

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10152 SENATE STATE AFFAIRS

HB

192

ALASKA STATE LEGISLATURE

REPRESENTATIVE
JEANNETTE JAMES
PO Box 56622
North Pole, Alaska 99705
(907) 456-1546
FAX (907) 488-4271



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3743
FAX (907) 465-2381

House of Representatives
House District 34

To: Senator Jerry Ward, Chair
Senate State Affairs Committee

From: Representative Jeannette James

Date: February 10, 2000

Subject: Request for changes to be made for committee
substitute

Please consider the following changes to this legislation:

1. Delete section 2. Section two is redundant and unneeded.
2. Change "regularly, as determined by the governing body." in lines 7 and 8 to "daily."

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House of Representatives
House District 34

To: Senator Jerry Ward,
Chair, Senate State Affairs Committee

From: Representative Jeannette James

Date: January 25, 2000

Subject: Request for change to HB 192

This is to respectfully request two changes be made to the wording of CSHB 192 in Senate State Affairs. Both changes, I feel, will make this legislation stronger and more effective. The changes I would like to see are as follows:

1. On line 07, replace "regular" with "daily." This would require daily recitation of the pledge in Alaska's public schools.
2. Remove Section 2. The words "or maintain a respectful silence" on line 09 render Section 2 unnecessary.

Thank you for your attention to this matter.

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House of Representatives
House District 34

To: Senator Jerry Ward,
Chair, Senate State Affairs Committee

From: Representative Jeannette James

Date: January 25, 2000

A handwritten signature in cursive script, appearing to be "JJ", positioned to the right of the date.

Subject: Request for Hearing: HB 192

Please schedule the following bill for a hearing in the Senate State Affairs Committee at your earliest convenience:

HB 192, calling for the Pledge of Allegiance to be recited regularly in public schools.

A copy of the resolution, a sponsor statement and background information is on file with your office.

ALASKA STATE LEGISLATURE

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99801-1182
(907) 465-3743
FAX (907) 465-2381

House of Representatives
House District 34

To: Senator Jerry Ward, Chair
Senate State Affairs Committee

From: Representative Jeannette James

JJ

Date: May 13, 1999

Subject: Request for Hearing: HB 192

Please schedule the following bill for hearing in the Senate State Affairs Committee at your earliest convenience:

HB 192: An Act relating to reciting the pledge of allegiance by public school students.

A copy of the resolution and a sponsor statement is attached.

ALASKA STATE LEGISLATURE

REPRESENTATIVE
JEANNETTE JAMES
PO Box 56622
North Pole, Alaska 99705
(907) 456-1546
FAX (907) 488-4271



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3743
FAX (907) 465-2381

House of Representatives
House District 34

HB 192 - CALLING FOR PUBLIC SCHOOL STUDENTS TO RECITE THE PLEDGE OF ALLEGIANCE

The aim of this bill is to standardize pledge of allegiance policies among the state's public schools and school systems, and to insure that this basic civic function is held on a regular basis at all grade levels of Alaska's public schools.

The goal of this bill is to require public schools to conduct regular flag exercises - which include the Pledge of Allegiance.

Under HB 192, no one will be compelled to recite the pledge against their conscience or belief system. Instead, students who object to reciting the pledge of allegiance on grounds of conscience or belief are asked to maintain a respectful silence.

HB 192 brings Alaska's flag statute in line with that of many other states, and is based on the flag statute of the State of Washington.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SCS CSHB 192(STA)

Revision Date/Time (Note if correction)	Dept. Affected	<u>Education & Early Development</u>
Title	BRU	
<u>pledge of allegiance by public school students</u>	Component	
Sponsor	<u>Representative James</u>	
Requester	<u>Senate State Affairs</u>	Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

House Bill 192 addresses the display of flags and the pledge of allegiance and requires appropriate flag exercises to be conducted in schools.

There is no fiscal impact for the department.

Prepared by <u>Barbara Thompson</u>	Phone <u>465-8727</u>
Division <u>Teaching and Learning Support</u>	Date/Time <u>2/25/00 2:34 PM</u>
Approved by Commissioner: <u>Richard S. Cross</u>	Date <u>2/25/00</u>
Agency <u>Department of Education</u>	

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Message

Date: Tuesday Feb 22, 2000

Time: 3:50 PM

To: JUNEAU

From: NANCY KELLY

TC Number: 10435

Message: Shirley here would like to speak again on the bridge issue - fairbanks

Close Window

Print



Teleconference Participants

TCN: 10435

Participant Lists

View List for

Participants

Unidentified Testifiers: Unidentified Observers:

CORDOVA (COR)

1 Name: Ms. Denny K Weathers Phone:
 Address: 3rd Jud. Dist. c/o Box 1791 Affiliation:
 City /St /Zip: Cordova AK Type: Testifier
 Bill: HB 192: PLEDGE OF ALLEGIANCE IN PUBLIC SCHOOLS

H.B.

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

B No. 2
Bill Version: SCS CSHB 192 (STA)
(S) Publish Date: 2-25-00

Revision Date/Time (Note if correction) _____ Dept. Affected _____
Title An Act relating to reciting the BRU _____
pledge of allegiance by public school student Component _____
Sponsor Representative James _____
Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Senate State Affairs Committee Phone 465-4940
Division Senator Jerry Ward Date/Time 2/5/00
Approved by Commissioner _____ Date _____
Agency _____

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POM for Senator Ward



From: Mr. Edward L Knoebel
PO Box 84

Telephone: 822-3208

Glennallen, AK 99588

NON Constituent

Registered Voter: Y

Email:

Bill: HB 192 Title: PLEDGE OF ALLEGIANCE IN PUBLIC SCHOOLS

Message:

It is about time! Please support HB192.

Entered in GLN on 2/15/00 POMID: 1681

Distribution: 60

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Message 5 out of 18.



The Pledge of Allegiance

Thirty-one words which affirm the values and freedom that the American flag represents are recited while facing the flag as a pledge of Americans' loyalty to their country. The Pledge of Allegiance was written for the 400th anniversary, in 1892, of the discovery of America. A national committee of educators and civic leaders planned a public-school celebration of Columbus Day to center around the flag. Included with the script for ceremonies that would culminate in raising of the flag was the pledge. So it was in October 1892 Columbus Day programs that school children across the country first recited the Pledge of Allegiance this way:

**I pledge allegiance to my Flag and
to the Republic for which it stands:
one Nation indivisible, with Liberty
and Justice for all.**

Controversy continues over whether the author was the chairman of the committee, Francis Bellamy - who worked on a magazine for young people that published the pledge - or James Upham, who worked for the publishing firm that produced the magazine. The pledge was published anonymously in the magazine and was not copyrighted.

According to some accounts of Bellamy as author, he decided to write a pledge of allegiance, rather than a salute, because it was a stronger expression of loyalty - something particularly significant even 27 years after the Civil War ended. "One Nation indivisible" referred to the outcome of the Civil War, and "Liberty and Justice for all" expressed the ideals of the Declaration of Independence.

The words "my flag" were replaced by "the flag of the United States" in 1923 because some foreign-born people might have in mind the flag of the country of their birth, instead of the U.S. flag. A year later, "of America" was added after "United States." No form of the pledge received official recognition by Congress until June 22, 1942, when it was formally included in the U.S. Flag Code. The official name of The Pledge of Allegiance was adopted in 1945. The last change in language came on Flag Day 1954, when Congress passed a law which added the words "under God" after "one nation."

Originally, the pledge was said with the right hand in the so-called "Bellamy Salute," with the hand resting first outward from the chest, then the arm extending out from the body. Once Hitler came to power in Europe, some Americans were concerned that this position of the arm and hand resembled the salute rendered by the Nazi military. In 1942 Congress established the current practice of rendering the pledge with the right hand placed flat over the heart.

Section 7 of the Federal Flag Code states that when not in military uniform, men should remove any headdress with their right hand and hold it at the left shoulder, thereby resting the hand over the heart. People in military uniform should remain silent, face the flag and render the military salute.

The Flag Code specifies that any future changes to the pledge would have to be with the consent of the President.

The Pledge of Allegiance now reads:

**I pledge allegiance to the flag of the United States of America;
and to the Republic for which it stands, one Nation
under God, indivisible, with liberty and justice for all.**

2-29-00

New requirement: Pledge of Allegiance to

Students can opt for respectful silence

By CATHY BROWN
THE JUNEAU EMPIRE

Juneau students may be adding a new routine to their day - reciting the Pledge of Allegiance.

The state Senate and House of Representatives have both unanimously passed a bill requiring the

Pledge of Allegiance to the U.S. flag be recited in Alaska schools. Students who choose not to say the pledge could maintain a "respectful silence" while others are doing so.

The House still must concur with changes made in the Senate, and the bill then goes to the governor for his signature or veto. Gov. Tony Knowles' spokesman Bob

King said the governor never commits to a particular action on a bill until it has come to his desk and he has had time to review it. However, King said based on news releases he's read about the bill, "I couldn't imagine any problem with it."

Rep. Jeannette James, a North Pole Republican, is the primary sponsor of the legislation.

"Children need to have patriotism in the nation in which they live," James said. "Patriotism is important."

She expects the House to concur with changes made in the Senate. Those changes included requiring the pledge to be recited "daily" instead of "regularly."

However, the executive director of the Alaska Civil Liberties

be recited in schools

Union, Jennifer Rudinger, said that organization does have problems with a change made in the Senate.

Although the Senate version allows people to remain silent during the pledge, it deletes a section in the House version that spelled out that districts cannot sanction a student or staff member who chooses not to say the pledge.

She said, in fact, a staff member in an Anchorage school had just that problem a year or two ago when she remained silent during the pledge.

"This person was sanctioned for that. She was ostracized by the faculty at the school. She was forced to stand in the hallway and not allowed in the room during the

Please see Pledge, Page 8.

Pledge...

Continued from Page 1

pledge as though she were a bad influence."

The superintendent was not aware that was happening, and when the civil liberties union organization contacted him, the problem ceased, she said.

The deleted section is necessary for that reason, she said. It "sends a message to the schools that people do have rights and that people cannot be harassed or given bad grades or evaluated poorly or in any other way sanctioned for

choosing to exercise their right to remain silent."

Juneau School District Assistant Superintendent Drew Alexander said the district has no policy requiring the pledge to be recited and he doesn't believe most schools do.

"We certainly will. If the state law says we're going to do it, we're certainly going to do it," he said.

It shouldn't be a problem, he said. It would become part of the normal order of business that's taken care of at the start of the school day.

CORRECTION

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



Rev. 6/98

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

2-29-00

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Students can opt for respectful silence

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HB

324

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

P.O. BOX 110200
JUNEAU, ALASKA 99811-0200
PHONE: (907) 465-2200
FAX: (907) 465-2135

April 15, 2000

The Honorable Jerry Ward
Alaska State Legislature
State Capitol, Room 423
Juneau, AK 99801

Dear Senator Ward:

I respectfully request that you schedule HB 324, an Act requiring written consent by the person who is the subject of the personal information contained in motor vehicle records, before release of that information, for action on the House floor.

HB 324 brings state law into compliance with federal legislation passed in the fall of 1999 regarding the confidentiality of personal information contained in vehicle records. The federal legislation mandates Alaska compliance by June 1, 2000. Penalty for non-compliance is a \$5000 per day fine levied by the U.S. Attorney General against the state.

Alaska's current law (AS28.10.505) allows the release of personal information contained in vehicle records, for solicitation and marketing purposes, if the owner does not *prohibit* the release of the personal information. The new federal legislation requires this personal information to remain confidential, for purposes of marketing and solicitation, unless the owner gives "express consent" (*allows*) to its release.

Other permitted uses for this information are largely law enforcement, safety, government agency, insurance or employment-related and these uses remain under the new federal and proposed state law.

Sincerely,



Robert Poe, Jr.
Commissioner

cc: Sharon Barton, Director
Division of Personnel



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by Alaska Litho, Inc.

My comments:

HB 324 brings state law into compliance with new federal legislation regarding the confidentiality of vehicle records.

It does not affect driver records; this information is confidential under state law and continues to be so.

The existing state law, which mirrors federal law, allows the release of vehicle record information for 11 permitted uses - most of which are law enforcement or government related. One of the permitted uses, however, is for marketing and solicitation - what most people refer to as "junk mail."

It is this use at which the federal legislation, and HB 324 to bring us into compliance with that legislation, are directed. The other permitted uses remain.

Federal legislation and HB 324 prohibit the release of vehicle record information for marketing and solicitation purposes unless the vehicle owner has given "express consent" to *allow* the release of the records. (Current federal and state law permit this information to be disclosed unless the owner has *prohibited* the release of it.)

The federal law mandates compliance by June 1, 2000; penalty is a \$5000 per day fine that is levied by the U.S. AG (Dept of Justice) against the state (and can also be levied against an individual).

FISCAL NOTE

No: 1

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Bill Version: HB 324
(H) Publish Date: 2/2/00

Revision Date/Time (Note if Correction): _____
 Title: An Act relating to consent before releasing personal information contained in motor vehicle records.....
 Sponsor: Rules Committee
 Requestor: Governor

Department Affected: Administration
 BRU: Division of Motor Vehicles
 Component: Motor Vehicles
 COMPONENT SERIAL NO. 2348

Expenditures/Revenues: (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2001	FY 2002	FY2003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	(200.0)	(200.0)	(200.0)	(200.0)	(200.0)	(200.0)
------------------------	---------	---------	---------	---------	---------	---------

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 2000) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Vehicle and driver records are sold across the counter at DMV for \$5 per record and the entire vehicle Database is sold to Information Services providers at \$50 per 1000 records. The use of vehicle records will be restricted to only a limited number of authorized uses under this bill and that will reduce the revenue derived from the sale of vehicle records by approximately \$200.0 per year.

There will be no operating cost to implement this bill.

Prepared by: Charles R. Hosack, Deputy Director
 Division: Motor Vehicles

Phone: (907) 269-5559
 Date: 12/15/99

Approved by Commissioner: Robert Poe Jr.
 Agency: Department of Administration

Phone: 465-2200
 Date: 12/15/99

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COMMITTEE COPY



TONY KNOWLES
GOVERNOR
governor@gov.state.ak.us

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532
www.gov.state.ak.us

January 31, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

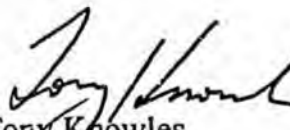
Dear Speaker Porter:

I am transmitting a bill relating to consent before releasing personal information contained in motor vehicle records to comply with recent changes to the federal Driver's Privacy Protection Act of 1994. Provisions in this bill must be in effect by June 1, 2000, to avoid any possible federal fines.

Alaska law currently restricts the release of personal information by the division of motor vehicles (DMV) in the Department of Administration to government agencies, including law enforcement and the courts, to businesses to verify information submitted to them by individuals, and to other persons for purposes prescribed by law. It also allows the release for commercial purposes or any other purpose if the person who is the subject of the information is given an opportunity to request that the information not be released for these purposes. This bill provides that information may be released for commercial or other purposes only if the person who is the subject of the information has provided written consent to the release. Thus, rather than giving a person an opportunity to object to the release of personal information, the DMV cannot release the information unless the person has affirmatively consented in writing to the release.

These amendments will protect the privacy of Alaskans.

Sincerely,


Tony Knowles
Governor

2000 LEGISLATIVE PROPOSAL FORM
(CONTINUATION SHEET)

SUBJECT OF PROPOSED BILL: Privacy of Motor Vehicle Records. Changes required by federal law.

SUMMARY OF INTENT: CONTINUED

These changes will affect mainly the information contained in vehicle records. Alaska driver records are private and confidential so the state law is more restrictive than the federal law.

Under the original provisions of the federal law there were a number of allowable uses for releasing information and most of these remain i.e. any government agency, any tow truck operator, any connection with a civil or criminal court case or administrative proceeding, insurance companies, etc. DMV could also release records for marketing, solicitation or any other use if the state provided a clear and conspicuous method to allow owners to prevent the release of this information. This was called the "opt-out" program and DMV implemented this when the state law went into effect in 1996. The changes to the federal law affect only the release of records for marketing, surveys, solicitation, or other uses. Rather than allowing these uses if a state has an "opt-out" program, the new law will allow these uses only if the owner has given "express consent" to allow the release of the records. This type of provision is referred to as an "opt-in" program.

It is highly unlikely that any significant number of vehicle owners will give permission for their information to be released. It is anticipated that except for the uses authorized in the federal law, the vehicle records will be considered private. There are four private information companies who purchase the complete DMV database and these companies will have their business use of the records significantly curtailed. Private individuals such as a person who wants to check ownership and lien information when buying a used vehicle will not be able to get this information after the law goes into effect. DMV currently sells these records either in volume amounts or individually and the revenue loss is estimated to be Between \$300,000 to \$500,000 annually.

Failure to conform to the federal law will not result in loss of highway funding. The state may be fined \$5,000 each day for non-compliance and persons, including individual employees, who release information illegally may be liable for civil claims.

To be in compliance with the federal law AS 28.10.505(d)(10) and AS 28.10.505(e) must be changed as follows:

10) for bulk distribution for surveys, marketing, or solicitations if the state has obtained the express consent of the person to whom such information pertains. [if the department has implemented methods and procedures to ensure that

(A) persons that are provided an opportunity, in a clear and conspicuous manner, to prohibit uses; and

(B) the information will be used, rented, or sold solely for bulk distribution for surveys, marketing, and solicitations, and that surveys, marketing, and solicitations will not be directed at those individuals who have requested in timely fashion that the material not be mailed to them;] and

(e) Personal information contained in an individual record may be disclosed, without regard to the intended use of the personal information if the state has obtained the express consent of the person to whom such information pertains. [if the department provides in a clear and conspicuous manner on forms for issuance or renewal of registrations, titles, or identification documents notice that personal information collected by the department may be disclosed to a person making a request for an individual record, and has provided in a clear and conspicuous manner on the forms an opportunity for a person who is the subject of a record to prohibit disclosure.]

Authorized MV Record Release
New Law Effective June 1, 2000

- (1) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions.
- (2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers.
- (3) For use in the normal course of business, by a legitimate business or its agents, employees, or contractors, but only--
 - (A) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and
 - (B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.
- (4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.
- (5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.
- (6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.
- (7) For use in providing notice to the owners of towed or impounded vehicles.
- (8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.
- (9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710 et seq.).
- (10) For use in connection with the operation of private toll transportation facilities.
- (11) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.
- (12) For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.

POM for Senator Ward



From: Rev John R Midkiff
Po Box 110

Telephone: 320-1127

Glennallen, AK 99588

NON Constituent

Registered Voter: Y

Email:

Bill: HB 324 Title: PERSONAL INFO IN MOTOR VEH. RECORDS

Message:

This bill needs to be passed. This information is private and given to the DMV for its use only. My government is not supposed to be in the business of selling or supplying mailing lists for any reason.

Entered in GLN on 4/18/00 POMID: 6168

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Message 34 out of 45.

HB

335



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Sponsor Statement for HB 335 **State Retirement and Benefits**

An Act relating to information contained in retirement system records; relating to retirement boards; relating to procedures and hearings under state retirement systems; relating to benefits for reemployed retired members of retirement systems; relating to eligibility for normal retirement for members of the teachers' retirement system who have Alaska BIA credited service; relating to disability benefits for members of state retirement systems; relating to deduction of premiums from retirement benefits; relating to protection of, and assignment and transfer of, amounts held in retirement systems; relating to retirement benefits for certain employees earning high salaries; relating to qualified domestic relations orders in state retirement systems; relating to the definition of 'retirement fund' in the teachers' retirement system; relating to membership of state employees in the teachers' retirement system; relating to refund of contributions made to the judicial retirement system or to the former elected public officers retirement system and repayment of refunded contributions in those systems; relating to self-insurance and excess loss insurance for persons receiving benefits from a state retirement system; relating to participation of elected officials in the public employees' retirement system; relating to reinstatement of credited service in the public employees' retirement system after a refund because of certain levies; relating to the level income option benefit under the public employees' retirement system; relating to participation of employees of political subdivisions and public organizations in the public employees' retirement system; relating to penalties for attempts to defraud the public employees' retirement system; relating to the

definition of 'pension fund' in the public employees' retirement system; relating to calculation of years of service and of benefits under the public employees' retirement system for noncertificated employees of certain educational employers; and relating to individual accounts maintained for members of the former elected public officers retirement system.

Posted: February 22, 2000

Contact: Representative Bill Hudson at (907) 465-3744

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

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

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

Thank you for your consideration.

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FISCAL NOTE

No: 1

Bill Version: CSHB 335 (STA)

(H) Publish Date: 2/23/00

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

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

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

See attached

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

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HB335 Fiscal Note Analysis

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

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

PERS Board:	25 days x \$150/day x 5 members =	\$ 18,750
TRS Board:	14 days x \$150/day x 5 members =	<u>10,500</u>
Total Cost:		\$ 29,250

March 1, 2000

CS HOUSE BILL NO. 335 (FIN)

SECTIONAL ANALYSIS

BY REPRESENTATIVE HUDSON

“An Act relating to...”

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

Reason: Necessary due to Court action.

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

Reason: Board recommendation for efficiency.

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

Reason: Board request.

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

Reason: Board efficiency.

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

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

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

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

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

Reason: Member request to address inequity.

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

Reason: Clarifies existing practice.

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

Reason: Clarifies existing practice

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

Reason: Creates consistency between PERS and TRS systems.

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

Reason: Not addressed in current statute.

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

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

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

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

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

Reason: Efficiency and member request.

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

Reason: Efficiency and member request.

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

Reason: Clarification of the law.

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

Reason: Required to comply with federal law.

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

Reason: Efficiency and member request.

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

Reason: Codifies practice.

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

Reason: Codifies practice.

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

Reason: Required to comply with federal law

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

Reason: Consistency with PERS and TRS.

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

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

Reason: Consistency with PERS and TRS.

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

Reason: Codifies existing practice.

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

Reason: Consistency with PERS and TRS.

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

Reason: Consistency with PERS and TRS.

* **Section 27.** Adds language specifically authorizing self-insurance of retiree medical, dental, vision, audio, and long-term care plans. This authorization applies to PERS, TRS, JRS and EPORS.

Reason: Codifies practice and clarifies current statute.

* **Section 28.** This section makes PERS board membership separate from the Personnel Board. Currently the three appointed members on the PERS Board serve by virtue of their appointment to the Personnel Board. This would make PERS Board appointment separate. Rationale: the PERS Board meets almost monthly to hear disability appeals and has other broad responsibilities. The level of activity has risen to the point where separate appointment is appropriate.

Reason: Board request.

* **Section 29.** Adds language to change how the winner in a PERS board election is determined. Current language uses the term "majority." A majority of votes cast means the winner must receive greater than 50% of the cast votes. This is virtually impossible since a PERS board election usually draws ten or more candidates. The use of the term "majority" virtually assures a runoff election, therefore doubling the cost of the election process. With this change the winner is the person who receives the most votes. If two seats are open, then the top two vote getters are elected.

Reason: Board request and efficiency measure.

* **Section 30.** Two physicians sit on the TRS and PERS boards when medical disability appeals are heard. The current statute requires the Governor to appoint two physicians from each of the four judicial districts in the state. The statute goes on to require that the physicians residing in the locality of the appeal hearing are first to be called to serve. Practically speaking, the Governor has had a very difficult time recruiting physician board members. This change would simplify the appointment

process by requiring the Governor to appoint two physicians and two alternate physicians to serve on the PERS Board. This amendment also provides that when two physicians are not available, one physician may satisfy the quorum rules for a medical disability case. There is difficulty in appointing physician members and scheduling meetings to mesh with the schedules of those who have been appointed. Efficiencies and cost savings would follow if but one physician member would satisfy the statute, provided there is a need. The TRS parallel is section 2.

Reason: Board request and efficiency measure.

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

Reason: Board request.

* **Section 32.** This section allows the PERS Board to adopt regulations defining a quorum for the conduct of its business. Subsection 12 is added giving the PERS Board authority over setting the contribution surcharge for noncertificated school district employees who elect to have their service calculated using the TRS schedule. This provision was added through Senate Bill 9, which passed last session. This section brings the setting of the contribution surcharge into an open forum. The TRS parallel is section 4.

Reason: Board request/clarification of legal authority.

* **Section 33.** The first part of this section clarifies that the PERS board has the authority to adopt regulations for the conduct of hearings. The second part addresses an inconsistency in statute relating to the issuance of subpoenas, administration of oaths, depositions and affidavits. The board already has similar authority to that addressed in this subsection, but curiously only for hearings concerning waivers of

adjustments under AS 39.35.522. This new subsection extends that authority to all board hearings. However, the scope of the authority is limited to the hearing proceedings themselves, and by its terms does not extend to prehearing discovery. The goal is to ensure that appropriate evidence may be presented at a hearing without complicating proceedings by broadening the scope to prehearing discovery. In addition, this is added to allow the board to appoint hearing officers to hear and decide appeals. This provision would allow (but not necessarily require) the board to appoint hearing officers for these situations. By regulation, the Board could identify the types of appeals it might hear itself and set qualifications for hearing officers. Appellants would always have the option to appeal to the Board, even if a hearing officer has considered their cases.

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

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

* **Section 34.** This amendment clarifies a conflict that existed in statute. This clarification places retirement system eligibility of employees, including compensated elected officials, in the control of the employer.

Reason: Addresses conflict in statute.

* **Section 35.** This section eliminates an inequity in current law. Currently, a PERS member who retires early (not under the RIP) and returns to work receives a penalty for their early retirement. On returning to work, the member's early retirement benefit stops. When the member subsequently retires, their early retirement benefit resumes

and they receive a second benefit based on their reemployment service. There is no adjustment for the early retirement benefits foregone. This section will authorize the division to make an actuarial adjustment to make the member whole. This same inequity would be corrected for level income option benefit recipients who return to work before age 65. It is anticipated that this section will have no financial impact to the TRS fund. The TRS parallel is section 6.

Reason: Addresses inequity in current law and member request.

* **Section 36.** This amendment removes the irrevocability of election by a noncertificated school district employee under authority of SB 9, which passed last legislative session.

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

* **Section 37.** This amendment removes the irrevocability of an election by a noncertificated school district employee under authority of SB 9, which passed last legislative session. Revocation would only be allowed when a person changes their work status from seasonal to full year employment (and vice versa).

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

* **Section 38.** Adds a new section that sets out the conditions under which a qualified employee of the State of Alaska may make an election once they have passed the initial opportunity at hiring.

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

* **Section 39.** This amended to remove the irrevocability of election as this does not consider those instances when a qualified employee of a school district, regional educational attendance area or other qualified employer may change their work status from seasonal to full year employment.

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

* **Section 40.** Adds a new section that sets out the conditions under which a qualified employee of a school district, regional educational attendance area or other qualified employer may make an election once they have passed the initial opportunity at hiring.
Reason: Clarification of SB 9, which passed the last legislative session.

* **Section 41.** This amends a section of the PERS statute requiring, unless there are extraordinary circumstances, a member to file a nonoccupational disability application within 90 days after the member terminated employment. The TRS parallel is section 9.
Reason: Establishes consistency between PERS and TRS disability requirements.

* **Section 42.** This adds a subsection to the PERS statute requiring, unless there are extraordinary circumstances, a member must file an occupational disability application within six months of the date the member's disability began or 90 days after the member terminated employment (whichever is later). The TRS parallel is section 9.
Reason: Establishes consistency between PERS and TRS disability requirements.

* **Section 43.** Clarifies language regarding the "level income option" that was repealed effective July 1, 1996. This section simply recognizes that people hired before that date have a right to the level income option.
Reason: State Constitution requirement.

* **Section 44.** Amends PERS language to clarify that an alternate payee under a qualified domestic relations order (QDRO) has a right to the contribution account of a member, not just any benefit payment. TRS parallel is Section 13.
Reason: This clarifies and simplifies QDRO procedures.

* **Section 45.** Adds language that allows the PERS to pay a lump sum distribution directly to an Individual Retirement Account - IRA. The parallels are sections 14 (TRS), 23 (JRS), 26 (NGNMRS) and 59 (EPORS).
Reason: Simplifies procedures for members.

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

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

* **Section 47.** This repeals language no longer needed with the additions to AS 39.35.077. Makes the hearing process consistent for all types of hearing. This supports section 33.

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

* **Section 48.** This repeals language no longer needed with the additions to AS 39.35.077. Makes the hearing process consistent for all types of hearing. This supports section 33.

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

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

Reason: Codifies practice.

***Section 50.** This amendment protects PERS employers from costs arising from requests by employee groups to change their retirement system coverage.

Reason: System efficiency.

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

Reason: Clarification of the law.

* **Section 57.** Repeals sections relating to PERS board hearings that are no longer necessary with the addition of AS 39.35.077 in Section 33.

Reason: Addresses statutory consistency.

***Section 58.** Allows an EPORS member to receive a refund of any principle or interest paid on prior indebtedness. Also grants EPORS members the right to repay an indebtedness at any time up to the time of retirement. This language makes EPORS rules consistent with other state retirement systems. Parallels section 22 (JRS).

Reason: Makes EPORS statute consistent with PERS and TRS.

***Section 59.** Places qualified domestic relations order (QDRO) language in EPORS which is equivalent to that contained in FERS and TRS statutes. Also creates the mechanism for members to transfer their contribution account to another qualified plan or IRA. The parallels are sections 13 and 18 (TRS), 25 (JRS), 26 (NGNMRS), 44 and 55 (PERS).

Reason: Makes EPORS statute consistent with PERS and TRS.

* **Section 60.** Parallels Section 28, which separates the PERS Board from the Personnel Board. Addresses length of initial appointment of PERS Board appointees.

Reason: Ensures continuity of membership on the PERS Board.

***Section 52.** This section clarifies the purposes of Senate Bill 9, enacted during the 1999 legislative session. Under SB9, a person can elect to receive a year of service credit for working at least 172 days in a school year. This amendment clarifies calculation of average monthly compensation for this group.

Reason: Legal clarification.

*** Section 53.** Adds language in PERS that defines a compensation limit for pension plan purposes for all members first hired on or after July 1, 1996. All members hired after that date must follow the limitations set by Section 401(a)(17) of the IRS code (initially set at \$150,000). The parallels are sections 17 (TRS) and 21 (JRS).

Reason: Compliance with federal law.

*** Section 54.** Clarifies that the income and interest earned by the PERS fund belong to the fund. Codifies the practice in place since PERS was established in the 1960s and the trust requirements of the retirement fund. The TRS parallel is section 19.

Reason: Codifies practice.

*** Section 55.** Companion to Section 44. Amends the PERS definition of QDRO to clarify that a former spouse has a right to the contribution account of a member. Current language limits the former spouse to the benefit payable. The parallels are sections 13 (TRS), 25 (JRS), 26 (NGNMRS) and 59 (EPORS).

Reason: Addresses legal inconsistency.

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

Reason: Conflict with patient confidentiality.

* **Section 57.** Repeals sections relating to PERS board hearings that are no longer necessary with the addition of AS 39.35.077 in Section 33.

Reason: Addresses statutory consistency.

***Section 58.** Allows an EPORS member to receive a refund of any principle or interest paid on prior indebtedness. Also grants EPORS members the right to repay an indebtedness at any time up to the time of retirement. This language makes EPORS rules consistent with other state retirement systems. Parallels section 22 (JRS).

Reason: Makes EPORS statute consistent with PERS and TRS.

***Section 59.** Places qualified domestic relations order (QDRO) language in EPORS which is equivalent to that contained in PERS and TRS statutes. Also creates the mechanism for members to transfer their contribution account to another qualified plan or IRA. The parallels are sections 13 and 18 (TRS), 25 (JRS), 26 (NGNMRS), 44 and 55 (PERS).

Reason: Makes EPORS statute consistent with PERS and TRS.

* **Section 60.** Parallels Section 28, which separates the PERS Board from the Personnel Board. Addresses length of initial appointment of PERS Board appointees.

Reason: Ensures continuity of membership on the PERS Board.

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

Section	System	Explanation
1	All	This section exempts member records, including retiree records, under the Public Records Act, thereby making member name, address, and other information confidential. The Division of Retirement and Benefits' regulations 02 AAC 35.860 and 02 AAC 36.820 making member records confidential was struck down by the Alaska Superior Court (on the grounds that we needed a specific exemption under the Public Records Act). This change would, once again, protect member records. In addition, this section limits release of member records only under specific, authorized circumstances
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4,32	TRS/PERS	This allows each board to adopt regulations defining a quorum for the conduct of its business.
5, 33	TRS/PERS	This section makes the hearing process consistent for all hearings and between PERS and TRS. In addition, the board would be allowed to appoint hearing officers to hear and decide appeals. This provision would allow (but not necessarily require) the board to appoint hearing officers for these situations. By regulation, the Board could identify the types of appeals it might hear itself and set qualifications for hearing officers. Appellants would always have the option to appeal to the Board, even if a hearing officer has considered their cases. Subsection (c) adds that if the board's vote on an appeal under this section is a tie vote, the administrator's decision is affirmed; the board, by regulation, shall provide for a method for it to reconsider a decision it has reached. This codifies the current practice of the board. Subsection (d) allows any person to appeal a final administrative decision to the superior court.
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**CS House Bill 335 (Finance)
Sectional Analysis**

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

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

Section	System	Explanation
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27	All	Adds language specifically authorizing self-insurance of retiree medical, dental, vision, audio, and long-term care plans. This authorization applies to PERS, TRS, JRS and EPORS.
28	PERS	This section makes PERS board membership separate from the Personnel Board. Currently the three appointed members on the PERS Board serve by virtue of their appointment to the Personnel Board. This would make PERS Board appointment separate. Rationale: the PERS Board meets almost monthly to hear disability appeals and has other broad responsibilities. The level of activity has risen to the point where separate appointment is appropriate.
29	PERS	Adds language to change how the winner in a PERS board election is determined. Current language uses the term "majority." A majority of votes cast means the winner must receive greater than 50% of the cast votes. This is virtually impossible since a PERS board election usually draws ten or more candidates. The use of the term "majority" virtually assures a runoff election, therefore doubling the cost of the election process. With this change the winner is the person who receives the most votes.
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CS House Bill 335 (Finance)
Sectional Analysis

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



Representative Bill Hudson

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

Committees:
Chair
Fisheries
Utilities Restructuring
Member
Transportation
State Affairs

SPONSOR STATEMENT

HB 335, Retirement and Benefits Clean-up Legislation

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

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

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

Thank you for your consideration.

PUBLIC EMPLOYEES' RETIREMENT BOARD

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

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

FEB 2 2000

February 14, 2000

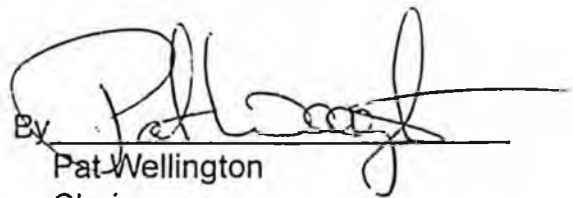
Representative Bill Hudson
Alaska State Legislature
State Capitol, Room 108
Juneau, Alaska 99801-1182

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

Dear Representative Hudson:

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

PUBLIC EMPLOYEES'
RETIREMENT BOARD

By 
Pat Wellington
Chair

cc: Guy Bell, Director
Division of Retirement and Benefits

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

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CS House Bill 335 (Finance)
Sectional Analysis

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POM for Senator Ward



From: Ms. Anita J Byers
PO Box 865

Telephone: 262-6188

Soldotna, AK 99669

NON Constituent

Registered Voter: U

Email:

Bill: HB 335 Title: STATE RETIREMENT SYSTEMS AND BENEFITS
Message:

As a support employee of KPBSD, I urge you to move HB 335 out of your committee and vote for its passage this session.

Entered in SOL on 4/18/00 POMID: 6144

Distribution: 5

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Message 26 out of 45.

Alaska State Legislature



REPRESENTATIVE BILL HUDSON

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

COMMITTEES

CHAIR
Fisheries Committee
Utility Restructuring Committee

MEMBER
State Affairs Committee
Transportation Committee

MEMORANDUM

TO: Senator Jerry Ward, Chair; Senate State Affairs Committee
FROM: Representative Bill Hudson
DATE: March 21, 2000
RE: **Scheduling, HB 335, Retirement and Benefits Clean-up Legislation**

I would like to respectfully request that you schedule HB 335, An act relating to Retirement and Benefits for a hearing as soon as possible.

HB 335 has been introduced at the request of the Division of Retirement and Benefits, and is essentially a cleanup bill. According to the department, there are federal laws, court settlements and other technical issues that need to be addressed in an updated state law. Also addressed in this legislation are some efficiency measures requested by the retirement boards.

This legislation is aimed at addressing issues involving clarification of current practices and law, compliance with new federal laws, compliance with various settlements, and board efficiencies. We have made every effort to stay away from policy changes and just address the cleanup issues. There is nothing in this legislation that enhances or diminishes any retirement benefit for active employees or retirees in any public retirement system.

This legislation passed the House unanimously and it is my goal to see it passed this year. Thank you for considering my request.



GARY WILKEN

SENATOR
Districts 29 & 30
West Fairbanks

Senate Standing Committees

Member: Finance
Member: Health, Education, &
Social Services (HESS)
Member: Legislative Budget & Audit
Member: State Affairs



During Session:
State Capitol Building
Juneau, Alaska 99801-1182
Tel: (907) 451-5501 (in Fbks area)
Tel: (907) 465-3709 (outside Fbks)
Fax: (907) 465-4714
Website: www.garywilken.com
E-Mail: Senator_Gary_Wilken@legis.state.ak.us

Interim:
1851 Fox Ave
Fairbanks, Alaska 99701
Tel: (907) 451-5501
Fax: (907) 451-0438

MEMORANDUM

DATE: April 5, 2000

TO: Senator Jerry Ward, Chair
Senate State Affairs Committee

FROM: Senator Gary Wilken

RE: Hearing Request for House Bill 335

I respectfully request that House Bill 335, relating to Alaska's Public Employee Retirement System (PERS), be scheduled for a hearing in the State Affairs Committee.

This bill addresses some incongruencies in the laws governing the PERS system that the state's Division of Retirement and Benefits have sought to rectify for many years now. It also completes our work on the intent behind my bill, Senate Bill 9, that the Legislature passed into law last year. I'm sure you can agree that we have a vested interest in ensuring that our retiring employees are given a smooth and reasonable process for realizing a well-deserved, and paid for, retirement benefit.

Please help the Division and all members of the statewide PERS system see this much needed legislation continue onward through the Legislative process.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "Gary Wilken".

(enclosures)
Cc: (S) State Affairs Committee



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the (S) STATE AFFAIRS

Committee on HB 335 Committee Name Dated 4/19/00

Bill / Subject
I appreciate that bill has been scheduled and I sincerely hope it will be passed this session.

This bill includes several points clarifying the ~~SB~~ intent of SB9, which you passed last year to allow school term PERS employees to chose the option of full-year credit (at their expense). In addition it would allow for an employee to change their choice if they move from school term to year round employment - a basic issue of fairness in my opinion.

This bill might be house keeping but it is necessary in order for SB9 to be implemented fairly - Thanks you.

SIGNED:

Karen E. Eddy

Testifier

V.P. of Education Support Staff Assoc.

Representing

907-452-6060

Address / Phone Number

4-19-00

State

Senate Affairs Committee Members
Jerry Ward, Chair

RE: HB 335

Please approve HB 335 which would allow current 12 month employees who may be reduced to 9 or 10 months down the road to opt in to the year for year buy and conversely allow current 9/10 month employees who become a 12 month employee down the road, to opt out.

This is a fairness issue for public employees. It does not cost the state money!!! It only allows us the opportunity to purchase additional months or quit paying for months that we might no longer need.

We support this legislation as a fair and equitable solution for the current retirement system for seasonal public employees

Cynthia Farrans, PO Box 3821, Homer 99603

Daryl Farrans, ✓ ✓

Viki L. Geale, Homer

Helen Desjard, Homer

Cynthia McManus, Homer

Cynthia K Smith, Homer

Amy Morris, Homer

Jamune Bishop, Homer



Alaska State Legislature

Please enter into the record my testimony to the _____ SSTA _____
committee name

Committee on _____ HB 335 _____, dated _____ 4/19/00 _____
bill # / subject

*Please accept following as
written testimony*

Signed: _____ Mrs. Anita G. Byers _____
Testifier

Representing (optional)

_____ P.O. Box 865 _____
Address

_____ 2626188 _____
Phone number

Name: _____
Address: _____

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

Thank you for the opportunity to testify on this bill.

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



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the

Senate State AffairsCommittee on HB 335

Committee Name

Dated 19 April 2000

Bill / Subject

I am the president of a union that represents ^{many} school district employees that only have the opportunity to work during the school year. We are concerned about some misunderstandings that have occurred with the implementation of SB9 and we are pleased that you are taking the time to look at HB335.

Many of our members will transfer within the district seeking better opportunities and it would be important for them to have the ability to revoke their option if necessary.

This bill will make clear and ensure the correct implementation of SB9 as originally intended.

Thank you for scheduling this important bill so that it can get through this year.

SIGNED:

Testifier

David C. Parsons

Representing

2118 S. Cushman St. Fairbanks, AK 99701

Address / Phone Number



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the (S) STATE AFFAIRS

Committee on HB 335 Committee Name Dated 4/19/00

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Testifier

V.P. of Education Support Staff Assoc.

Representing

907-452-6060

Address / Phone Number



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The Education Support Staff Assn
 Representing

2118 S Cushman St Fairbanks, AK 99701
 Address / Phone Number