	32	
Richard Gustafson	P.O. Box 4144 Homer, Ak, 99603	23	
Craig M. K. Forrest	P.O. Box 15261 Fritz Creek, Ak	430	

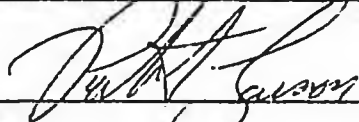

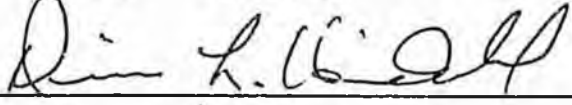
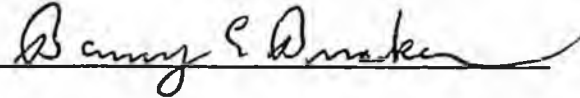
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Printed Name	Address / City / Zipcode	No. of Months as a Temporary	Signature
WM Bruce Dinneford	6745 Marguerite Juneau 99801	28 1/2	<i>Bruce Dinneford</i>
Matthew Matt Robins	POB 240181 Douglas AK 99824	3	<i>Matthew Robins</i>
Rod Flynn	745 5 th St. Douglas, AK 99824	0	<i>Rod Flynn</i>
Zane Clark	8517 E Valley Ct Juneau AK 99801-8976	0	<i>Zane Clark</i>
Tom PAUL	Box 20628 JUNEAU, AK. 99802	1	<i>Tom Paul</i>
Anne Post	9355 Rivercourt Way, Juneau 99801	0	<i>Anne Post</i>
DENNIS LEMOND	Box 240248 Douglas, AK. 99824	58	<i>Dennis Leonard</i>
Gail Blundell	Box 35054 Juneau, AK 99803	3	<i>Gail Blundell</i>
Lallern Beier	Box 021116 Juneau, AK 99802	72	<i>Lallern R. Beier</i>
Math Kuechhoff	11678 Auke St. JUNO AK 99802	0	<i>Math Kuechhoff</i>
Marilyn Sigmor Mandy Sigmor	Box 240009, Douglas, AK 99824	7	<i>Marilyn Sigmor</i>
Barbara Hatt	Box 34432, Juneau AK 99803	0	<i>Barbara Hatt</i>
Sue WORLEY	315 5 th ST. #5 Juneau		<i>Sue Worley</i>

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Printed Name	Address / City / Zipcode	No. of Months as a Temporary	Signature
Robert G. Zovich	P.O. Box 1311 Petersburg, AK 99833	21	Robert G. Zovich
REXANNE STAFFORD	P.O. Box 312 Petersburg, AK 99833	0	Rexanne Stafford
Barb Richmond	P.O. Box 857 Petersburg, AK 99833	0	Barb Richmond
TIMOTHY KOENEMA	P.O. Box 1329 PETERSBURG ALASKA 99833	16	Timothy Koenema
Beth Rhoden	P.O. Box 426 Petersburg, AK 99833	0	Beth Rhoden
Charles R Land	Box 1348 Petersburg, AK 99833	0	Ch Land
THOMAS W ROCKNE	Box 1345 PETERSBURG, AK 99833	3	Thomas W. Rockne
Brian L. Lynch	Box 1247 Petersburg, AK 99833	10	Brian L. Lynch
Donald A. Cornelius	P.O. B. 1737 Petersburg AK 99833	0	Donald A. Cornelius
William Bergmann	Box 130 PETERSBURG, ALASKA	4	Will Bergmann
LON MARIFEM	Box 175 PETERSBURG, AK 99833	12	Lon Marifem
CATHERINE ROBINSON	BOX 1056 PETERSBURG, AK 99833	0	Catherine Robinson

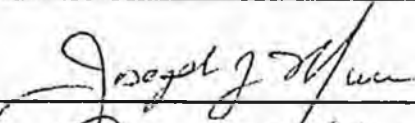
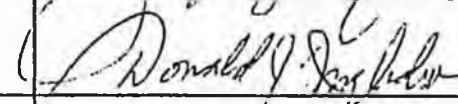
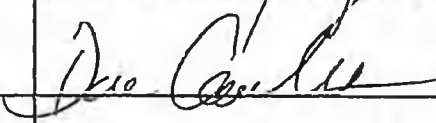

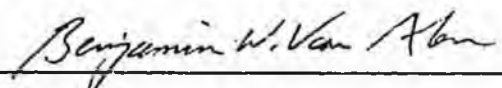
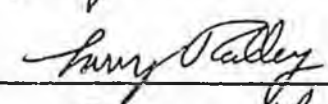
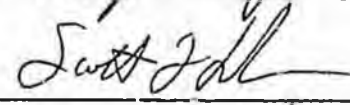

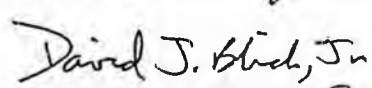

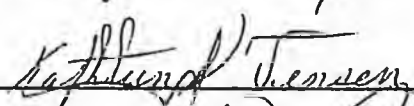

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Printed Name	Address / City / Zipcode	No. of Months as a Temporary	Signature
Robert C. Larson	PO Box 862 Petersburg AK 99833	5	
Sabra Johnson	PO Box 115 Petersburg, AK 99833	0	
DENNIS L. HEIMDAHL	Box 256, PETERSBURG, AK 99833	0	
Barry E. Bracken	Box 1201, Petersburg, AK	32	

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Printed Name	Address / City / Zipcode	No. of Months as a Temporary	Signature
Keith Pahlke	8515 Nugget Pl Juneau, AK 99801	8	<i>Keith Pahlke</i>
Kenneth K. Imamura	156 Behrends Ave Juneau, AK 99801	0	<i>K. K. Imamura</i>
Fred E. Bergander	P.O. Box 210675 Auke Bay, AK 99821	0	<i>Fred E. Bergander</i>
Karl Hofmeister	11275 th Goat hill rd Juneau AK 99801	24	<i>Karl Hofmeister</i>
Richard Bloomquist	176 Behrends Ave Juneau 99801	0	<i>Richard Bloomquist</i>
Marc Pritchett	PO Box 211192 Auke Bay 99821	0	<i>Marc Pritchett</i>
John Clark	P.O. Box 210515 Auke Bay AK 99821	0	<i>John Clark</i>
Andrew McGregor	P.O. Box 240945 Douglas AK 99824	2	<i>Andrew McGregor</i>
Glen Oliver	8189 Threadneedle Juneau AK 99801	?	<i>Glen Oliver</i>
Scott McPherson	P.O. Box 240911 Douglas, AK 99824	0	<i>Scott A. McPherson</i>
CRAIG W. FARRINGTON	P O BOX 33064 JUNEAU AK 99803	0	<i>Craig Farrington</i>
Iris S. Frank	P.O. BOX 240864 Douglas, AK 99824	8	<i>Iris S. Frank</i>

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Printed Name	Address / City / Zipcode	No. of Months as a Temporary	Signature
Joseph Muir	4537 Sawa Cir Juneau 99801	15	
Donald J. Fingelue	3748 Glacier Hwy, Juneau, AK 99801	14	
Dave Gaudet	Box 22002 Juneau, AK 99802	0	
Leon D. Shaul	1316 3rd St., Douglas, AK 99824	9	
Benjamin W. Van Allen	6731 Gray St., Juneau, AK 99801	~ 14 ?	
Larry Talley	3041 Douglas Hwy Juneau AK 99801	15	
Scott Johnson	8697 Dudley St Juneau AK 99801	?	
JAY DRUYESTEN	2212A GRT WEST, Douglas	?	
David J. Blick, Jr.	P.O. box 240225, Douglas, AK 99824 (2214 Muir St, Juneau)	0	
Doug Woodby	3240 Nowell Ave, Juneau 99801	9	
KATHLEEN TENSEN	1316 3RD ST. DOUGLAS, AK 99824	0	
Dave Carlile	15580 Glacier Hwy 99801	0	

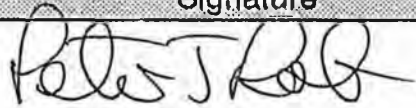
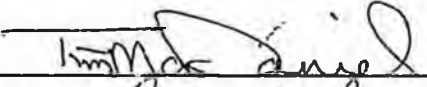
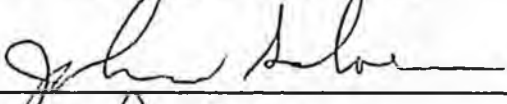
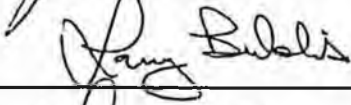
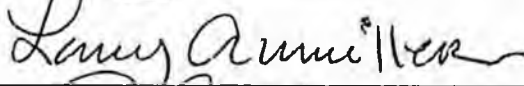
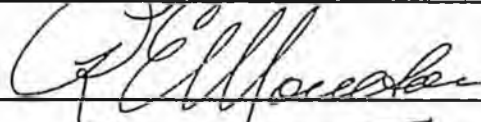
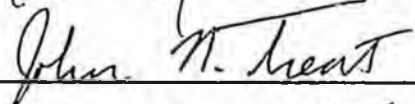
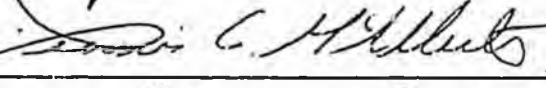
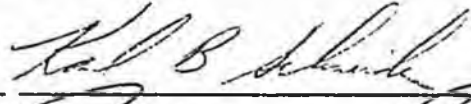

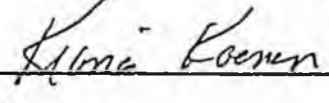
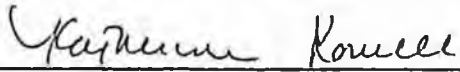
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Printed Name	Address / City / Zipcode	No. of Months as a Temporary	Signature
Peter Hagen	P.O. Box 210005 Anchorage AK 99821	0	<i>Peter Hagen</i>
KRISTEN M MUNK	POB 34356 JUNEAU AK 99803	7+	<i>Kristen M Munk</i>
KENT F. CRABTREE	P.O. Box 241014 DOUGLAS, AK. 99824	3	<i>Kent F. Crabtree</i>
Mark A. Olsen	P.O. Box 35334 Juneau, Ak, 99803	2	<i>Mark A. Olsen</i>
EVELYN P. LUMDA	P.O. Box 22577, JUNEAU, AK 99802	11	<i>Evelyn P. Lumda</i>
Linda Kinnunen	P.O. Box 20313, Juneau, AK 99802	15+	<i>Linda Kinnunen</i>
Joan E. Beier	2145-C CROW HILL DR., DOUGLAS 99824	0-	<i>Joan E. Beier</i>
ROBERT D. MECUM	3471 MEANDER WAY JUNEAU AK 99801	0	<i>Robert D. Mecum</i>

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Printed Name	Address / City / Zipcode	No. of Months as a Temporary	Signature
D. Craig Whitmore	HCO 1 Box 6022 Palmer AK 99645	36.37	D. Craig Whitmore
Dana Sweet	PO Box 871314 Wasilla 99687	12	Dana Sweet
Terrence J. Bradley	H-004, Box 9205 Palmer, AK 99645	42	Terrence J Bradley
Alan C Havens	PO Box 2383 Palmer, AK 99645	54	Alan C Havens
Craig L Baer	Box 245 Sutton, AK 99674	1.5	Craig L Baer
JACKIE J. KEPHART	P.O. BOX 1862 PALMER, AK. 99645	0	Jackie J. Kephart
Rena A. Hile	P.O. Box 2696 Palmer AK 99645	0	Rena A. Hile
HERMAN J. GRIESE	P.O. BOX 836 PALMER, AK 99645	0	Herman J. Griese
MARK A. MASTELLER	Box 965 PALMER AK 99645	0	Mark Masteller
RONALD D. MODAFFERI	HCO 42 Box 9559 PALMER, AK 99645	0	Ronald D. Modafferi
Susie Kaiser	8321 Henry Ct Anch AK 99507	8-9 mo	Susie Kaiser
Karen B Saunders	PO Box 230268 Anchorage, AK. 99523	11 mo.	Karen B. Saunders

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Printed Name	Address / City / Zipcode	No. of Months as a Temporary	Signature
PETER J ROB	Box 1030 KOTZEBUE 99752	40 months	
Tim McDaniel	10540 Ovie Rd Anchorage 99516	14 months	
John Schoen	12640 Lupine Rd. Anchorage, AK 99516	8 mo	
Larry Bubliss	2615 Brooke Dr. Anchorage, AK 99517	18 months	
Larry Amiller	1812 Bellevue loop Anch. AK 99515	4 1/2 yrs	
Ruth Moulton	120 W. 114th Avenue Anchorage AK 99501	2 years	
John Trent	820 Lighthouse Drive Anchorage, AK 99515	~ 20 months	
DENNIS C. McALLISTER	P.O. Box 410728 ANCHORAGE, AK 99511	10 MONTHS	
Karl B Schneider	11620 Ovie Rd Anchorage, AK 99516	19 mo	
NICHOLAS P. STEEN	HC 32 BX 6561 WASILLA, AK 99654	6 mo	
Kimi Koerner	P.O. 3410 PALMER, AK 99645	3 mo.	
Katherine Powell	3605 Arctic Blvd #1257 Anchorage	2 yrs	



Alaska State Legislature

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Randy Phillips, Chair
Senator Robin Taylor, Vice Chair
Senator Loren Leman
Senator Al Adams
Senator Fred Zharoff

SESSION:
State Capitol
Juneau, Ak 99801-1182
(907) 465-4989

INTERIM:
P. O. Box 142
Eagle River, Ak 99577
(907) 694-4949

AGENDA

January 27, 1994
9:00 AM

Butrovich Room
Room 205

1. Call to Order (time and members present)
2. SB 39 - Retired Credited Service & Benefits
Juneau: Senator Dave Donley - Sponsor Statement

Mike McMullen - Dept of Admin - Copies
of Dept of Admin draft substitute in
bill packet.

Teleconference Sites: Anchorage
Homer
Kodiak
Petersburg
Dutch Harbor - Off Net Call In

3. SB 2- Pay Equity Based on Value of Work

Teleconference Sites: Anchorage
Valdez

Mike McMullen - Dept of Admin - available
for questions.

4. Adjourn

THE
FOLLOWING
DOCUMENTS
ARE
POOR
ORIGINAL
COPIES

SENT BY: FISH AND GAME KODIAK ; 1-28-94 ; 14:35
RCV BY: FISH AND GAME KODIAK ; 1-28-94 ; 14:15

COMMERCIAL FISH-
CCITT G3-

9074654979:# 1
COMMERCIAL FISH:# 1

POSITION PAPER
DEPARTMENT OF ADMINISTRATION

Contact: Gary M. Bader

Bill Number: SB 398

Phone #: 465-4470

Bill Title: Am not relating to credited service that
PFRA members can claim for temporary service.

This bill would allow a member to claim temporary service as either "credited" service, which only increases the benefit amount, or "membership" service, which enables the member to reach minimum service requirements for retirement, in addition to increasing the benefit. Under present law, temporary service may only be claimed as credited service.

This bill would enable employees ^{to use temporary service to} retire under the "30 and out" and "20 and out" retirement options.

Temporary service is currently recognizable under the retirement system. Since the full actuarial cost of using the temporary service must be borne by the employee, the provisions of this bill will not result in any cost to the retirement system. For these reasons, the department has no objection to the treatment of temporary service proposed by this bill.

Nancy Bear Usera
Nancy Bear Usera
Commissioner

4-14-92
Date

Post-It™ brand fax transmittal memo 7871 # of pages 1

SENDER PHILLIPS	From NIPRES
Co.	Co.
Dept.	Phone #
Fax # 465-4979	Fax #

Alan Havens
P.O. Box 2353
Palmer, AK 99645
January 24, 1994

The Honorable Randy Phillips
Alaska State Senator

Dear Senator Phillips:

Please vote for Senate Bill ~~338~~ 39.

	Cumulative Service (years)	Toward Normal Retirement (years)
State of Alaska (Peace Officer) ADFAC		
May 1966 - July 1977 Full Time Temporary	4.449	0
Aug 1977 - Jan 1994 Full Time Permanent	16.417	16.417
	20.866	16.417

Senate Bill 338 would allow me to use 4.449 years of State of Alaska full time temporary service to retire this year (with an actuarial adjustment) and vacate my pen.

Sincerely,
Alan Havens

Mr. Robert Stalnaker
Director/Div. of Retirement and Benefits
Pouch CR
Juneau, Alaska 99811

January 27, 1994

Dear Mr. Stalnaker,

I heard you speak today to a senate committee concerning SB39, the temporary time purchase bill sponsored by Senator Duncan.

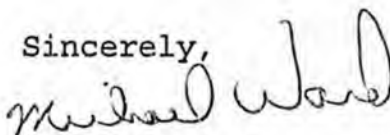
I was disappointed to hear your opinion of the bill, which apparently is also the opinion of governor Hickel's administration.

Why would anyone be opposed to providing a group of people the opportunity to help themselves, at no cost to the State?

Don't you believe us when we say we will pay the cost of the program? We will agree to all valid costs. Don't oppose the bill just because you think there will be a cost to the state. Just include the cost in the purchase price.

We are not asking the State to give us something that will cost the State money. We just want to be given the chance to help ourselves.

Sincerely,



Michael Ward
P.O. Box 421
Dutch Harbor, Alaska 99692

cc: Governor Hickel
Senator Armstrong
Senator Duncan
Senator Jacko

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT AND BENEFITS

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

P.O. BOX 110203
JUNEAU, AK 99811-0203
PHONE: (907) 465-4460
FAX: (907) 465-3086

701 EAST TUDOR RD, SUITE 240
ANCHORAGE, AK 99503-7445
PHONE: (907) 563-5885
FAX: (907) 561-6048

February 2, 1994

The Honorable Randy Phillips
Alaska State Legislature
State Capital
Juneau, AK 99801-1182

Dear Senator Phillips:

This is in response to the request that you made at the hearing on Tuesday for the enclosed amendment to SB 39 offered by Senator Duncan.

This amendment is estimated to increase the unfunded liabilities of the Public Employees' Retirement System (PERS) by \$20,000. This will result in a small annual cost increase due to the loss of actuarial gains resulting from this bill. The loss results from the increase in retirement payments by granting the automatic Post Retirement Pension Adjustment (PRPA) during the member's period of reemployment. The cumulative impact to the annual PERS contribution rate is \$1,200 for the State and \$800 for political subdivisions. The number of affected members is estimated to be less than 20 at any one time.

I hope this addresses your concerns. Please contact me if I can be of further assistance.

Sincerely,


Robert F. Stalnaker
Director

Enclosure

cc: Raga Elim, Legislative Liaison
Office of the Governor

Eileen Plate, Special Assistant
Department of Administration

A M E N D M E N T

OFFERED IN THE SENATE
TO: SB 39

BY SENATOR DUNCAN

Page 1, after line 13:

Insert a new bill section to read:

"* Sec. 2. AS 39.35.150 is amended to read:

Sec. 39.35.150. RE-EMPLOYMENT OF RETIRED EMPLOYEES. If a retired employee subsequently becomes an active member, no benefit payments may [WILL] be made during the period of re-employment. During the period of re-employment, deductions from the employee's salary shall [WILL] be made in accordance with AS 39.35.160. Upon subsequent retirement, the retired employee is entitled to receive

(1) an additional pension based on the credited service and the average monthly compensation earned during the period of re-employment in accordance with AS 39.35.370; and

(2) an increase to the amount of the employee's initial monthly benefit equal to the amount of the post retirement pension adjustments for which the employee would have been eligible under AS 39.35.475 had the member been receiving retirement benefits during the period of re-employment."

Renumber the following bill sections accordingly.

Page 5, line 21:

Delete "sec. 3"

Insert "sec. 4"

Page 5, line 29:

Delete "sec. 4"

Insert "sec. 5"

FROM: Mr Terry Palisch
12001 Edgewater Cir

Anchorage AK 99515 263-4351

NON-CONSTITUENT

SUBJECT: BUDGET

MESSAGE: YOU ARE ALWAYS ASKING FOR BUDGET CUT SUGGESTIONS. START WITH DECREASING THE 61,000 DOLLAR PER EDUCATION UNIT. ITS TIME FOR OUR SCHOOL SYSTEM TO START LIVING WITHIN IT MEANS. WE CAN'T KEEP THROWING GOOD MONEY AFTER BAD IN THE NAME OF EDUCATION. NOTHING IS SCARED THIS YEAR.

DISTRIBUTION 31

FROM: Mr Peter Robb
PO Box 1030

Kotzebue AK 99752 485-2160

self

NON-CONSTITUENT

BILL#: SB 39 RETIREMENT CREDITED SERVICE & BENEFITS

SUBJECT: RETIREMENT SUPPORTS

MESSAGE: PLEASE PASS SB39 OUT OF COMMITTEE. I UNDERSTAND THAT I WOULD HAVE TO PAY FOR THE TIME, AND THAT IT WOULD BE AT NO COST TO THE STATE.

DISTRIBUTION 05

FROM: Mr Mickey Awbrey

FROM: Mr Charles Lean
Box 1716

Nome AK 99762 443-5167

NON-CONSTITUENT

BILL#: SB 39 RETIREMENT CREDITED SERVICE & BENEFITS
SUPPORTS

MESSAGE: SB39 WILL ALLOW HIGH TIME EMPLOYEES TO RETIRE EARLIER, RESULTING IN REDUCED COST TO THE STATE. SINCE THESE EMPLOYEES ALL PLAN TO RETIRE, ADDITIONAL COST WILL NOT BE INCURRED. EMPLOYEES WILL INCUR ADDITIONAL COSTS.

DISTRIBUTION 06

1/26/73

SB 39

Homer - LIO -
Al Kimker 235-8191

Petersburg
Barry Bracken 772-3801
Bob Zorich

Dialin Dutch Hr -
Mike Ward 581-1219
Larry Boyje
Anch LIO

1-800-478-7612

Kodiak - LIO.

stop
called
me

not offered

8-LS0184A.1 ✓
Cramer
1/27/94

A M E N D M E N T

OFFERED IN THE SENATE
TO: SB 39

BY SENATOR DUNCAN

Page 1, after line 13:

Insert a new bill section to read:

** Sec. 2. AS 39.35.150 is amended to read:

Sec. 39.35.150. RE-EMPLOYMENT OF RETIRED EMPLOYEES. If a retired employee subsequently becomes an active member, no benefit payments may [WILL] be made during the period of re-employment. During the period of re-employment, deductions from the employee's salary shall [WILL] be made in accordance with AS 39.35.160. Upon subsequent retirement, the retired employee is entitled to receive

(1) an additional pension based on the credited service and the average monthly compensation earned during the period of re-employment in accordance with AS 39.35.370; and

(2) an increase to the amount of the employee's initial monthly benefit equal to the amount of the post retirement pension adjustments for which the employee would have been eligible under AS 39.35.475 had the member been receiving retirement benefits during the period of re-employment."

Renumber the following bill sections accordingly.

Page 5, line 21:

Delete "sec. 3"

Insert "sec. 4"

Page 5, line 29:

Delete "sec. 4"

Insert "sec. 5"

January 28, 1994

Senator Randy Phillips
Community and Regional Affairs, Chairman
Alaska State Legislature
Room 103
Juneau, Alaska 99801-1182

Dear Senator Phillips:

You may already have a copy of the position paper by Commissioner Usera signed on April 14, 1992, addressing Senate Bill 338, the predecessor of Senate Bill 39 that was before your committee yesterday. Enclosed is a xerox copy of that document. Commissioner Usera stated "since the full actuarial cost of using the temporary service must be borne by the employee, the provision of this bill will not result in any cost to the retirement system. For those reasons, the department has no objection to the treatment of temporary service proposed by this bill." If the position paper that you requested from Admin by next Monday indicates no support by the Department of Administration, please ask them to clarify what elements of the bill caused the change in their decision.

Once again, we appreciate the consideration that you and Senator Leman showed to those testifying yesterday and your obvious grasp of the situation. We hope that the committee members that could not attend the meeting have an opportunity to evaluate the testimony given.

Sincerely,



Catherine Botelho

cc: Vice-Chairman, Senator Robin Taylor
Senator Loren Leman
Senator Al Adams
Senator Fred Zharoff

POSITION PAPER
DEPARTMENT OF ADMINISTRATION

Contact: Gary M. Bader

Bill Number: SB 333

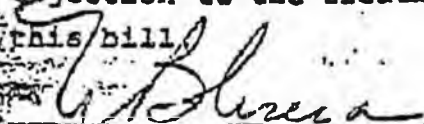
Phone #: 465-4470

Bill Title: An act relating to credited service that
PERS members can claim for temporary service.

This bill would allow a member to claim temporary service as either "credited" service, which only increases the benefit amount, or "membership" service, which enables the member to reach minimum service requirements for retirement, in addition to increasing the benefit. Under present law, temporary service may only be claimed as credited service.

This bill would enable employees ^{to use temporary service to} ~~to use temporary service to~~ retire under the "30 and out" and "20 and out" retirement options.

Temporary service is currently recognizable under the retirement system. Since the full actuarial cost of using the temporary service must be borne by the employee, the provisions of this bill will not result in any cost to the retirement system. For those reasons, the department has no objection to the treatment of temporary service proposed by this bill.


Nancy Bear Usara
Act. Commissioner

4-14-72
Date